



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

Y Pwyllgor Cymunedau, Cydraddoldeb a **Llywodraeth Leol** **The Communities, Equality and Local Government** **Committee**

Dydd Mercher, 14 Tachwedd 2012
Wednesday, 14 November 2012

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Cynnig o dan Reol Sefydlog Rhif 17.42 i Wahardd y Cyhoedd o'r Cyfarfod
Motion under Standing Order No. 17.42 to Exclude the Public from the Meeting

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir
trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In
addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Janet Finch-Saunders	Ceidwadwyr Cymreig Welsh Conservatives
Mike Hedges	Llafur Labour
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Gwyn R. Price	Llafur Labour
Kenneth Skates	Llafur Labour
Rhodri Glyn Thomas	Plaid Cymru The Party of Wales
Joyce Watson	Llafur Labour
Lindsay Whittle	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru (yn dirprwyo ar ran Peter Black) Welsh Liberal Democrats (substitute for Peter Black)

Eraill yn bresennol
Others in attendance

Peter Black	Aelod Cynulliad, Democratiaid Rhyddfrydol Cymru (Aelod sy'n Gyfrifol am y Bil) Assembly Member, Liberal Democrats (Member in charge of the Bill)
Jonathan Baxter	Uwch Ymchwilydd Arbenigol, Cynulliad Cenedlaethol Cymru Specialist Senior Researcher, National Assembly for Wales
Helen Roberts	Cynghorydd Cyfreithiol, Cynulliad Cenedlaethol Cymru Legal Adviser, National Assembly for Wales

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Helen Finlayson	Clerc Clerk
Claire Griffiths	Dirprwy Glerc Deputy Clerk
Hannah Johnson	Ymchwilydd Researcher
Lisa Salkeld	Cynghorydd Cyfreithiol Legal Adviser

Dechreuodd y cyfarfod am 9.32 a.m.
The meeting began at 9.32 a.m.

**Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions**

[1] **Ann Jones:** Good morning everybody. Welcome to the Communities, Equality and Local Government Committee. Before I go through the usual housekeeping rules, I welcome Ken Skates back from his short appearance on another committee to cover for sickness. You are welcome. We missed you. Also, welcome to Lindsay Whittle to his first meeting of the Communities, Equality and Local Government Committee.

[2] **Lindsay Whittle:** Thank you, Chair.

[3] **Ann Jones:** I remind Members around the table to switch off their mobile phones and pagers, because they affect the broadcast and translation equipment. It is a formal meeting, so we do not have to touch the microphones. We are not expecting a fire alarm, but if it sounds we will take directions from the ushers—or you can follow me, because I will be one of the first out of the building.

[4] We have had apologies from Peter Black. Although Peter is with us today, he is not here as a member of the committee. Peter is the Member in charge of the Bill that we are going to scrutinise. Therefore, for the period that we are doing work on his Bill, Kirsty Williams will substitute for him on all business relating to the Regulated Mobile Home Sites (Wales) Bill. Do Members need to declare any interests before we go any further? I see that there is no need. Good.

[5] **Rhodri Glyn Thomas:** Do we need to declare an interest if we have a mobile-home park in our constituency?

[6] **Ann Jones:** No, I would not have thought so. If you are an owner of a mobile home or of a mobile-home site then I should think that you would, but not because a site is in your constituency. I would hope not, anyway, because that would debar quite a few of us, but there we go.

[7] **Mike Hedges:** I would be fine.

[8] **Ann Jones:** You are fine; that is good. I do not think that we need to do that; I think we are okay on that one. We will move to the substantial item to put Peter out of his misery and let him get going, because this is the hardest part for anybody—she says, with some knowledge of what is going on.

9.34 a.m.

**Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru): Cyfnod 1: Sesiwn
Dystiolaeth 1
Regulated Mobile Home Sites (Wales) Bill: Stage 1: Evidence Session 1**

[9] **Ann Jones:** Peter has made a statement in Plenary and has had it agreed that he can bring forward this Bill, and now we are doing the scrutiny of the Bill. You are welcome, Peter. He has with him his senior research specialist, Jonathan Baxter, and Helen Roberts, who is a legal adviser. You are all very welcome. Peter, we have loads of questions. You know the format. My first question is really just to give you an opportunity to clarify the purpose of the Bill and tell us why you consider that the existing licensing regime is insufficient and then we will go on to further questions.

[10] **Peter Black:** Paragraph 12 of the explanatory memorandum gives quite a good

overview of the purpose of the Bill, which is to introduce a new licensing, inspection and enforcement regime for residential mobile-home sites in Wales. The Bill refers to these sites as regulated sites, and this also includes parts of mixed-use sites used for residential purposes. This new regime is based upon the existing legislative framework that applies to houses in multiple occupation. As with HMO licensing, there will be a requirement for site operators, both owners and managers, to pass a fit-and-proper-person test. However, we will be reviewing that particular aspect of it later on.

[11] In addition, we will making a number of other changes that affect the contractual relationship between the home owner and the site operator. That includes giving mobile-home owners the right to sell a mobile home without the prior agreement of the site owner and to assign the agreement. The reason that we brought this in is simply because we have had, over a period of time, a substantial number of complaints from mobile-home owners about the way that their sites are being run and a number of injustices have been brought to our attention as part of that. We will most probably touch upon on those as part of the evidence session, but, essentially, we have had issues of sales being blocked without adequate reason and site operators, effectively, profiteering at the expense of mobile-home owners in a minority of cases, not to mention the inadequate enforcement of licence conditions by local authorities due to poor resourcing and the fact that the licensing regime itself is very unclear. So, we are trying to modernise that whole regime, give local authorities the resources that they need and put in place clear site regulations and licence conditions, which enables proper enforcement.

[12] **Ann Jones:** I think that all of us on the committee are clear about this—I hope that we are all clear, and I think that it will come out in scrutiny, but I will give you an opportunity to put on the record why you chose not to include holiday caravan sites or Gypsy and Traveller sites within the scope of your Bill.

[13] **Peter Black:** Although holiday sites are covered by the Caravan Sites and Control of Development Act 1960, occupiers do not have the protections of the Mobile Homes Act 1983. For that reason, they are beyond the scope of this Bill and only affected by the Bill to the extent that it applies to mixed sites. Equally, with regard to Gypsy and Traveller sites, that is a separate issue in Wales and is subject to separate legislation, I understand. We are trying to focus on the mobile-home sites, which is where we have had the bulk of complaints.

[14] **Ann Jones:** Mark, do you have a supplementary on this?

[15] **Mark Isherwood:** Yes. I understand that holiday caravan owners fall within the Unfair Contract Terms Act 1977 and subsequent amendments to it a few years ago. Would that have also fallen outside the scope of this proposed legislation?

[16] **Peter Black:** The legislation is focusing on the 1983 Act, not that 1977 Act. So, by and large, we are seeking to amend the Mobile Homes Act 1983, although there are some amendments to the 1960 Act that I mentioned as well. That is the main focus of the Bill. Any issues to do with trading and sales et cetera would, I think, fall under trading standards and be subject to separate legislation.

[17] **Ann Jones:** Finally from me, Peter, how did you decide on the balance between the powers of the face of the Bill and the powers that you confer to Welsh Ministers to make subordinate legislation?

[18] **Peter Black:** That was quite a difficult balancing act. We are still having discussions with Government officials about that. This is a substantial Bill, with 33 sections and a Schedule and we have limited resources available to us in developing the Bill. The Welsh Government, of course, has far more resources. If you look at the regulations set out in the explanatory memorandum, there are, I think, 14 Orders and two regulations. Many of them

are administrative and require policy decisions that we thought were best taken by the Minister rather than by me as an individual Member. We are talking to Government officials and are looking to reduce the number of regulations and put more on the face of the Bill, but we will be dependent on Government officials to help us draft those amendments at Stage 2.

[19] **Kenneth Skates:** What evidence do you have to show that this Bill will adequately address problems that have been raised with you in a proportionate manner?

[20] **Peter Black:** We carried out an extensive consultation before the Bill and we had over 120 responses to it. A lot of that consultation brought forward many issues that we have tried to include in the Bill. Some responses were that the existing licensing regime is not adequately enforced, that there are inconsistencies between the approaches of different local authorities, and that local councils do not have enough enforcement powers. Local authorities were in favour of reform but anxious to ensure that it takes account of their roles and resources, and there was a high awareness of sale-blocking among residents and strong support from them for reform. So, we have tried to take account of that consultation in drafting this Bill and in putting in place measures to address the issues that were raised with us.

[21] **Kenneth Skates:** The Bill relies on many definitions from existing legislation and makes amendments to existing legislation. Why did you choose to follow that approach rather than create a stand-alone piece of legislation?

[22] **Peter Black:** Again, it is a matter of resource. The consolidation of all the legislation relating to mobile homes would have been advantageous, but it is quite a resource-intensive process. Therefore, we had to implement the policy within the context of the existing legislation. I was also keen not to reinvent wheels in this and to work within familiar territory. The current law has developed since the 1960s in a piecemeal fashion. So, although we are restating definitions, we also considered using our own definitions. In fact, there is a new definition of a 'regulated site', which is a concept introduced by the Bill. The definition of a 'protected site' is not changed by the Bill and is termed as it was in the Mobile Homes Act 1983. So, it was a matter of resource and using familiar terms. The consolidation of all that legislation into one Bill would have been a bit beyond the resources that we had available.

[23] **Kenneth Skates:** It also appears that a licence under the Caravan Sites and Control of Development Act 1960 will still be required. Will it therefore be the case that two licences will be required?

[24] **Peter Black:** That will be the case. I am open to the committee's views on this, because the current situation is that residential sites will still have to be licensed under the 1960 Act, but they will also have to be licensed under the new regime. The 1960 Act is primarily a rubber-stamping exercise concerned with whether the appropriate planning permission is in place. The new regime, as proposed by the Bill, is primarily concerned with the suitability of the applicant. The holiday site would still have to be licensed under the 1960 Act. If the Bill is to replace the 1960 Act as far as residential sites are concerned, it will have to be amended. That amendment could take place, but at this stage, we are focusing on the applicant and their suitability to run the site. If the committee feels that it would want to consolidate it, I am sure we could consider amendments at Stage 2.

[25] **Kenneth Skates:** How would this affect mixed-use sites?

[26] **Peter Black:** The Bill does apply to mixed-use sites insofar as part or parts of them contain residential mobile homes, which require a license under Part 2 of the Bill. The local authority, in considering the licensing application, would have to consider some of the issues relating to the site, rather than the owner's operation of the site. So, the part that is residential

will still be licensed.

[27] **Mike Hedges:** I would have thought that consolidation would make it simpler. Is there any reason why you have not gone for consolidation at this stage?

[28] **Peter Black:** It is simply a matter of resource. Consolidation requires quite an extensive bit of research and work for the legal department. If the Government is able to assist us with that, we might be able to look at it. There is a Bill going through in England that also amends the 1983 Act, so once both Bills are passed, it could look a bit of a mess. So, the Government has indicated to me that it is considering tidying that up once both those Bills have been passed. So, there will be an element of consolidation as part of that.

[29] **Mike Hedges:** Would your preference be for consolidation?

[30] **Peter Black:** My preference is to find a regime that works and is easily understandable. If consolidation makes the Bill more easily understandable, that is fine, but at this stage, we do not have the resources to do that.

[31] **Kirsty Williams:** Peter, transitional arrangements will have to be put in place to allow existing sites to move on to the new regime. What transitional arrangements do you anticipate will be made in relation to the Bill?

9.45 p.m.

[32] **Peter Black:** I want to make it clear that I consider that all 92 sites in Wales will have to get a new licence under this regime. So, we anticipate that every operator of a site will have to apply for a licence. The details of the transition are set out in the Bill to be dealt with by secondary legislation. So, the details of that transition will be up to the Minister in how he puts that secondary legislation together. However, we have had discussions with officials about this and they are keen to put some of that on the face of the Bill, as is the case with houses in multiple occupation. So, we will be considering amendments that they, hopefully, bring forward to make it clear what the process for transition is going to be. At this stage, we have not gone any further than to say that the transition to this new regime is up to the Minister.

[33] **Kirsty Williams:** Would it be your preference for those amendments to come forward, so that we could have a more definite transitional arrangement on the face of the Bill?

[34] **Peter Black:** It would. I am always keen to have more on the face of the Bill. The important thing is that, when you have a lot of regulations, it takes time to bring those regulations into force. The fewer regulations we have, the quicker we can commence the Bill and get this regime in place. So, I am keen to work with Government officials to reduce the number of regulations, to put more on the face of the Bill, and to ensure that the Bill is commenced as soon as possible.

[35] **Kirsty Williams:** You have been clear that you believe that all existing sites will have to apply for new licences under this legislation. Are there any provisions in the Bill that would not apply to existing sites, or will all provisions within this Bill be applied?

[36] **Peter Black:** All provisions in the Bill will apply to existing sites.

[37] **Kirsty Williams:** I want to move on to the issue of finance and cost. In the consultation, local authorities were keen to point out the difficulties in their pursuing breaches of existing licences, because of the resource implications. What evidence did you use as a

basis for the cost estimates and assumptions in the Bill, for example for the licence and fees and the administrative costs, which local authorities will now be able to charge for during the application process?

[38] **Peter Black:** First, on the fees, we have tried to give local authorities as much discretion as possible over which fees are being charged, in the same way as happened with the legislation on houses in multiple occupation—although the Minister can produce regulations in relation to that. There is little robust information in the public domain on the cost of implementing a licensing regime such as that set out in this Bill. We did ask for views from local government and other interested parties on the cost of the Bill as part of the consultation, but we did not receive any figures. We approached the Welsh Government, which was unable to provide us with any costs on which to base our estimates, but it did ask the Welsh Local Government Association for information. However, unfortunately, that was on the costs of running the HMO licensing system, so we did not receive anything that we could really use for this Bill. We also talked to the Welsh Government’s department for local government and communities and the Scottish Parliament to see whether they had any robust information.

[39] It is clear that we need to take an all-Wales approach, based on the additional work that the Bill would create. So, on the costings, we have put together our best estimates, both of the income that would be generated by the fees, giving a number of different alternatives—and I am sure that you will ask about that in due course—and of how much officer time would be used in implementing this Bill. My concern is to ensure that local authorities have adequate resources to police this licensing system properly, and that the fees provide those resources. Another concern is to ensure that the cost of the Bill is not passed on to residents and mobile-home owners. We did quite a substantial amount of work on this, and what you have in front of you in the explanatory memorandum is our best estimate of the costs involved in implementing a licensing regime.

[40] **Kirsty Williams:** Given the difficulties that you had in finding information about costs, did you attempt to make any estimate of the financial benefits that the Bill may bring?

[41] **Peter Black:** Yes. There will be benefits for the homeowners and, hopefully, for local authorities, which will have a clearer role and a better understanding of their roles. I think that site operators will benefit from operating within a better regulated industry, which will result in an improved reputation, and that will lead to more people wanting to live on mobile-home sites, and so site operators will then benefit from the commissions and the pitch fees that arise from that.

[42] **Kirsty Williams:** I now move on to the role of the residential property tribunal. The Bill explicitly references the RPT on three particular issues, in sections 16, 18 and 25. Could you clarify under which circumstances the residential property tribunal would have jurisdiction over disputes?

[43] **Peter Black:** The Bill is clear in section 16 that a residential property tribunal can hear an appeal under the Bill on issues such as the refusal of licences, the maximum number of mobile homes specified in a licence, the duration of licences, licence conditions, the revocation of licences, the variation of licences, the refusal to serve temporary exemption notices, and the appointment of interim managers. The residential property tribunal could confirm or reverse a decision of the local authority. The appeals procedure will be set out by the Welsh Ministers in regulations. Section 18 gives the residential property tribunal powers when the local authority is considering carrying out works itself, so the licensing authority or the licence holder may refer certain matters to the tribunal to decide any disputes about the extent of works, time limits et cetera. Section 25 refers to repayment orders, which apply when a site operator is running an unlicensed site, and that effectively means that they could

be subject to quite substantial penalties as part of the repayment orders for that offence.

[44] **Kirsty Williams:** To clarify on the repayment orders, which, as you say, relate to unlicensed regulated sites, what jurisdiction would the RTP have over licensed regulated sites in relation to repayment orders? Is there a role there?

[45] **Peter Black:** The repayment orders apply to unlicensed sites, so the power to make a repayment order is if a mobile-home operator makes an application and the tribunal is satisfied that an offence has been committed by the owner or manager of a regulated site, who could be made to repay any commission or pitch fees plus reasonable costs.

[46] **Ann Jones:** We will move on to Part 2, sections 3 to 16, which contains the licensing administration provisions. Mark, there are four questions on that. Will you take all four, please?

[47] **Mark Isherwood:** Yes. The consultation responses detailed in the explanatory memorandum to this Bill note opposition to licence fees by site operators, who say that parks do not receive some services that other businesses would expect, such as road maintenance and street lighting. It is also noted that the Mobile Homes Bill, which is the equivalent legislation to modernise the licensing regime in England, will include some provisions that we understand will not be brought into force until the end of the UK Government's moratorium on new burdens on microbusinesses in March 2014. What assessment, therefore, have you made of the additional costs that would apply to site operators in consequence of the Bill and the implications that might arise?

[48] **Peter Black:** The additional costs are set out in the explanatory memorandum. The main cost to the site operators will be the licence fee that they have to pay and, of course, there will be a cost, presumably, in going through the fit-and-proper-person test. There will be costs involved for site operators if the site that they are operating does not meet the standards that are required by the licensing authority, and they will be asked to bring it up to scratch as part of the new licensing regime. Those are the sorts of costs that the site operators will have to meet.

[49] **Mark Isherwood:** Why did you choose to include in the Bill a provision for those costs, consequential on the Bill, not to be passed on to mobile-home residents? How could that be enforced?

[50] **Peter Black:** We felt that there was a danger that the mobile-home owners would be penalised by increased pitch fees to pay for the cost of the new regime, and we were fairly anxious that the licence fee in particular should not be passed on to them, because a large proportion of them are elderly and are on fixed incomes. We felt that this was not their problem. The problem is one for site operators who are, effectively, operating a multimillion pound business. We felt that those costs should not be passed on to the home owners for that reason, and that they could be contained within the normal economics of the site. Given that we think that site operators will benefit from this, from having a better-regulated industry that will, hopefully, attract new people into it, we felt that this would be beneficial to all parties.

[51] **Mark Isherwood:** Why did you model your projections on a £100 per unit licence fee?

[52] **Peter Black:** The actual fee is a matter for local authorities. On the modelling, we have provided in paragraph 229 of part 2 of the explanatory memorandum a range of fees and how much income would be raised from those fees. We settled on £100 because it seems a reasonable amount per unit. Looking at the comparative fees payable for houses in multiple occupation, Swansea council charges £600 for HMOs with five occupants for a five-year

licence; Cardiff Council charges £700 for a mandatory licence for HMOs with five or more occupants; and Ceredigion council charges £950 for HMOs with five habitable rooms, so £100 per unit for HMOs going across to mobile home sites is very comparable. However, it is up to local authorities what they charge. Some may charge more, some may charge less; they will carry out their own assessments of the costs to them.

[53] **Mr Baxter:** The Welsh Government can also make regulations, such as to set a maximum fee.

[54] **Mark Isherwood:** I also understand that site owners raised concerns about the impact this might have on their ability to borrow from banks to service their businesses. What evidence to that effect, if any, have you received and considered?

[55] **Peter Black:** I am not aware of having seen any evidence to the effect that they will have difficulty borrowing money from banks as a result of the licensing regime. That does not apply to houses in multiple occupation. There are thousands of HMOs around Wales run by owners effectively on the basis of bank loans, and the fact that they have a five-year licence does not seem to restrict their ability to borrow. Therefore, I do not envisage that applying in this case either.

[56] **Mark Isherwood:** Moving on, we understand that the UK Government for England does not consider that the new licensing regime for mobile homes should be based on the existing licensing framework for houses in multiple occupation. It does not consider that it would be appropriate. Why do you think it is appropriate to base this licensing on that model?

[57] **Peter Black:** Of course, what they decide to do in England is a matter for them. We based it on the houses in multiple occupation regime, first, because it is quite a comprehensive system that is easily adaptable and, secondly, because the officers who enforce licensing for mobile-home sites tend to be those who enforce licensing for HMOs and they therefore have a good understanding of how the regime operates. The fact that they have that understanding and are operating on mobile-home sites and with regard to HMOs means that they are able to achieve good economies of scale in terms of applying the licensing conditions. Thirdly, it seemed to me that the regime itself was a good fit in response to the problems we are facing in Wales, with regard to both the penalties that were applicable—such as the repayment orders—and the fit-and-proper-person test, which was applicable to the HMO licensing regime and which we are effectively creating in respect of this licensing regime.

[58] **Mark Isherwood:** I think that you answered this next question in the Chamber, but for the record in committee, with regard to the fit-and-proper-person test, can you tell us whether you considered making a Criminal Records Bureau check a requirement for that test?

[59] **Peter Black:** We have received representations on this. We did not put a CRB check in the Bill simply because there is a danger that it may be legislated out of existence in future. Anti-social behaviour orders, which are currently being legislated out of existence, are a good example of that. CRB checks could be changed in future. Therefore, we have made provision for local authorities to have flexibility with regard to what they take into account in carrying out a fit-and-proper-person test. They are able to take account of Criminal Records Bureau tests, firearms offences and Disclosure Scotland tests, for example. In addition, the Minister would also have the right to issue regulations to standardise that across Wales. So, there is flexibility for local authorities to take these things into account, and I would expect them to consider these issues as part of their implementation of the licensing regime.

[60] **Mark Isherwood:** If a site owner or manager were deemed unfit, who would take over management of the site?

[61] **Peter Black:** I want to clarify something. At the moment, the Bill is drafted in such a way that the fit-and-proper-person test applies to the owner and/or the manager of the site. We are likely to bring forward an amendment on that because we think that it should apply to the person who is actually on the site managing it. Otherwise, we think that it would be very difficult to enforce and quite burdensome. Therefore, if there is an issue of a person managing the site ceasing to be a fit-and-proper person, there are several options available to the licensing authority and the actual owner of the site. If he or she is not the same person, a manager could be found, who is a fit-and-proper person and who would run the site in an efficient, proper way.

10.00 a.m.

[62] Of course, there is a continuous assessment across the licensing period. So, if someone commits an offence, which makes them cease to be a fit-and-proper person, the authority may well take action against them. Alternatively, the local authority does have the power under this Bill to bring in a temporary manager and to recover the costs of doing that until a satisfactory solution can be found. There are a number of different ways in which this could be taken forward if a person is found not to be a fit-and-proper person.

[63] **Mark Isherwood:** Finally, did you consider including provision in the Bill for a fit-and-proper-person test to be brought in through secondary legislation in the future?

[64] **Peter Black:** There is some secondary legislation relating to it here, but we did set out a number of issues on the face of the Bill, again, in line with the principle that we believe there should be as much on the face of the Bill as possible. So, it does specify a number of things on the face of the Bill. There is secondary legislation, which could be brought in by the Minister, although he does not have to bring it in because the local authorities have that discretion. The English Bill, of course, provides that a fit-and-proper-person test will be brought in by secondary legislation as and when UK Ministers consider that they want to do that. We were very anxious that it should be there at the very beginning of the licensing regime, and there is a danger that if you said, 'This is a matter for secondary legislation', it might be deferred for several years and the licensing regime would go ahead without it. I did not want that scenario to take place.

[65] **Ann Jones:** We will now move to discuss the register of licences. Will you ask that question, Janet?

[66] **Janet Finch-Saunders:** Will site operators who own sites in more than one local authority need just the one licence, or will it be transferable?

[67] **Peter Black:** As each licensing authority will license sites within its own area, I would envisage—and I look to Helen to correct me if I am wrong—that every site owner would have a licence for each site.

[68] **Ms Roberts:** Yes, that is correct. The licences are non-transferable.

[69] **Ann Jones:** We will now look at licensing enforcement. The questions on this section will be asked by Joyce Watson and Mike Hedges.

[70] **Joyce Watson:** Good morning, Peter. How do you see the Bill making it cost-effective for local authorities to monitor and enforce licence conditions?

[71] **Peter Black:** Thank you for that question, Joyce. The consultation showed that some local authorities already undertake inspections of mobile-home sites in their areas. The

explanatory memorandum notes, for example, that the Vale of Glamorgan Council states that its council officers currently regularly inspect licensed sites. Swansea council also does the same on a routine basis of visits. So, there are already a number of officers around there already who carry out inspections of sites. The problem, of course, is that they are inspecting sites on the basis of licences, which are not really that enforceable. That is the problem we are trying to address as part of that.

[72] We would envisage that the resources made available through the fees would help local authorities to cover the cost of the inspection regime that would be brought in as part of that. In addition, if a local authority found a breach of licence, it would have the option of issuing a fixed penalty, thereby bringing in additional income to the local authority, rather than going to court. The option is to issue a fixed penalty or go to court. If they opt for the fixed penalty, the money coming from that fixed penalty will also come to the local authority. So, we believe that the resources will be made available from the fees, and the officers are already in place in most local authorities to implement this inspection regime.

[73] **Joyce Watson:** So, are you satisfied that local authorities are equipped to enforce the proposed licensing regime?

[74] **Peter Black:** Yes, I am satisfied.

[75] **Mike Hedges:** How did you decide that £100 was an appropriate amount for the fixed penalty?

[76] **Peter Black:** We based the fixed penalty on the one that is in the Local Government Byelaws (Wales) Bill, which is £75. However, we rounded it up to £100 because we were concerned that there were greater administrative costs in imposing that fixed penalty.

[77] **Mike Hedges:** Why do you believe that you have the power to set such a fixed penalty under the Government of Wales Act 2006?

[78] **Peter Black:** I believe that we do have the competence. As I understand it, the Presiding Officer has agreed that the Bill is within our competence. I have had legal advice that it is within our competence, and the Presiding Officer has had the same legal advice. I can clarify that, so far, I have received no letter from the Secretary of State for Wales challenging the contents of this Bill.

[79] **Mike Hedges:** That was the next question.

[80] **Joyce Watson:** Can you clarify what reasonable cost the residential property tribunal could require an operator of an unlicensed site to repay to a mobile-home owner?

[81] **Peter Black:** The repayment order contains a number of costs that could be repaid, including any commission paid in relation to the sale of such a home, any pitch fee paid in relation to a mobile home, and any periodical payment paid in respect of the mobile home. There may well be other costs such as legal fees, which a mobile-home owner incurred in terms of taking it to the residential property tribunal, but that is a matter for it to consider.

[82] **Ann Jones:** Just before we leave licensing, we had the answer from Helen about transferrable licences, but is there going to be a centrally held database of site licences?

[83] **Peter Black:** That is a matter for local authorities. There is a duty in the Bill upon local authorities to collaborate on this. There is a provision under Section 14 of the Bill for each local authority to have its own register of licenses in its own area. If local authorities feel that it is advantageous to collaborate and put together a central database, I am sure that they

will consider that and take that into account.

[84] **Rhodri Glyn Thomas:** Onid mater i Lywodraeth Cymru fyddai sefydlu cronfa ddata genedlaethol ar gyfer Cymru a sicrhau bod pob awdurdod lleol yn cydymffurfio â hynny? Y perygl gyda'r hyn rydych yn ei awgrymu yw bod awdurdodau lleol un ai yn penderfynu casglu data ai peidio, ac felly byddai'r sefyllfa yn anghyson trwy Gymru.

Rhodri Glyn Thomas: Is it not a matter for Welsh Government to establish a national database for Wales and ensure that all local authorities comply with that? The danger with what you are suggesting is that local authorities decide either to collect data or not, and therefore the situation would be inconsistent throughout Wales.

[85] **Peter Black:** Local authorities have a duty under section 14 of the Bill to collect those data within their own area, so they do not have a choice about setting up that register within their own area. What the Welsh Government decides to do is a matter for it, but this works quite well under the HMO licensing regime and I have no reason to think that local authorities will not fulfil their duties under the legislation.

[86] **Ann Jones:** May I take that a step further? If we have site owners who are in authority A and on a database there, and, they are seen to be less than co-operative, they then move to local authority B and pick a site there, how is that information known to people? How would local authorities know that there has been a problem in authority A when they have moved to authority B?

[87] **Peter Black:** I would hope that the duty to collaborate would operate in a way that means information would be shared between local authorities. However, you must understand that this is a UK-wide industry and there are a number of sites in Wales that are owned by people who have sites in England as well. It is not just a Wales-wide sharing of information. I understand that the worst abuses are taking place in England, including one that has led to a very serious prosecution, and there needs to be a sharing of information across the UK on this issue. I do not think I can legislate for that.

[88] **Ann Jones:** Do you think that the duty covers it?

[89] **Peter Black:** I hope so; I do not think I can legislate for Welsh local authorities to share information with English local authorities and vice versa, unfortunately.

[90] **Ann Jones:** I wish we could, but there we go, we cannot. We will move on to contractual relationships between site operators and home owners.

[91] **Lindsay Whittle:** Good morning, Peter. You mentioned in your opening remarks that sales are being blocked for no reason. I had a meeting last week with Lowri Jackson from Consumer Focus Wales, who provided substantial evidence of sales being blocked; some 41% of respondents said that sales were blocked for no reason. The Bill will, in fact, remove the requirement for site operators to approve buyers. What consideration have you given to the unintended impacts of that aspect?

[92] **Peter Black:** First of all, one of the unintended impacts could be that site operators do not get their commission, so we put a provision in the Bill to ensure that a sale does not take place until the commission has been paid. Legally, when someone sells a mobile home to a purchaser, they have to pay the commission before the sale is valid. We have put that in to try to protect the rights of operators to receive their commission.

[93] There are issues around site rules and who comes to live on a site. Site rules will form part of the site licence and there is an obligation on the licence holder under section 10(1)(b) to enforce the site rules. However, the seller is responsible for ensuring that the buyer is

eligible to own the property on the site. I imagine that, if someone sold a home to a person who was not eligible to live on the site under the site rules, trading standards issues would arise. I look to Helen to correct me if I am wrong, but I would guess that a contract would have to take into account whether they had the right to make that contract.

[94] **Ms Roberts:** Yes, that is correct.

[95] **Lindsay Whittle:** Would it be the responsibility of the seller to ensure that a new buyer complied with the site rules?

[96] **Peter Black:** Essentially, yes.

[97] **Mr Baxter:** It will be the responsibility of the seller to ensure that the buyer is aware of the site rules. It is the responsibility of the site owner to enforce the site rules.

[98] **Peter Black:** The site owner will enforce the rules; the seller is responsible for making sure that the buyer is aware of the site rules.

[99] **Mark Isherwood:** It is arguable that, when people buy and sell houses on our streets and roads, we do not have any sort of restriction on the suitability of the person moving into our street. However, it is also arguable that people living in park homes have far closer proximity and far greater sharing of space and services. Could or should there be a role in this process for the other residents—residents' associations, perhaps—in assessing the compatibility of the people they are going to be living very closely with?

[100] **Peter Black:** You will know that the Bill makes provision for the site rules to be agreed with the residents and that that will form part of the licence. If the site rules are to be changed, they will have to get the agreement of the residents or go to a residential property tribunal for mediation or arbitration. In a sense, the residents are party to the site rules because of that provision. The site rules are part of the licence, so they cannot be arbitrarily changed by the site operator, which is very important. The residents are party to what is in the site rules.

[101] **Rhodri Glyn Thomas:** Rydych wedi casglu rhywfaint o dystiolaeth y gallai'r Bil effeithio ar yr arian a fyddai gan berchennog parc i'w wario ar welliannau i'r parc. Byddai cynnwys hyn o dan y mynegai prisiau defnyddwyr yn hytrach na'r mynegai prisiau manwerthu yn gallu effeithio arnynt. Rwy'n croesawu'r Bil yn fawr iawn. Rwyf i, fel Kirsty Williams, ychydig yn eiddigeddus na chefais y cyfle i'w gyflwyno fy hun, ond y peth olaf y byddwn am ei weld yw sefyllfa lle byddai llai o incwm i'w wario ar wella safleoedd. A oes gennych bryderon am hynny?

Rhodri Glyn Thomas: You have gathered some evidence that the Bill could affect the money available to the park owner to spend on improvements to the park. Including this under the consumer price index rather than the retail price index could affect them. I very much welcome the Bill. Like Kirsty Williams, I am a little jealous that I did not have the opportunity to introduce it, but the last thing we want is a situation where there would be less income to spend on improving sites. Do you have concerns in that regard?

[102] **Peter Black:** Again, this is to do with balance, and I am subject to the committee's views on whether you believe this to be an appropriate change to how mobile-home sites are operated. The Bill effectively substitutes the consumer price index for the retail price index. If you look at the past two years, up to July 2012, you will see that CPI has been 0.6% lower than RPI. That will have an impact on the amount of income that site operators can potentially raise through pitch fees, as you said, Rhodri. The impact of this change is not predictable, due to the nature of the fluctuation between the two indices. The owner of a 30-caravan site with

£150 monthly fees for all residents would have an annual income of about £54,000—that example is in the explanatory memorandum—and 0.6% of that is £324. Out of £54,000, that is not a substantial sum of money. However, the change to CPI is important, because park home owners are, in a large part, on fixed incomes—many are elderly and on pensions that are uprated by CPI—so we felt that it was only fair and equitable that we should also change the basis of the pitch fee from RPI to CPI.

10.15 a.m.

[103] **Rhodri Glyn Thomas:** Rwy'n derbyn yr hyn mae Peter yn ei ddweud, ond rwy'n meddwl y byddai'n fanteisiol i'r pwyllgor gael rhywfaint o waith ymchwil ar hyn, er mwyn inni fod yn gwbl glir yn ein meddyliau ein hunain na fyddai hyn yn effeithio ar unrhyw incwm a fyddai ar gael i'r perchnogion i wella'r safle, ac i gadarnhau, mewn gwirionedd, yr hyn mae Peter yn ei ddweud.

Rhodri Glyn Thomas: I accept what Peter has said, but I think that it would be advantageous for the committee to have some research done on this, if only for us to be quite clear in our own minds that this would not affect any income that would be available to the owners to improve the site, and to confirm, in fact, what Peter has just said.

[104] **Peter Black:** I just want to reiterate that this is a multimillion-pound business and the figures involved here are quite small.

[105] **Ann Jones:** I think that we accept that. However, just as part of our scrutiny, we will look into the issues that have come out of that, and then come to a conclusion. We will move on to management of sites, which seems to be quite appropriate. Gwyn, you have these last questions.

[106] **Gwyn R. Price:** Good morning, everybody. What do you envisage would be included in the code of practice made under Part 4 of the Bill?

[107] **Peter Black:** The code of practice lays down standards of conduct and practice to be followed with regard to management of regulated sites. Again, it is a matter for Welsh Ministers to determine whether the codes are prepared by them, and their role in improving or modifying the codes. We may look at what we can put on the face of the Bill on that, but I would guess that that sort of code is not really appropriate for the face of the Bill, so it is a matter for Welsh Ministers as to what exactly is in that code of practice. It would be about the management of the site and the standard of conduct as part of that.

[108] **Gwyn R. Price:** How do you define 'satisfactory management conditions' in section 29?

[109] **Peter Black:** Satisfactory management conditions are ones where people are satisfied that they are in a well-run site, where their needs are being met. You would have to have a competent person managing the site, we would have to ensure that the manager of the site is a fit-and-proper person, and there would be management structures and funding arrangements in place that are suitable. All of those would form part of a satisfactory management regime.

[110] **Gwyn R. Price:** I notice from the explanatory notes that you had representations on fair utility bills, because some people cannot apply for grants and fuel-poverty schemes, and there are water affordability problems et cetera. Why did you choose not to address these issues around utility bills in the Bill?

[111] **Peter Black:** Arrangements vary across different sites around utility bills. I know that Consumer Focus Wales has highlighted both the transparency of utility bills and consumer

choice. It really depends on the agreement arrangement that exists between the site operator manager and the mobile-home owners. In general, site operators have the contractual relationship with the utility supplier and they resell electricity, water and sewerage services to residents. Ofgem has power under the Gas Act 1986 and the Electricity Act 1989 to set maximum resale rules on gas and electricity, which state that they cannot legally charge domestic residents more than they are billed, including standard charges. If the reseller owns the metering equipment and distribution system, they are able to charge an administration fee for the service. So, the rules are already quite clearly set out by Ofgem. The examples that have been brought to my attention I consider to be matters either for trading standards or Ofgem. I would say that, if complaints came in to the licensing authority around consistent abuse of these rules, I am sure that it would take those into account when it comes to consider the licence and whether the person is fit and proper. That is quite important. By and large, a lot of the issues are already covered by the law as it is set out, and it just needs to be enforced properly by the relevant authorities. That is why we did not include it in the Bill.

[112] **Gwyn R. Price:** I am concerned that they are ineligible for grants in certain circumstances where other people can get grants, so I would like to pursue that in the future. Thanks for that answer.

[113] **Peter Black:** I have often thought that I should be able to legislate for whether someone should get a grant. *[Laughter.]*

[114] **Rhodri Glyn Thomas:** Rwy'n rhannu pryderon Gwyn ar y materion hyn, yn sicr o ran gallu pobl sy'n berchnogion cartrefi parc i gael cymorthdaliadau. Rwy'n poeni ychydig yn fwy ynglŷn â gallu perchnogion y safle i godi prisiau llawer iawn yn uwch na phrisiau cyffredin ar berchnogion y cartrefi hyn. Derbyniaf yr hyn mae Peter yn ei ddweud ynglŷn â'r sefyllfa gyfreithiol, ond mae modd, os ydynt yn dosrannu'r costau hyn i barc sydd â 50 o gartrefi, i godi rhyw ychydig yn fwy ar gyfer pob un a byddai hynny'n incwm defnyddiol iawn i berchnogion y parc. Fodd bynnag, gall hynny osod pwysau ariannol ar berchnogion y cartrefi hyn. Byddwn yn annog Peter i edrych unwaith yn rhagor ar hyn.

Rhodri Glyn Thomas: I share Gwyn's concerns about these issues, certainly in terms of the ability of park-home owners to get grants. I am a little more worried about the site owners having the ability to set prices that are far higher than usual for the owners of these homes. I accept what Peter said about the legal situation, but it is possible, if they are allocating these costs to a park that has 50 homes, to request a little more from each one and that would provide very useful income for the owners of the park. However, that could place financial pressure on the owners of these homes. I would encourage Peter to look once again at this.

[115] **Peter Black:** I share your concerns, Rhodri, but the law as it is currently set out and the Ofgem rules should cover these issues. This is a matter for enforcement by the relevant authorities to ensure that residents are not being exploited. As I have been bringing this Bill forward, I have had contact with mobile-home owners all over Wales and I have always tried to refer it to the relevant Assembly Member, saying 'This is in your area; can you take this up on this person's behalf?' However, trading standards and Ofgem have a role in enforcing these rules and I hope that they are more proactive as part of that. The fact that we are bringing in a licensing regime with a fit-and-proper-person test will, hopefully, make the licensee think twice before exploiting people, as they have in the past, because they will understand that they are now subject to far greater regulation than they have been. The Bill will assist in that regard.

[116] **Joyce Watson:** Thank you, Peter; you have answered my question, so I will not ask the same question about the cost. However, what about the fact that they cannot get grants or be a part of any schemes? In bringing forward your Bill, have you found anything that you

could do to assist?

[117] **Peter Black:** There are two issues in relation to the grants. The first is the nature of the home itself, namely that by law it has to remain mobile. So, that is a problem in terms of the changes that can be made, particularly to the external part of that home. The second issue relates to the type of work that would need to be carried out, for example, to make it more energy efficient. As I understand it, Consumer Focus Wales has raised with UK Ministers the way in which their green deal would apply in relation to this. When you have the Minister here, you might want to ask him how the relevant grant schemes that the Welsh Government applies can be adapted to assist mobile-home owners to make their homes more energy efficient. Clearly, they are very inefficient and very expensive to heat.

[118] **Mr Baxter:** The Bill clarifies the rights of home owners to make external improvements or alterations, which could be relevant in terms of external cladding or other energy efficiency measures. So, it does address it in that sense.

[119] **Peter Black:** It also makes it easier for them to make internal changes, which cannot be obstructed by the site operator, providing that they do not change the nature of the home itself or make it less mobile.

[120] **Kirsty Williams:** I would like to return to the issue of utilities. Is there any scope, as part of the licence, to make a provision that requires site owners to provide clear information on the costs that they are incurring in terms of utilities? One issue that often arises if somebody is intent on profiteering from utilities is the failure to supply copies of the bills that they receive, so it is impossible for park-home residents to get an analysis of how much extra they are being charged for the use of any infrastructure within the ownership of the park owner, because they cannot see the original utility bills. This happens not just with individual, perhaps rogue, park owners, but can happen in the case of the big UK players in this particular market, who are well known, who should know better and who have the resources to make this information available. Is there scope for requiring this information to be made available upon request as part of the licence, and therefore the failure to provide copies of utility costs would be a breach of the site licence?

[121] The other bugbear that many residents have, which is not included in this Bill because it would be outside its scope, and given the strong emphasis and linkages in this Bill with the regime for houses in multiple occupation, is the issue of council tax banding. There is a specific provision for HMOs under council tax rules that means that the occupiers of those properties are not charged for the value of the land on which their property is based, yet park-home owners, as part of their valuation, are charged for the value of the land. However, of course, they do not own the land; there is simply a pitch fee that they pay for it. Have you had any discussions about changing the council tax regime to bring it more in line with the regulations for HMOs, given that much of the thrust of this legislation is to bring the regulations for this part of the accommodation market in line with those that we already have for HMOs?

[122] **Peter Black:** To start with the second point first, I have certainly had representations in relation to council tax banding. As I understand it, that is outside the scope of this Bill. I have made representations to the Minister for local government on this issue, and whenever a resident has come to me I have always encouraged them to speak to all five of their Assembly Members to get them to make the same representations. If Members feel that that is an injustice, the Minister for local government needs to be made aware of the opinion on that particular issue.

[123] In relation to the licence conditions and the issue around utility bills, Ofgem rules state that the reseller must be prepared, if asked, to show the purchaser, or the resident in this

case, the original bill from the main supplier showing the unit price, any standing charges and any evidence to support their calculation in the cost per resident. If a request is made to the site owner for that information and they refuse it, you are able to complain to Ofgem and have it intervene in that particular issue.

[124] The licence conditions themselves are subject to guidance by Welsh Ministers under section 10(5), so it is possible for them to include the issues that you have raised with me in the licence conditions as part of the guidance. However, as I have said in answer to other questions, if a site operator continues to flout clear legal rules set down by Ofgem, the local authority would want to consider a complaint made on that basis, and whether that person was a fit-and-proper person to operate that site.

[125] **Mr Baxter:** I believe that there is provision in the Mobile Homes Act 1983 in terms of the area that we have discussed. Perhaps we could drop the committee a note on how that interacts with this Bill.

[126] **Ann Jones:** That would be handy; thank you.

[127] **Rhodri Glyn Thomas:** Mae gennyf gwestiwn annheg braidd i Peter, ond rwyf yn credu ei fod yn werth ei ofyn. A oes ganddo ffydd mewn awdurdodau lleol o ran eu polisiau a'u hadnoddau gorfodaeth i sicrhau fod y pethau hyn i gyd yn digwydd?

Rhodri Glyn Thomas: My question to Peter is rather unfair, but I believe that it is worth asking. Does he have confidence in local authorities in terms of their enforcement policies and resources to ensure that all these things happen?

[128] **Peter Black:** My experience of local authorities in terms of the enforcement of licensing regimes has been that they have always been very thorough and very professional, and I have always considered the officers I have come across to be first class. If they are given the resources that they need and if they have clear rules to enforce, I have no reason to doubt that local authorities will be able to do this job. The Bill seeks to do both: to give them resources and to provide them with clear rules that they are there to enforce.

[129] **Ann Jones:** Do Members have any more questions for Peter, or are we happy with those? Mark, I see that you want to come in.

[130] **Mark Isherwood:** Just for clarification, you have referred a number of times to multimillion-pound businesses, and clearly many of the multisite businesses are multimillion-pound businesses. Of course, the issue is return on capital rather than business size for profitability. However, some of the businesses might be small family businesses. Have you considered any degree of proportionality, so that we do not treat the local, small, family site in Gwynedd the same as we treat the multisite owner with sites on both sides of the border?

10.30 a.m.

[131] **Peter Black:** The fact that we have set the fee on a per-unit basis indicates that where you have 30 units, you will pay a smaller fee than you would if you had 150 units, so there is an element of proportionality in that. Of course, if you have a smaller site, then the infrastructure of that site will be smaller and the cost of maintaining that infrastructure will be less. We take that into account in the way the Bill is set out and we try to be reasonable to ensure that no unnecessary or unfair cost is imposed on site owners as part of this legislation.

[132] **Ann Jones:** Are there any other questions? I see that there are not. Thank you for that, Peter. You have heard me say this many times, but you will get a copy of the transcript to check it for accuracy. Peter will return at the end of the Stage 1 process before we prepare our report to answer questions that other Members, giving evidence on this Bill, will flag up.

We look forward to seeing you again.

10.31 a.m.

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Wahardd y Cyhoedd o'r Cyfarfod
Motion under Standing Order No. 17.42 to Exclude the Public from the Meeting**

[133] **Ann Jones:** I move that

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 17.42(vi).

[134] I see that the committee is in agreement.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10.31 a.m.
The public part of the meeting ended at 10.31 a.m.*