

## **Consultation Response**

### ***1. Is there a need for a Bill to amend the arrangements for licensing and make provision for the management and operation of regulated mobile home sites in Wales?***

There are 20 residential 'park home' sites in Powys, with the largest accommodating over 100 dwellings. Some have complex distribution networks for services such as electricity and water. Many are occupied by elderly, vulnerable people. Most have little or no protection against exploitation. The impact of these developments on local authority resources is considerable from several perspectives including health and well being, social and economic. Poorly run sites raise the demand to a significantly higher level and add pressure to council services, particularly where enforcement is required. Current UK legislation has not kept pace with the changes to the management of some park home sites and does not provide sufficient power to control the activities of the minority of unscrupulous owners who profit from these shortcomings. A licensing regime which reflects this position is long overdue and would be welcomed provided that the appropriate support is given to authorities in administering it.

### ***2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum?***

There is some concern about how the proposals contained in the Bill will sit alongside the Caravan Sites and Control of Development Act 1960. Ideally some form of consolidation would be preferred to ensure that the proposals integrate with the current licensing regime instead of imposing a second licensing requirement. It appears though that the major concerns expressed by site residents are addressed by the Bill (see response to Q6 below).

### ***3. In your view, will the licensing and enforcement regime established by the Bill be suitable?***

The introduction of fixed penalty notices and improvement notices may assist in achieving greater compliance with standards. However the financial burden associated with carrying out 'works in default' and the difficulties and expense associated with subsequent cost recovery may place local authorities in a vulnerable position, particularly if the owner of the site is in financial difficulty.

The proposal that a resident's association must have at least 50% of the residents as members could prove onerous. Some sites have no active resident's association.

### ***4. Are the Bills proposals in relation to a fit & proper person test for site owners and operators appropriate, and what will the implications be?***

An enhanced CRB disclosure would be an appropriate way of determining fitness in relation to recordable criminal offences. Guidance as to what constitutes a relevant offence (similar to the Licensing Act 2003) and to how that offence is treated is essential in order to support consistency, bearing in mind that an owner may possess sites in more than one authority.

If the current operator has been convicted of a relevant offence and subsequently fails the fit and proper person test, who has responsibility for managing the site? There is potential also licences being transferred to family members purely to avoid an adverse fit and proper assessment, when in practice the offender may be left in charge.

Determining if a person has “a sufficient level of competence to be involved” and “if proposed management structures and funding arrangements are suitable” are fraught with problems. Tight guidelines will be required to support the implementation of these provisions.

Local authorities will need to take into account any pending charges, cautions or enforcement action taken by other licensing authorities. There will be a need to inform other authorities of any enforcement action being taken against site owners. A central database of licensed owners would be essential to support enforcement.

***5. Are the amendments to the contractual relationship between mobile home owners and site operators which would result from the Bill appropriate?***

The lack of a valid and clear agreement between owner and operator is the greatest cause of dispute. Powys is aware of conflict connected with ‘sale blocking’, recharging the cost of utilities, increasing pitch fees as a result of dubious improvements to sites, etc. Strengthening this relationship and supporting contractual obligations with a means of arbitration via a tribunal is welcomed and in time would resolve many of these current issues. Regrettably many of these disputes result in harassment and bullying of elderly and vulnerable residents.

***6. In your view, how will the Bill change the requirements on site owners/operators, and what impact will such changes have, if any?***

The most obvious change is the need to meet fit and proper person criteria. Training may be required. Failure to meet the criteria will have a significant impact on an individual. The burden of having to pay an annual licence fee is an extra cost associated with site management.

There is a concern that the proposals will raise expectations to the point where residents will demand a “gold standard” for their site and press a local authority to enforce it.

***7. Do you agree that the Residential Property Tribunal should have jurisdiction to deal with all disputes relating to this Bill, aside from criminal prosecutions?***

A more accessible and cheaper alternative to the courts for residents or owners seeking to resolve conflict is preferable. However, there are some reservations. Will RPTs have the capacity to deal with the influx of new work and do they have the experience to deal with these matters?

***8. What are the potential barriers to implementing the provisions of the Bill and does the bill take account of them?***

The main issues for authorities will be cost and resource. There is the potential to 'open the flood gates' for complaints against site owners which in turn may overwhelm the capacity and capability to deal with them. The opportunity to raise revenue from licences is important in helping to meet some of that demand. However experience through the Licensing Act has shown that the cost of renewing a licence can be reduced significantly if provisions to suspend are put in place for non payment of fees.

**9. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation?**

No objections in principle.

**10. In your view, what are the financial implications of the Bill?**

It is a concern that the proposed fee will cover the cost of processing and issuing a licence only. Clearly the costs associated with determining fitness and propriety will be significant, bearing in mind the need for an appeal procedure. These will form part of the processing cost. However, the cost of the additional enforcement associated with the new provisions will fall to local authorities. This financial burden could be considerable for Powys. The cost of inspection should feature in the fee calculation and should be based on the total permitted capacity of the site rather than the actual number of park homes.

We are not clear on who will bear the responsibility for monitoring the constitution of resident's committees but this too may impact on local authority resources.

The expense associated with taking over the management of a failing site could be significant and may not be fully recovered.

**11. Are there any other comments you wish to make about specific sections of the Bill?**

A national scoring scheme linked to compliance (similar to that in place in food premises in Wales) would encourage improvement and alert prospective residents to poorly managed sites.

Licence conditions should be restricted to those pertaining to amenity and public safety avoiding any duplication with any other legislation such as the Mobile Homes Act or the Fire Regulatory Reform Order.

An incremental fees structure depending on number of pitches regardless of whether they are occupied or not is simplest. Consideration also needs to be given to ensuring that holiday sites containing 1 or 2 residential pitches occupied by site wardens or managers are exempted from the proposals.