



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

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

Dydd Mercher, 11 Mehefin 2014
Wednesday, 11 June 2014

Cynnwys **Contents**

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

Y Bil Safleoedd Carafannau Gwyliau (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 3
Holiday Caravan Sites (Wales) Bill: Stage 1—Evidence Session 3

Y Bil Safleoedd Carafannau Gwyliau (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 4
Holiday Caravan Sites (Wales) Bill: Stage 1—Evidence Session 4

Y Bil Safleoedd Carafannau Gwyliau (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 5
Holiday Caravan Sites (Wales) Bill: Stage 1—Evidence Session 5

Papurau i'w Nodi
Papers to Note

Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r Cyfarfod
Motion under Standing Order 17.42 to Resolve to Exclude the Public from the Meeting

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir
trawsgripiad 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

Leighton Andrews	Llafur Labour
Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Christine Chapman	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Jocelyn Davies	Plaid Cymru The Party of Wales
Janet Finch-Saunders	Ceidwadwyr Cymreig Welsh Conservatives
Mike Hedges	Llafur Labour
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Gwyn R. Price	Llafur Labour
Jenny Rathbone	Llafur Labour
Rhodri Glyn Thomas	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Judith Archibold	Cyfarwyddwraig Gwasanaethau Cyfreithiol a Chorfforaethol, Parkdean Holidays Limited Legal and Corporate Services Director, Parkdean Holidays Limited
Alicia Dunne	Dirprwy Gyfarwyddwr Cyffredinol, Y Cyngor Carafannau Cenedlaethol Deputy Director General, National Caravan Council
Dan Ellacott	Tim Cynghori, Cymdeithas Genedlaethol y Perchnogion Carafannau (NACO) Advice Team, National Association of Caravan Owners
Helen Kellaway	Gwasanaethau Cyfeithiol, Llywodraeth Cymru Legal Services, Welsh Government
Steve Munro	Cyfarwyddwr, Cymdeithas Genedlaethol y Perchnogion Carafannau (NACO) Director, National Association of Caravan Owners (NACO)
Huw Pendleton	Cadeirydd a Rheolwr Gyfarwyddwr Cenedlaethol o Barciau Gwyliau Celtic National Chairman and Managing Director of Celtic Holiday Parks
Ros Pritchard OBE	Cyfarwyddwr Cyffredinol, Cymdeithas Gwyliau a Thai Parc Prydain Director General, British Holiday and Home Parks Association
Carl Sargeant	Aelod Cynulliad (Llafur), Y Gweinidog Tai ac Adfwyio Assembly Member (Labour), Minister for Housing and Regeneration

Alyn Williams

Tîm Tai Sector Preifat, Llywodraeth Cymru
Private Sector Housing Team, Welsh Government

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

Jonathan Baxter	Y Gwasanaeth Ymchwil Research Service
Chloe Davies	Dirprwy Glerc Deputy Clerk
Liz Wilkinson	Clerc Clerk

Dechreuodd y cyfarfod am 09:15.
The meeting began at 09:15.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

[1] **Christine Chapman:** Bore da, and welcome to the Assembly's Communities, Equality and Local Government Committee. Could I just remind Members and witnesses, if they have any mobile phones, to ensure that they are switched off as they affect the transmission? We have not received any apologies this morning.

Y Bil Safleoedd Carafannau Gwyliau (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 3
Holiday Caravan Sites (Wales) Bill: Stage 1—Evidence Session 3

[2] **Christine Chapman:** The first item this morning is the third evidence session to inform our scrutiny of the Holiday Caravan Sites (Wales) Bill. So, may I welcome, first of all, Carl Sargeant, Assembly Member, Minister for Housing and Regeneration, and his officials, Alyn Williams, from the private sector housing team, Welsh Government, and also Helen Kellaway, from Legal Services, Welsh Government? Welcome to you all this morning. You have provided us with a paper, which Members will have read, and we will go straight into questions, but I know that Jocelyn wants to—

[3] **Jocelyn Davies:** I declare an interest as an owner of a caravan.

[4] **Mike Hedges:** Likewise.

[5] **Christine Chapman:** Okay, are there any other declarations?

[6] **Rhodri Glyn Thomas:** Chair, I think that I have to declare an interest as an owner of a touring caravan and a member of the Caravan Club.

[7] **Christine Chapman:** Okay, that is noted. Minister, we just want to ask you some questions on the paper that you have provided. I want to start off. Could you tell me why you are not inclined to support the Bill, given its potential to address many of the inadequacies within existing legislation that you have identified in your evidence?

[8] **The Minister for Housing and Regeneration (Carl Sargeant):** Good morning, Chair. Good morning, committee, and thank you for the opportunity to come to give you evidence this morning. May I start, first of all, Chair, by giving my view in terms of the process of the Bill? I have been following the process very carefully through committee, and it appears that there are some mixed messages, not from the committee, but from the external

world, about the understanding of exactly whose Bill this is. For the record, this is not a Government Bill; it is a backbench Conservative Member's Bill that is being processed through the Assembly. I know that the committee is fully aware of that, but I think that, externally, that has been lost in translation at some point. I think that it is a very important point; that is just to make sure that that is clear for the record.

[9] The Government's position on the Bill is that we have looked carefully at the drafting. We gave leave for the passage of this to Stage 1 on the basis that we wanted to try to understand what we believed was anecdotal evidence that Darren had presented in terms of the scale of the problem within the sector. We gave him a period of time before it came to this committee to help better inform us in our decision-making process. So, we gave leave at the initial stage, because the principle was not something that we objected to wholesale, but we wanted to try to understand that better. To date, we are still unclear about the scale of the evidence to support this Bill. We do not know what the scale of the issues that Darren alludes to is in the sector. So, at this point in time, I am not minded to legislate on anything that I do not have complete and full evidence for.

[10] **Christine Chapman:** Thank you, Minister. Jocelyn, do you want to ask a question?

[11] **Jocelyn Davies:** Yes, I know that you say that further research would be needed, and I agree with you; I think that the evidence to date has been very weak in support of legislation. Do you intend to commission any research in this policy area?

[12] **Carl Sargeant:** No, I do not.

[13] **Jocelyn Davies:** A lot of people have said to us, 'This regime does need modernisation, but perhaps not with this particular Bill.' Do you intend to address any of the inadequacies that have been identified?

[14] **Carl Sargeant:** Chair, the issue for me is that it was not part of Government proposals to bring forward any legislation on this at all. As I said earlier, it is a backbencher's Bill. Therefore, we did not anticipate, or, indeed, believe, that there was a problem within the sector. Now, I do not believe that it is for the Government or myself to instigate more work to find out whether there is a problem. Actually, if the backbench Member is suggesting that, then, surely, that should be provided. It may be that the consideration of the committee might be that it might wish to do some work in order to give me some recommendations on where we should reconsider some of the drafting of the current legislation that is in place.

[15] I am probably being a little bit harsh this morning, but it is so that I am very clear and there is no misunderstanding about where the Government stands on this. May I say that some of the things that Darren is trying to address are anecdotal, I believe? Things like enforcement et cetera, I believe, could possibly be addressed in current legislation, if there was a scale of problem that needed to be addressed. I have not seen that evidence; therefore I will not be pursuing any further work with my team to consider that.

[16] **Jocelyn Davies:** So, I could take it from that that it is not a priority for you, but you think that it could be a priority for us.

[17] **Carl Sargeant:** That is your choice, Chair.

[18] **Jocelyn Davies:** Thanks for your suggestion. *[Laughter.]*

[19] **Christine Chapman:** Obviously, this is something that we would have to consider as a committee, if we did want to go down that road. Peter is next, but I will allow Mark in first.

[20] **Mark Isherwood:** It is a supplementary question, if I may. As you say, the all-Wales data have not been identified, although the person proposing the Bill, Darren Millar, did write to every local authority in Wales requesting data, particularly on the issue of residents paying council tax. Only six local authorities were able to provide that information. Apparently, some believed that holiday caravans were not liable at all and therefore did not keep it. However, the six local authorities that did provide information identified that 400 residents were paying council tax while living in caravans on holiday sites. Admittedly, some of those could have been employees, but clearly some were not. A check against a GP database found that on just 12 sites in Conwy, 82 residents were permanently registered with their GP. The six local authorities that responded identified 62 housing benefit claims. Finally, I will mention that North Wales Police confirmed that 83 people with an address on a caravan site were arrested or named as suspects for an offence in the previous 12 months. Admittedly, that is not the whole of Wales, but we cannot legislate for bits of Wales. We have to legislate for all or nothing. Do you not consider that that sort of evidence at least suggests that there is a sufficient problem to merit further exploration, and then appropriate action?

[21] **Carl Sargeant:** For the evidence that the Member mentioned on behalf of Darren Millar and the Conservative Members, I have one question about the very first one that the Member mentioned: can the committee tell me exactly how many council tax payers are employed on these sites? I would suggest that you cannot and I cannot answer that question either because the evidence provided is incomplete. Therefore, I will not be legislating on this proposal.

[22] **Christine Chapman:** Thank you. I will take Mike first, and then Peter.

[23] **Mike Hedges:** Very briefly, I do not know whether the Minister is aware or could answer this, but it is my understanding that Gypsy Travellers would have counted in that group, as would people who were living in a caravan while modernising or building a house.

[24] **Carl Sargeant:** As I was not the person supplying those data, I do not know the answer to that.

[25] **Christine Chapman:** Yes. Obviously, this is for the Member to answer. We now turn to Peter.

[26] **Mark Isherwood:** May I say that the question was specific about holiday caravan residents? If local authorities misinterpreted that, then—[*Inaudible.*]—further.

[27] **Christine Chapman:** All right. Peter is next.

[28] **Peter Black:** Thank you, Chair. Minister, in your evidence you say that you initially shared the concerns of the Member in charge in respect of residential misuse of holiday caravans, which you said,

[29] ‘places additional, unfinanced, burdens on public services’,

[30] and you said that,

[31] ‘action was needed to stamp out this practice.’

[32] Can you expand on those initial concerns, and what evidence you had to support them?

[33] **Carl Sargeant:** The Government was being very generous at that point of the Bill being introduced, as we would seek to be with all Members who we think may have some

valid concerns. As I explained earlier to you, Chair, we gave leave for Darren to have time to collate that information and evidence. We still have not seen that. The sector is far too important to legislate on with no evidence provided to back that up. The tourism industry, supported by the Minister for Economy, Science and Transport—and I know that she has also submitted letters to you—. We have had discussions on this about how we would not want to penalise the sector in Wales and have undue, unfounded legislation on the basis of an England-Wales competitiveness. There could potentially be disadvantages to owners in Wales, compared to England, if we were to introduce this Bill as drafted.

[34] **Peter Black:** Just to confirm, your initial concerns were based on assertions made by Darren Millar, but you have not seen any evidence to back up those assertions, and therefore your concerns are no longer valid.

[35] **Carl Sargeant:** That is correct.

[36] **Peter Black:** Thank you. In your evidence, you refer to having a more reasoned approach to the problem, which might be to allow dual licensing of an offending site, such as granting a temporary or partial residential licence covering only the units that are used as sole residences, which will expire with the tenure of the occupant. May I ask you how that would work and would that require legislation?

[37] **Carl Sargeant:** In the spirit of the Bill and its passage, Chair, we have done little or no work in some areas in terms of determining what we should be doing in the future. As I said, it is not a priority for me—this Bill. We believed, and it was a condition of the Bill moving forward, that we would be supplied with evidence on the reasoning behind that, and we would give that full consideration in the drafting of the Bill. The way the drafting of the Bill has been delivered we do not have concern for. There are minor amendments that we would make in the process if we supported it. As it is, we just do not believe that there is need for legislation on the basis of the evidence provided, so that is my conditioning. It is not about what I should or should not be doing. Actually, we do not think that there is a need for this, because we have not seen any evidence to do that and I have not done any work to support that basis—it is all in the background. So, on Peter's question, while we answered in the spirit of there being other options that could be considered in terms of legislation, it does not always have to be new legislation. That is why I would suggest further work by Darren's Bill team, or indeed another vehicle, that might inform me that there is a scale and what the scale of the problem is and what we should do with current legislation.

[38] **Peter Black:** My question was, of course, based on a proposal that you put forward in your paper, so, I think that it was legitimate to address it to you, as part of that. What you are effectively saying then is that if there is abuse in the existing situation, you think that the scale of that is so minor that you are happy for that to continue as it is at the moment.

[39] **Carl Sargeant:** No, I am not saying that. I am saying the key word that you used was 'if' and I do not know whether that 'if' is real.

[40] **Peter Black:** Okay, thank you.

[41] **Christine Chapman:** Okay, thanks. Jocelyn is next.

[42] **Jocelyn Davies:** You said about the effect on tourism, but caravans are only one part of the tourism offer here in Wales. Why should caravans be treated any differently than bed and breakfasts, hotels, chalets and all of those others? So, the figures that we have here, of course, could apply right across the tourism sector.

[43] **Carl Sargeant:** Indeed they could. I do not know that.

- [44] **Jocelyn Davies:** No.
- [45] **Christine Chapman:** Okay, thank you. Leighton is next.
- [46] **Leighton Andrews:** Do you think that there is a need for this Bill?
- [47] **Carl Sargeant:** No.
- [48] **Leighton Andrews:** Thank you.
- [49] **Christine Chapman:** Right. Janet, did you want to come in on a question, or Mark?
- [50] **Janet Finch-Saunders:** Thank you, Chair. Clearly, you have had evidence, certainly in north Wales, where there has been a problem. We did the transient task and finish group and for me, if this Bill is not needed, what vehicle can you bring in for us to address the problems that we have experienced over in north Wales?
- [51] **Carl Sargeant:** If I may, Chair, could you tell me the scale of the problem in Flintshire, please?
- [52] **Janet Finch-Saunders:** Well, certainly, I know that Denbighshire and Conwy councils did a long piece of work on this and there were services such as the fire, police and ambulance services being used and it was proven that people were actually using holiday caravans as dwellings, full time.
- [53] **Carl Sargeant:** Okay. With respect, I am sure that when the Member alluded to the conditions of north Wales, she meant two authorities in north Wales. That is two out of 22.
- [54] **Christine Chapman:** That was in 2007, Janet, I think, was it not?
- [55] **Janet Finch-Saunders:** Yes, it was in 2007.
- [56] **Carl Sargeant:** Chair, I do not think that I am being unreasonable in my approach to this. As I said, this is not a Government Bill. I am saying, 'Provide me with the evidence in terms of the need to legislate, or amend legislation, and I will consider that seriously, but at this moment in time, we have 2007 based evidence in certain areas and we have anecdotal evidence that is not supported, in the main, across the whole of Wales'. I find it really difficult to consider something when I do not understand the scale of the problem and that is not a Government priority. The tourism sector for Wales, including caravans and other methods, is far too important to mess around with in terms of legislation that has not been completely thought through.
- [57] **Janet Finch-Saunders:** If I may ask, what, within current legislation or any other legislation, can you do to appease the council officers and members who feel quite strongly that the current Act and the resources, shall we say, do not allow for them to enforce?
- [58] **Carl Sargeant:** Being very generous, I think that there are options to amend the current legislation, subject to understanding the scale of the problem. Provide me with the evidence and I will consider that.
- 09:30
- [59] **Christine Chapman:** Thank you. Mark, did you want to come in at all?

[60] **Mark Isherwood:** It is a supplementary question. In this context, we have identified the small number of authorities that have responded and that is an issue, namely why so few responded, even to say, 'We haven't got a problem'. Darren's office identified hundreds of breaches in terms of council tax, GPs, police data and so on. However, the Welsh Local Government Association, in its evidence to us, said that the remedy for unauthorised residential occupation of holiday sites may exist through the prevention of existing local housing claims, bus pass applications and GP registrations for persons with a holiday park address, and that this should be fully explored as an alternative to the test proposed in the Bill. How do you respond to that proposal?

[61] **Carl Sargeant:** First of all, if 18 of the ones that did not respond had responded in a negative way, would you be pursuing this legislation with such vigour? Secondly, I have already made the offer to committee, and to Darren Millar, to provide me with evidence that is substantial enough to consider legislation, either new or amended, and I will consider that. However, it is not for me, Chair, to come up with solutions to a problem where I do not think that there is a problem. I find it very difficult to articulate that this morning, but it is a bit of a strange question.

[62] **Mark Isherwood:** You asked me a question, 'If their response were negative'— I understand that the majority of those did not respond or responded to say that they did not hold the data or they simply did not charge council tax on caravans, irrespective of circumstance. That, to me, suggests that there is an issue over why they are not responding or why they are not checking whether licence conditions are being breached. Do you not agree that the fact that the industry itself has introduced a model licence, paramount within which is a residency test, suggests that the industry itself recognises the problem?

[63] **Christine Chapman:** May I just say that following last week's meeting, we did ask the WLGA to provide us with some data? We have not received anything as of yet.

[64] **Carl Sargeant:** What we should not forget, Chair, is that there are some fantastic site management teams out there already, in terms of the way in which the caravan sector is operating. I visited one in north Wales and they operate a site agreement. It is very well managed; there is little or no need for any enforcement by the local authority. It is a well-managed site, so it does work well. Notwithstanding that, anecdotally, there are probably some rogue site managers and we are probably aware of them too. However, this all goes back to what the scale of this is. Is this a local issue for the Member, is this about six authorities across Wales, or is it bigger or smaller? I do not know the answers to those questions and I cannot legislate on the basis of that.

[65] **Peter Black:** I have two very quick questions, Minister. In your evidence, you say that there is a case for modernising the licensing regime. I think that the dispute that we are seeing here is about the residential use and the abuses as opposed to modernisation. Given that you accept that there is a case for modernising the regime, would you consider incorporating that in a future Bill?

[66] **Carl Sargeant:** There were two questions there. Do I believe that there is a need for modernisation of the legislation? Yes, I do; it is old legislation and I think that we need to update that and the fee structures et cetera are worthy of being looked at. However, it is not my priority, on the basis that I have not commissioned evidence or been provided with evidence on the scale of the issue. It is not at the top of my list. Would I consider it for the future? Possibly.

[67] **Peter Black:** I think that you referred to fines as one particular element. My second question is this: the model conditions that apply to caravan sites of this nature were last updated in 1989. Given your view of this Bill, would you consider updating those model

conditions to take on board some of the concerns that have been raised about the use of sites, assuming that you have the evidence to back that up?

[68] **Carl Sargeant:** I would wait for a recommendation from this committee.

[69] **Peter Black:** Okay.

[70] **Christine Chapman:** Okay, thank you. Mark is next.

[71] **Mark Isherwood:** What consideration, if any, have you given to the existing pending legislation, which may impact on this area, such as the Unfair Terms in Consumer Contracts Regulations 1999—as amended in 2005 for holiday caravan agreements, but, specifically, that again is the voluntary model licence, which is why the industry, if nothing else, would like the licence to become statutory—and the Consumer Protection from Unfair Trading Regulations 2008 and the impending Consumer Rights Bill, which is going through Westminster at the moment?

[72] **Carl Sargeant:** No.

[73] **Mark Isherwood:** Might you give some consideration to what those cover? Although they are not specific to caravans generally, nonetheless, they are likely to and do impact on caravan sites, caravan owners and caravan site owners.

[74] **Carl Sargeant:** If we believe that there is a negative effect on the tourism industry then we will consider what the impacts are. We monitor legislation as it goes through. Have we looked at them specifically in relation to this Bill? No, we have not.

[75] **Jenny Rathbone:** In your written statement, you pick up the suggestion that some local authorities do not know where all their sites are. I am struggling to understand why that is, particularly with the modern invention of Google maps, as they do not even need to leave the office.

[76] **Carl Sargeant:** That is a fair question. It is something I will have a discussion with the Minister for local government on in general terms relating to the duty of local authorities and how they operate. It is important for the management of the caravan industry and how that operates, but it also raises concerns where authorities allegedly do not know where their sites are in relation to how they would deal with it in terms of resilience for their area in emergency situations. Therefore, I will take that up with the Minister for local government.

[77] **Jenny Rathbone:** Thank you. On the point made around the level of fines for breaches et cetera, that is something you might be able to address in a future, add-on piece of legislation.

[78] **Carl Sargeant:** I think that we could amend the caravan Act if we needed to. I have not taken legal advice on this, but it seems logical that we probably could support it through the Assembly. We need to modernise the fee structure, the fines structure—we purely need to modernise it. I am not suggesting that there is a problem here, but I think that it should be up to date.

[79] **Christine Chapman:** Peter, did you want to come back in?

[80] **Peter Black:** On the fit-and-proper-person test, you made the point that you do not consider the fit-and-proper-person test, as set out in the Bill, suitable for a commercial operation—otherwise it would apply in my Bill in terms of residential sites. What would you consider to be an appropriate fit-and-proper-person test that would be relevant in this case to

drive up the standards in the industry?

[81] **Carl Sargeant:** Part of the problem with this is that the sectors are different. We are not talking about housing legislation here. We are talking about an economic basis for a fit-and-proper-person test. I am not suggesting that a fit-and-proper-person test, if applied to legislation, is not appropriate; it is just about the scale. There are other considerations about a fit-and-proper person not being prohibitive. So, if somebody in a housing situation has breached a housing situation, does that make them not capable of managing a caravan site? People may have a view on that. I think that we would have to consider the scope of that fit-and-proper-person test and how it is applied to this piece of legislation, but I have not done any work on that.

[82] **Peter Black:** There are tests that apply in commercial situations to licences, such as alcohol and music licences et cetera. Would you consider those to be a more appropriate test in this regard, rather than the one in this Bill?

[83] **Carl Sargeant:** I am not being specific on which one of them I would choose, but it would have to be considered in the different light of this piece of legislation, as to what that fit-and-proper-person test was.

[84] **Christine Chapman:** Mike, did you want to come in?

[85] **Mike Hedges:** I have a few questions. The first one is: do you support the principle of having a residence test to occupy holiday caravans?

[86] **Carl Sargeant:** You are drawing me on the contents of the Bill. I am suggesting that I am not supportive of the Bill. That has been very clear. In terms of Mike's question, I would have to see further evidence. We are potentially creating something here when we are not fully informed. It is very dangerous to create legislation when we are not fully informed of the full story.

[87] **Mike Hedges:** My second question is: would it be easier to have a technical advice note telling local authorities and other public bodies that they should not treat people living in these holiday caravans as permanent residents—so they should not allow them to have bus passes, and they should not allow them to register with a GP? Would that not be a sort of simple solution, rather than having complex legislation?

[88] **Carl Sargeant:** I am considering issuing some guidance, or a letter, to local authorities, as we speak, on that very basis.

[89] **Christine Chapman:** Okay, thank you. Rhodri, did you want to come in?

[90] **Rhodri Glyn Thomas:** Na, dim diolch, Gadeirydd. Rwy'n meddwl bod y Gweinidog yn glir iawn ynglŷn â'i safbwynt ar y ddeddfwriaeth hon, ac rwy'n credu bod yn rhaid i ni dderbyn ei safbwynt ef. **Rhodri Glyn Thomas:** No thank you, Chair. I think that the Minister is very clear regarding his opinion on this legislation, and I think that we have to accept his opinion.

[91] **Christine Chapman:** Okay, thank you. Leighton, did you want to come in?

[92] **Leighton Andrews:** No, there is nothing else to ask, really.

[93] **Christine Chapman:** Okay. Gwyn, did you want to come in?

[94] **Gwyn R. Price:** I am with Rhodri and Leighton, really. I mean, we are asking

questions when the Minister has indicated that he is not convinced that there is not any evidence for it.

[95] **Christine Chapman:** Okay, thank you. On that note, I thank the Minister and his officials for attending this morning. We will send you a transcript of the meeting, so that you can check it for factual accuracies. Thank you very much.

[96] **Carl Sargeant:** Thank you, Chair, and thank you, committee.

[97] **Christine Chapman:** Would Members like to take a short break now, because our next witnesses will be in at 10 a.m.? I ask you to be back here just before 10 a.m..

*Gohiriwyd y cyfarfod rhwng 09:41 a 10:00.
The meeting adjourned between 09:41 and 10:00.*

Y Bil Safleoedd Carafannau Gwyliau (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 4 Holiday Caravan Sites (Wales) Bill: Stage 1—Evidence Session 4

[98] **Christine Chapman:** Welcome back to the meeting on the Stage 1 scrutiny of the Holiday Caravan Sites (Wales) Bill. This is evidence session 4, and I would like to give a warm welcome to Steve Munro, director of the National Association of Caravan Owners, and to Dan Ellacott from the advice team at the National Association of Caravan Owners. Thank you both for attending this morning. The Members will have read your evidence, so if you are content, we will go straight to questions.

[99] **Mr Munro:** That is no problem at all.

[100] **Christine Chapman:** To start off, could you tell me whether you support the main aims and objectives of the Bill, in particular the prohibition of the occupation of holiday caravans as an only or main residence?

[101] **Mr Munro:** As we said in our evidence, we always advise against using holiday-licensed static caravans as a main residence. So, we would support that.

[102] **Mr Ellacott:** We are very supportive of the Bill's aims and objectives. There are areas, as a lot of people have identified, that have raised potential issues and problems, but we have touched on some of the bits and pieces in our statement and, obviously, we will hopefully expand on some of them today.

[103] **Christine Chapman:** Thank you. We will want to explore some of those issues as well. Jocelyn, did you have a question?

[104] **Jocelyn Davies:** You said this morning and you say in your written evidence that you are very supportive—not just supportive, but very supportive—of Mr Millar's objectives in the Bill. Is that because it would benefit your membership and, if so, how?

[105] **Mr Ellacott:** I think that we have been supportive of it in terms of trying to get it out to the grass roots of the industry and trying to get the feedback from our membership. We have been supportive of the various aims and objectives. Realistically, one of our biggest problems as an organisation is dealing with caravan parks that do not have written terms and conditions. For us, as soon as we were presented with the aims and objectives of the Bill and we spoke to Darren Millar about it, it was evident that there was a big win attached to it. Granted, we should not have a primary focus on the formation of legislative reform on the basis of the fact that we get a win in terms of the requirement for written terms, but, having to

deal with these situations on a daily basis, where the biggest problem we face is that there is nothing in writing, it was a big interest for us.

[106] **Jocelyn Davies:** So, having written terms and conditions is the big thing—

[107] **Mr Ellacott:** It is a primary focus for us. Again, we have a lot of concerns about residential use of holiday caravans for that reason. There are a lot of arguments about inappropriate use, in that it may harm the economy and be drain on resources, but, for us, again, it is about dealing with the sharp end of things, where things go wrong. So, if you have invested in a static holiday caravan as your main UK residence and you do not have a written agreement and something does go wrong—these are the situations that we are dealing with. We deal with a very broad range of topics, from things like pitch fee increase—

[108] **Jocelyn Davies:** So, your members generally come to you when they have a gripe.

[109] **Mr Ellacott:** Generally speaking, yes.

[110] **Jocelyn Davies:** So, you do not hear from people when everything is tickety-boo.

[111] **Mr Ellacott:** I would say that the majority of caravan owners in the UK are happy, in our experience. As with most things, we only really get, as you pointed out, gripes.

[112] **Jocelyn Davies:** We are often in the same position. Mr Millar says that the use of caravans for a main residence could lead to a fall in site standards. Do your members tell you that? Why should the Assembly concern itself if there is a varying of standards across caravan sites because, surely, the industry standards themselves will tell you if somewhere is a one-star, two-star or five-star site?

[113] **Mr Ellacott:** I cannot necessarily speak for Darren Millar's view on the subject, but, in terms of us establishing how caravan owners feel about it, quite often, there is definitely a divergence of feeling. We speak to people that are on the holiday park, where there are people who live there, and that establishes two sort of camps, which creates a peculiar set of circumstances on a holiday park. There is no doubt about it; there is an issue where it does occur. Whether or not that specifically refers to a slip in standards that can be controlled or dealt with by local authorities is a different matter, really.

[114] **Jocelyn Davies:** Should the Welsh Government or the National Assembly concern themselves if there is this sort of discord between two caravan owners next to each other? Should Government be interfering there?

[115] **Mr Munro:** It is slightly a relationship issue beyond what we normally deal with. So, we are normally dealing with things between the park operator and the caravan owner. What you are talking about is really what happens to the condition of the park as a whole and what happens to the environment, the business environment and all the attendant things that ripple out from having a caravan park if it turns into a caravan park where the majority of people are living.

[116] **Mr Ellacott:** It should also be noted that these parks are licensed for holiday occupation. So, it is down to the local authority to be able to control that. At present, in our experience, the trouble is with the local authority dealing with these situations as they arise. We have talked about it. It is a problem across the UK—or we feel that it is, as an organisation—because we deal with pockets of problems across the UK. Okay, we have spoken about Lincolnshire. We have been on the radio. We have spoken to the BBC in Lincolnshire about the problems that are in existence in Lincolnshire. We have problems in Norfolk, Essex—various pockets. However, as we have referred to in this document, without

a specific analysis of the entire industry, it would be very difficult to understand exactly the extent of the problem. At present, as we understand it, what does a local authority do in the event of a problem? Not enough control is given in terms of the site licence condition. We often see planning conditions attached to it. It is just a bit of a hotchpotch, nationally.

[117] **Jocelyn Davies:** Are you aware of this problem in Wales?

[118] **Mr Ellacott:** It definitely has occurred in Wales. I would not say that it is at the top of our list, in terms of problems—that is definitely private sales of static holiday caravans. For us, as an organisation, people being unable to sell their unit on site with the benefits of the pitch is one of our biggest problems. We have had situations in Wales. They do occur, but because of our demographic split it is inevitably a smaller pot and we have far fewer members and far fewer parks comparatively.

[119] **Christine Chapman:** We have a question from Peter next and then Leighton.

[120] **Peter Black:** There are, of course, sites that are mixed use, legitimately, where some are holiday and residential. Normally, it is quite a clear distinction. Is that a problem for you as well, because you were talking about the residential side of it impinging on the value of the holiday side?

[121] **Mr Ellacott:** Is this in terms of mixed occupancy sites? We very rarely encounter problems because of the peculiarities of how the Mobile Homes Act 2013 has an implication for a mixed occupancy site. One example that I came across just this week was licensed separately. It is almost like ‘This is the residential part of the park’, so we have residential-specification-built models built to the relevant British Standard specification or, indeed, large holiday lodges or units, and ‘This is the holiday part of the park’. So, it is much more defined. The other reference I made was to a park in the south where pockets of the park were being used residentially. It tended to be, perhaps, the more spacious landscaped areas that were being sold in that way and people were using it in that way. If you have a row of caravans that people are clearly using as a main residence, and you come for a holiday, it changes the feel of the park and, of course, it becomes quite difficult for the caravan owner to do anything about it, other than complain to the park operator. That is the situation. If they had a firmer platform for going to the local authority with regard to a breach of conditions and the local authority gave them the power to do something about it other than what is, essentially, a minimal charge—. This is part of the issue that we are dealing with.

[122] **Peter Black:** The holiday park operator is a business person who is operating a business. He does not want to put off people buying caravans for holiday purposes on his site. So, is it not really his or her responsibility to take that sort of action and deal with it?

[123] **Mr Ellacott:** Definitely. It should be a part of his responsibility to provide written terms and conditions, but our experience dictates that most holiday parks in the UK are small—under 100 units—and lots of them do not issue terms and conditions.

[124] **Mr Munro:** We have just been through an economic spell that has meant things have got more relaxed at parks, I would say. The park operators would be more tolerant of situations, because they would want to keep the pitches full and they would want people using the pitches, however. I think that that is why it is starting to come under focus.

[125] **Leighton Andrews:** You said that it is down to local authorities to take action if there are any site problems. Do you think that local authorities currently have the powers that they need?

[126] **Mr Ellacott:** From our experience, no, just on the basis that, in a lot of the situations

that we have encountered, it is due to the level of the fining regime and resource. For us, the biggest problem with breaches of licence conditions is in terms of the spacing between caravans. For us as an organisation, that is the thing that we encounter most often: the density of caravans is too much and the spacing requirement is not enough. They struggle to take action with regard to that, and that is an imperative part of the risk of the spread of fire to the next unit. So, when someone complains, 'People are living here', you get down to a peculiar set of circumstances of what qualifies as a holiday and it gets very difficult.

[127] **Leighton Andrews:** However, you do not have any evidence of the numbers who are living permanently on sites.

[128] **Mr Ellacott:** The problem for us is that we are a holiday caravan owners organisation, so, for the most part, we are dealing with the core of the industry—a traditional, working-class getaway. We do have a section on our database whereby you can opt to send the information to the park. That is an indicator for us, but it is, by no means, definitive—we are looking at about 3%, so it is very minimal. Again, part of the issue and the part of the residence test that, in our opinion, is subject to failure, is the fact that you can just put someone else's address down. When we have been dealing with situations where some unscrupulous park operators will encourage a sale to go forward on the basis that they can live there, they will just say, 'Put your daughter's address'. Again, it is a minority, but, often, that is the problem with an industry that lacks any form of legislative protection. There are bound to be areas that are subject to these loopholes.

[129] **Leighton Andrews:** If you find a rogue operator, do you expel them from your association?

[130] **Mr Ellacott:** We do not have any operators in our organisation. We support static holiday caravan owners. We are a purely a static-holiday-caravan-owner-driven organisation. The British Holiday and Home Parks Association, which you guys are seeing next, and the National Caravan Council support holiday caravan park owners.

[131] **Leighton Andrews:** Okay. You used a figure of 3% of potentially residential—

[132] **Mr Ellacott:** Potentially, yes. It is difficult to say—

[133] **Mr Munro:** It is difficult for us to pin that down.

[134] **Leighton Andrews:** Nobody, so far, has been able to pin it down for us. Your figure is as good as we have had, I think. Thank you.

[135] **Mr Ellacott:** No problem.

[136] **Mark Isherwood:** In fact, the WLGA has said that it believes that the remedy for unauthorised residential occupation could be the prevention of local housing claims, bus pass applications, GP registrations and so on by local authorities. However, it identified to us last week the limited enforcement powers under current law and the limited powers to refuse a grant. In that context, how do you interpret the very poor response from local authorities to Mr Millar's request for data? Do you interpret that as there being no problem or an issue with local authorities either collating or being willing to share those data?

[137] Secondly, and finally, if I may, in terms of the current legislative protection for your members, there is some under the 2005 regulations under the Unfair Contract Terms Act 1977, combined with consumer protection for unfair trading regulations in the impending Consumer Rights Bill, but to what extent do you find that your members, with your support, are willing and able to afford access to that sort of law if in difficulty?

[138] **Mr Munro:** The response from the local authority is beyond what we get involved with, but it does seem very difficult to establish how many parks there are and how many caravans are on the parks. The data for the industry seem very difficult to quantify all over the UK, to be honest. Everyone is taking guesses at how many caravans are out there, but you would think that, if you had a licensing system, you would know that an area was licensing this number of parks and that that park had that number of vans—you could do the maths. I cannot explain why they are difficult to get hold of, but it seems difficult.

10:15

[139] The whole consumer law aspect of ‘Surely these people are okay; they’ve got consumer law to back them up’, misses the complexity of the arrangement that exists for these people with regard to the caravan that they have invested all of this money in and the arrangement that they have with the park operator. They are in a vulnerable position as a consumer, particularly if they do not have a written agreement or anything clear like that. It just becomes an emergency situation if someone from the park says ‘I want you off in x number of days’. Starting a legal process is very time-consuming, expensive and difficult, and it is viewing it—as we always say—as if they have bought an iron or something else that does not work. Okay, if an iron does not work, I will have had a contract with the people who sold me an iron to have an iron that worked. So if it does not work, you go back and sort it out. You still have your home to go back to and you have not lost a big investment, as happens with a static caravan when you are evicted from a park.

[140] **Mr Ellacott:** You referred to unfair terms in consumer contract regulations, which is a useful tool. These are all useful tools that, once again, as an organisation, we use and hope to adopt. We approach parks and we have been using them with local authorities. There is an EU directive on unfair commercial practices, which is useful. They are all useful tools. However, in terms of what you can do as a consumer to do something about this, in terms of launching a court action using the unfair terms and consumer contract regulations, this is your remedy if you have an unfair term in your contract; you have nowhere to go with that other than to launch a court action, which is incredibly costly. Okay, the small claims limit has gone up to £10,000, which, in some cases, is useful. However, in every small claims action that we have been involved in—that we were party to or had the benefit of walking through with the members who have taken action—the parks have immediately instructed a solicitor. In our experience, if you do not do the same, you are immediately at a disadvantage. You have the benefit of being the litigant in person, but that immediately means that, for your potential claim for £3,000, your legal costs would be three or four times that. It is not an appropriate method of redress for the consumer. They have nowhere to go with these things. More often than not, it is a case of having to put up or shut up.

[141] Our average caravan nowadays is £25,000, in terms of a new purchase. Quite often, they are a lot more. So, if you refer to a situation where you take action under the Sale of Goods Act 1979, for instance, and you reject the goods, the claim value becomes £25,000, potentially, and that means big boys’ court, which costs thousands of pounds. Many of us cannot afford that. Once again, we have a finite number of members and resources. Our members pay us only a nominal membership fee per year, and we cannot take up every action that we want to. It is a difficult job for consumers to do something about this. They go to Citizens Advice, which is helpful enough in terms of the provision of information about the Acts and the protection that you mentioned, but it is non-specific. You mentioned local authorities, and we often contact local authorities, but they will not speak to us, because we do not have a caravan in the park and, quite often, there is nobody who specifically deals with that bit of it. Also, for example, we had something crop up this week in relation to non-domestic rates, which involves the Valuation Office Agency. When we went to the Valuation Office Agency, the regulation 4 notice was out of date, so it does not know how many

caravans are in the park, and the site licence was granted in 1984. That is just one park and one situation. If you amplify that right across the UK, as I said, it is a bit of a hotchpotch. It would be fantastic if we had a national framework and this was the way forward.

[142] This is part of the reason for our supporting this. Obviously, there are some issues with regard to some of the numbers and the evidential record of people using it as a main residence, but the fact that this has created the debate and that we are looking into the idea of it is fantastic. Even if it does not go through, hopefully it will give us a platform to find out some more. Maybe we will start to ask people whether they live in a holiday caravan. However, once again, there is reluctance to do so. I had some clients in this week, who have a residence in Spain—they live in Spain—they do not have residencia, but that is where they stay, and then they come back to the holiday park. The local authority is trying to charge them council tax, but there is no specific framework for that to happen or something like a book that they go to and know that this is the set-up. Our local authority is doing one thing and the next one up is doing another. It is just a bit messy, really. If you start looking into it and going from place to place, you could have different holiday parks operating on a different basis essentially, but—

[143] **Christine Chapman:** We will look at some of those issues. Mark, did you have any further questions?

[144] **Mark Isherwood:** No. That was very helpful, thank you.

[145] **Christine Chapman:** That is good. Thank you. Janet, did you have any questions?

[146] **Janet Finch-Saunders:** Thank you. Are you content that each local authority will be able to set its own fee policy in relation to site licenses? Do you think that it would be more appropriate to have a standard fee policy across Wales?

[147] **Mr Ellacott:** I think that it would make more sense to have a standard fee policy.

[148] **Janet Finch-Saunders:** Do you think that that will increase fees for site owners, but that it will also pass on licensing fees to caravan owners?

[149] **Mr Munro:** We think that, ultimately, the cost of any mechanism that is put in place will end up at the bottom of the food chain and the caravan owners will end up paying for it. That is one of our concerns that we have noted. It is how the industry works; that is where the money comes from.

[150] **Janet Finch-Saunders:** The ones who are not particularly supportive of this Bill, shall we say, are stating the impacts on tourism. Do you think that the Bill, as it stands, would have a negative impact on tourism?

[151] **Mr Munro:** There has been some comment about it creating unfair competition. I do not quite see how that—. Whether it is to do with—.

[152] **Janet Finch-Saunders:** [*Inaudible.*]

[153] **Mr Munro:** Yes.

[154] **Janet Finch-Saunders:** Do you think that regulation would actually help to make the industry more attractive to people to come to stay in holiday caravans in Wales? At the moment, it is a mess.

[155] **Mr Munro:** I think that that is the intention. The intention is to clarify that holiday

caravan parks are used by people for a holiday that they take once a year or something, or by people who own a caravan and use it for holidays throughout the year. So, I think that that is the thrust of the—

[156] **Christine Chapman:** Obviously, as a committee, we are aware of what the intention is, but the purpose of today is for us to examine—and your evidence is useful—how it could work and whether there are barriers or opportunities. So, you can be very frank with us on that.

[157] **Mr Ellacott:** Overall, it is difficult for us to specifically talk about the impact on tourism because, again, it is not our specialist area. I like the idea of an industry that is proud of its level of service. Generally speaking, it is a great industry. It is a fantastic British success story. All of the manufacturers are British; it is fantastic. We love it and we are pro-industry. Lots of parks across the UK adopt the model terms for the industry, which have been drawn up in accordance with the Office of Fair Trading guidelines, and Unfair Terms in Consumer Contracts Regulations 1999. It is fantastic. The problem is that there are pockets of issues. By all means, let us look into these issues some more and get some firmer figures. The feeling that we get is that we need some firmer figures about the whole thing.

[158] **Christine Chapman:** Can I just say that a Member has put forward this Bill? As you said, there is a lot of support. However, we need to deal with this particular Bill at this particular time. Obviously as a committee, we have to decide, because there are issues, whether this Bill is the best way to go about it or whether there are other ways. So, as I said, we are just listening to your views on this at the moment and the practicalities of it.

[159] **Mr Munro:** We have been presented with the Bill and have been asked to comment on it. It is not like being presented with two and we are picking the best. This is what is potentially going forward. So, what we are saying is that there are obviously going to be some difficulties with it, but we can see some things that we consider would be beneficial to our members, and that is clearly what we are here to promote.

[160] **Mr Ellacott:** Coming back to the cost very quickly, we talked about costs and the implications for our membership and it is probably the one major concern that has been raised by our membership. We refer in our paper to canvassing our membership. We directed that straight back to Darren Millar in terms of his questionnaire et cetera. People are concerned about the impact of cost and that is something that we need to be acutely aware of because it will get passed back to the caravan owner. What we also have to be acutely aware of is what already happens. Again, it is very difficult to have an average pitch fee across the UK because of facilities and whatnot, but if you are looking at £2,500 to £3,000 a year for your pitch fee as an average, very broadly, £10 a year or whatever it works out to be, even if it is 1%, which would be £25 a year, for that security and starting what is potentially a really good aspect of our industry—. Again, there is no getting away from it—it is a fantastic success story, but, unfortunately, we are a little bit tainted in a way, because every call we get primarily is about a problem with a caravan park. We are not talking about millions of calls, and, again, we often sit and refer back to other reports that are made about numbers et cetera, but we are seeing a year-on-year increase in the number of enquiries that we get about this. It is why we have been so keen on pushing forward and getting feedback from our membership. However, it is what it is.

[161] **Christine Chapman:** Janet, quickly, and then Rhodri.

[162] **Janet Finch-Saunders:** What sort of numbers do you get? How many complaints do you get?

[163] **Mr Ellacott:** Last year there were about 1,200 complaints on various topics.

[164] **Janet Finch-Saunders:** Are you saying that they are predominantly about caravan owners feeling that site owners are not running sites as well as they might, or are they on other issues?

[165] **Mr Ellacott:** There is a very broad spectrum of issues. In our most recent magazine we published an overview of the broad range of issues, which everyone—

[166] **Christine Chapman:** Could you give us some idea of the issues related to this particular Bill? If you do not have that information now, you could send it to us.

[167] **Mr Ellacott:** Yes, I think it would give everybody a broad overview of the very broad range of the spectrum, but they tend to be problems based on the lack of a written contract. For instance, private sale is a big issue. Every caravan owner should have the right of assignment, so they should be able to assign the rights of their contract. That has a big impact on the retail value of their holiday caravan unit on the park. That is our biggest enquiry across the year. Again, just this week, another enquiry that we have got was that a caravan owner had been told to vacate their caravan and give the park owner the keys, and then work out a price for them. I asked whether we could see the terms of conditions, and they were on one sheet of paper. Again, we cannot help—we tend to deal with that part of it. The BH&HPA licence agreement is fantastic because it has a full procedure. If everybody had that contract, it would be awesome, because all the major operators use it, and all the guys that are talking about #parklaw on Twitter and the other social media fora are using these very useful tools. By all means, we can get that out to you.

[168] **Christine Chapman:** That would be useful, thank you. Rhodri is next.

[169] **Rhodri Glyn Thomas:** In your response earlier you said that you were generally in favour of this legislation, but you have now said that you are commenting on this legislation because this is the only way forward that is being proposed at the moment. In terms of proportionality, do you think that legislation is the way forward here? Are there other things that could be done to remedy the problems that you have?

[170] **Mr Munro:** Legislation—.

[171] **Jocelyn Davies:** Go on; toss a coin to decide which one of you is to answer. *[Laughter.]*

[172] **Mr Munro:** Do you want to answer, Dan?

[173] **Mr Ellacott:** What I would say is that, for a long while, the industry has talked about self-regulation. In 1998, the Office of Fair Trading spoke very broadly about problems in the industry and asked about a code of practice. It developed a code of practice, there is a model licence agreement for the industry, and in 2005 the Office of Fair Trading launched a document called ‘Guidance on unfair terms in holiday caravan agreements’. The problem is that there is nothing specific. There is no framework for any of it. Again, all the documents that we have talked about are useful, but they are not specific, and that is what we need. At that point, we will be able to say to you, or everybody would know, how many caravans are being used residentially, because the residential check would have identified it, and so on and so forth. For us, there is clearly a problem in terms of a year-on-year increase in the number of enquiries that we get, and it is not that we have seen an increase in the number of members that we have, because we have remained static—that is, we have remained constant for the last few years, which is probably in part to do with the fact that the industry is struggling, as everyone else is, with the economic climate in certain areas. So, I think that, for us, we are very supportive of the idea of legislative control for a number of these things, and it is to do

with the fact that local authorities probably need more resource and power, and higher levels of fines, potentially, because, again, I do not think that it is enough to levy the fines structure that they currently have against a caravan park, which tends to be a fairly big machine. It is to do with the fact that there are implications for people using their holiday caravans residentially. It is to do with a number of aspects that the Bill has covered. I am rambling again—apologies.

10:30

[174] **Christine Chapman:** That is okay. Is there anything else, Rhodri?

[175] **Rhodri Glyn Thomas:** No, not for the moment.

[176] **Christine Chapman:** Okay. Thank you. Mark, did you want to come back in?

[177] **Mark Isherwood:** Yes. I have a couple questions about enforcement provisions in the Bill specifically. You referred to fines a moment ago; what are your views on the maximum fixed-penalty notice figure in the Bill of £500? Is this proportionate, do you believe, as a penalty for a breach of licence conditions?

[178] **Mr Munro:** As Dan has alluded, it does not seem very much in the overall scheme of the park operating organisation. It does not seem that that is going to be much of a deterrent.

[179] **Mark Isherwood:** I will take that as a 'yes'. What are your views on the proposal to introduce repayment orders, enabling a caravan occupier to apply to a magistrates' court to recover payments made by an occupier to an unlicensed site owner?

[180] **Mr Ellacott:** This is something that we came across just recently. An unlicensed park operator—

[181] **Mark Isherwood:** Yes—a holiday park operator.

[182] **Mr Ellacott:** I think that that would be one of the questions that we would like to come back on, really. It is one of the things that we have been looking at in terms of a response, and, obviously, it did not form part of this response, so, if it is okay with you, we would like to come back to you on that.

[183] **Christine Chapman:** If you would.

[184] **Mark Isherwood:** In terms of fit-and-proper-person tests, I think that, in your evidence, you have indicated the risk that people who may fail under the Mobile Homes (Wales) Act 2013 could then revert to running holiday parks. Clearly, you believe that there is a need for the test. Do you believe that a test is required for the managers of a site?

[185] **Mr Munro:** Well, I suppose it would be the responsibility of the organisation running the park. Our support for the idea is that we are worried about disparity between the two parts of the industry. So, if there is a fit-and-proper-person test in the residential sector, then you would imagine that the consequence of somebody failing it might be that they go to operate in the holiday sector, if that test is not in place. That is the thing that we are commenting on there, really, namely that there is a potential detriment to caravan owners if there is a disparity in those tests. What about the management question, Dan?

[186] **Mr Ellacott:** Perhaps we could come back to you on the management question as well. We do have concerns about fit-and-proper-person testing in general. It is a difficult area, and we appreciate that. It is something that we have talked to the Department for

Communities and Local Government about before.

[187] **Mr Munro:** We did attend a meeting at DCLG, with quite a few local authority representatives, and the message that came from there was that, generally, ‘We haven’t got the resources to do any of these things’. That is what was said, and it came across loud and clear.

[188] **Mr Ellacott:** We will come back to you on the park manager topic, if that is okay.

[189] **Mark Isherwood:** In terms of provisions within the Bill for local authorities to appoint an interim manager following failure of the test, do you wish to come back on that as well?

[190] **Mr Munro:** We were discussing that, and it is quite a can of worms, really. What might happen to a park that has been put into special measures, if you like? If the existing operator is a private business running with a manager, and some part of that is deemed to be not fit and proper, the local authority will bring in a management team with a manager. What then happens to the regulation? I can almost imagine that almost going into a kind of stasis, really, where that is deemed to be okay: ‘Oh, that’s okay; we’ve got that put like that’. I do not really know. It is unknown territory, really, what might happen in that case.

[191] **Mr Ellacott:** Ultimately, that scenario could be detrimental to our members. That is the thing there. It is a complex industry in terms of caravan owners and the running of the park. The fit-and-proper-person test has got its complications, and we are not necessarily in full support of the fit-and-proper-person test, but one of our concerns has to be—. Again, we see it a fair amount; we know that the residential sector has its issues in terms of rogue operators, but, quite often, they come into the holiday sector as well, because they have operations for both residential and holiday parks.

[192] **Mr Munro:** Also, the parks are a disparate group of entities. Some of them are just 20 or 30 vans out the back of a farm or something, and others are great big all-singing, all-dancing things. So, there is a proportionality thing as well, is there not? What would you—? It is out there, really, that sort of—.

[193] **Mark Isherwood:** I think proportionality is a key issue in how we target the bad guys. You seem to support the WLGA on the need for greater powers to be able to refuse a licence, and greater enforcement powers, because the WLGA complains that they are insufficient at the moment, and agrees with the BH&HPA that we need a mandatory written agreement on sites. How would you respond to concerns—you have mentioned that you have concerns—raised with me by the banking sector? I was speaking to an official in north Wales who lends millions to site owners, who create jobs and invest in the local economy—I am talking about BH&HPA sites, with model licences. He was expressing concern that some of the provisions in the Bill would impact on the ability of the banking sector to lend and manage the risk within the law that it has to comply with. Have you had any evidence to that effect, or any anecdotal cases involved?

[194] **Mr Munro:** I do not think so. Again, you see, we are dealing with—. Our focus is on the relationship between the park and the caravan owner.

[195] **Mr Ellacott:** That is very much an aspect that we do not really have any involvement in per se, because it is a financial aspect to the park.

[196] **Mr Munro:** It would be very rare for a park operator to even talk to us about anything to do with their funding, or anything like that.

[197] **Mark Isherwood:** It is more the bank. Okay, thank you.

[198] **Christine Chapman:** Mike is next.

[199] **Mike Hedges:** As I said when I declared an interest earlier, I have a caravan on a static site. On the residence test, every year I have to go and get a card so that I can use the facilities. Why could they not just ask me to produce a passport, a driving licence or some other photo identity, or, at worst, a council tax form in order to show that I live somewhere else? I have to provide my photograph anyway; why can they not ask me for another piece of information as well?

[200] **Mr Ellacott:** It is a good and valid point. That sort of practice that you describe is fairly standard practice across a lot of the industry. Some of the feedback that we have had from our members is that, if they do not do an annual licence such as that, they feel a little like they are being guilty until proven innocent, as one described it; they have to provide these every year.

[201] As we said in our evidence, we like the idea of it happening by the side of a caravan. Again, the model licence for the industry has the stipulation that you must not use it as an entry unit. If there is proof obtained with regard to that, that relationship should remain as constant with regard to that and perhaps at sale. Speaking on the basis of the feedback that we have received from our members, they are concerned about the annual test—the implications of it and the cost of it. However, we completely agree with you; all caravan parks have to do annual things, whether it is a pitch fee, insurance or what not—it is understandable.

[202] **Mike Hedges:** Surely you have to have an address to which they send the bill for the cost of pitch fees, et cetera. So, as long as they refuse to use post office addresses and, as a means of doing that, people actually had to have a proper address, would that not address it?

[203] **Mr Munro:** Well, as we have said, that can get circumvented by somebody saying, 'Just use your daughter's address', or what have you. You can say, 'I live there', and have all the documents sent there.

[204] **Mike Hedges:** Yes, but I think that that itself can lead to other things in terms of council tax, can it not? If the daughter is living there on her own—if she is claiming that her parents are living there, and she is claiming a single person council tax discount, one of those two has to be wrong; she has broken the rules somewhere.

[205] **Mr Munro:** Yes. Maybe she would forego her single person discount.

[206] **Christine Chapman:** Anyway, we will move on to that. Do you have any other questions for our witnesses, Mike?

[207] **Mike Hedges:** No.

[208] **Christine Chapman:** Okay. Rhodri, did you have any further questions?

[209] **Rhodri Glyn Thomas:** Yes. In terms of the feedback that you have had from your members, it seems to me, from what you are saying, that the main concerns that you have are the terms and conditions for your members on park sites.

[210] **Mr Munro:** It was more about the sale of caravans, was it not, Dan?

[211] **Mr Ellacott:** Yes. Overall, as an organisation, our primary focus is to push for written agreements, full stop. The majority of situations that we deal with are to do with the

fact that there is not a written agreement in place with security of tenure, and, even if there is a written agreement in place, it is quite often a rolling annual agreement, which has its own issues. So, as an organisation, our remit is to try to secure that for our membership.

[212] **Rhodri Glyn Thomas:** So, if there were written agreements on all sites, your members would be content.

[213] **Mr Ellacott:** I think that there are always issues, full stop, even if there are terms, but it gives us a platform to get a focus on in terms of behavioural standards or termination of contract. I think that there will always be issues—I mean, there are in any industry that becomes regulated that was not regulated before. We have a very broad range of issues with our membership—it is not just the need for a written set of terms and conditions. That is part of our focus as an organisation, because we believe that it would be beneficial. There are lots of customers that you speak to who have been on a park for 20 years and have not got anything more than a handshake, and they are more than happy—‘Oh, I do not want anything in writing’. So, for us as an organisation, that is our focus—it is one of the things that sparked our interest in the Bill, and it continues to be a focus for us as an organisation. I do not think that just having written terms would be—

[214] **Mr Munro:** It does not mean that, because a park issues written terms, we do not get any problems there. It just gives us something to get a hold of when a problem occurs.

[215] **Mr Ellacott:** Again, it lays out the obligations of both parties—it is a fantastic thing to do, full stop.

[216] **Rhodri Glyn Thomas:** So, if you had a standard form of written agreement, that would address most of the issues that you have—at least you would have something that you could use, and say, ‘This is the agreement’. At the moment, you do not have anything, so, therefore, you have to deal with every issue as it arises.

[217] **Mr Ellacott:** Indeed, yes. There is a slightly different set-up in Northern Ireland, where there is a mandatory set of terms and conditions—they have to have written terms for occupancy over 28 days.

[218] **Rhodri Glyn Thomas:** Okay, thank you.

[219] **Christine Chapman:** Jenny, did you have any questions?

[220] **Jenny Rathbone:** I really just wanted to focus on these people who enter into agreements without there being a written agreement. Among the written evidence we had was evidence from a couple who bought a caravan for £11,000, asked for a written agreement, and the owner just said, ‘Oh no, we do it all on trust here’. So, obviously, they are fully supportive of clear written agreements, because they lost a huge sum of money. So, I suppose that the question is: what can be done? How many of your members join you without written agreements? Is it one of the tick-box questions that you ask—‘Have you got a written agreement’?

[221] **Mr Munro:** It is not something that we ask them when they join. We find out when they—

[222] **Jenny Rathbone:** Would that be a good idea? If they do not have one, obviously there are risks involved in that.

[223] **Mr Munro:** Sorry—?

[224] **Jenny Rathbone:** Would it be a good idea if you did ask them, ‘Have you got a written agreement?’, because the ones without the written agreements are likely to be the ones who are going to tie you up in more problems.

[225] **Mr Munro:** Conceivably. I mean, as Dan says, it does happen that people survive for a long period on a park without a written agreement.

10:45

[226] **Mr Ellacott:** When we receive a specific enquiry regarding a problem or a concern, we send out a questionnaire and part of that questionnaire process is to establish whether or not they have a written agreement and, obviously, the important bit is us seeing that written agreement. I take your point. I think that it would be a useful bit of information for us to store.

[227] **Mr Munro:** We have an idea from the park they are on. We take the details of what park they are at. Quite often we are familiar with the park and, quite often, we will know that that park does issue agreements and what the state of play is likely to be. I mean—. It is a fair point.

[228] **Jenny Rathbone:** Obviously I have also had constituents who did have a written agreement, but, unfortunately, it was written in such obscure language that they did not realise that they were signing up to something where the charges were going to be at 10% compound interest every year and that they would end up paying £1 million after a few years. Obviously, that sort of practice does not get ironed out just by the fact that you have got a written agreement. Also, they were being charged something different from what other residents were being charged; some of them were being charged this exorbitant rate and others were charged at a different rate. So, all of these things would indicate that some form of regulation, so that there is a strengthening of people’s consumer rights, would be suitable. In the absence of legislation, what is being done to educate people either in the press or through the consumer association in terms of what to look for when you buy a caravan?

[229] **Mr Munro:** Well, we try to do what we can. The National Caravan Council has been proactive in coming up with a code of practice and it has got certain park operators to sign up to its charter of behaviour standards between the park and the caravan owner.

[230] **Jenny Rathbone:** Okay, but even if all of the industry bodies are supportive of the Office of Fair Trading’s guidelines and of written agreements, obviously that still leaves room for other individuals who set up an operation where it is not clear what the agreement is.

[231] **Mr Munro:** Yes, that is right. There are a lot of smaller operators out there. As Dan said earlier, the majority of parks are what we would call small parks and some of them hold the view that it is their land and they will do what they want with it.

[232] **Jenny Rathbone:** So, were this legislation not to go ahead, what would be the next step that should be taken, do you think, to strengthen the rights and obligations of both caravan owners and site owners?

[233] **Mr Munro:** Well, we would like to see something go forward that would put a written agreement in place—that there has to be a written agreement.

[234] **Mr Ellacott:** Definitely. We speak to MPs and bodies and various people all of the time, trying to push forward our aims and objectives for caravan owners. The problem is that, generally speaking, it is not on the radar, unfortunately. It is a small part of anything. The last time we went to see an MP in the Houses of Parliament, we had a tiny bit of time, because it is not viewed as a big issue in the grand scheme of things. That is the difficulty that we face.

This was pulled out in a ballot and, by chance, has had an airing. The biggest national acknowledgment of the industry in recent times was when the VAT got increased. Again, that was a consumer issue, which fired people up. Immediately, #caravanTax was trending as much as it could, which gave us the platform to speak about these things and obviously that is why we are here today: to put forward what would be of real benefit to our membership.

[235] **Christine Chapman:** Could I just mention that, obviously the Bill is here and, as a committee, we are looking at whether there are problems, barriers and opportunities. So, as I said, feel free to be absolutely frank if you think that there are difficulties or if you think that there are good things about this. As I said, we are just examining this particular Bill. I appreciate, obviously, that there are issues that we are pleased to hear about, but, as I said, today we want to examine the Bill to make sure that, if it goes forward, it is good legislation and that it will be effective. Are there any other questions?

[236] **Jenny Rathbone:** No, not really. Obviously, when you give us a breakdown of your 1,200 complaints last year, hopefully, it will show us how many of them had written agreements or did not have written agreements, because I think that is quite an important aspect.

[237] **Mr Ellacott:** Yes, we will take a look at that.

[238] **Christine Chapman:** Jocelyn, you had a question.

[239] **Jocelyn Davies:** I just wanted to ask about the six weeks—that you would only be able to stay for six weeks. How do you think that your members are going to react to the fact that they cannot stay for longer than six weeks? Mr Munro told us that came from the industry, that six weeks is normally the length of the summer school holidays, so that should be the maximum length of time that anybody should stay as a continuous period in their caravan. You mentioned somebody, earlier, who lived in France, did you not? No, it was Spain you said. So, they come over here to stay in their caravan. Do you think that they would be happy with that?

[240] **Mr Ellacott:** I think, generally speaking, that people would not be happy with a restriction on use. To be honest, we struggled a little bit to get specific feedback from our membership. In general terms, people do not like being told what they can or cannot do. They have paid their pitch fees. A lot of the time the contention is, ‘Why should I not be able to stay for the whole season?’ They have paid their pitch fees.

[241] **Jocelyn Davies:** So, can you see any good reason why that six-week rule should remain?

[242] **Mr Ellacott:** I think the six-week rule is going to be frowned upon by our membership. Some local authorities already have a 28-day rule in their site licence conditions. It is difficult to police. When do you know? At what point do you start the six-week period and finish it? It is quite a difficult thing to police, as is the 28-day rule. I think it is going to be very difficult to deal with and it would be to the detriment of our members.

[243] **Jocelyn Davies:** With regard to the demographic of your members, is it normally families with schoolchildren?

[244] **Mr Ellacott:** It tends to be a more mature demographic.

[245] **Jocelyn Davies:** So, school holidays are unlikely to have any effect.

[246] **Mr Ellacott:** They are unlikely to have an effect. There was a period when there was

a broad base of family users that were going into holiday caravan ownership. Quite often, the purchase of a holiday caravan might have been done by the retired grandparents and the whole family uses it. It is not cut and dried. Generally speaking, our demographic is retired.

[247] **Christine Chapman:** Just for the record, I am just getting clarification on these six weeks. The six weeks refers to the period after which an occupier would be required to take a residence test, as opposed to a restriction on using the caravans. Sorry, that is just for the record. Leighton, did you have any questions?

[248] **Leighton Andrews:** No.

[249] **Christine Chapman:** Gwyn, did you have any questions?

[250] **Gwyn R. Price:** I just had a question on some of the comments that have suggested that implementing this Bill for Wales would be a 'significant and real competitive disadvantage'. Have you any comments on that?

[251] **Mr Munro:** Presumably that is if somebody is thinking of buying a holiday caravan in England or Wales.

[252] **Gwyn R. Price:** Yes, because of this Bill and some of the Bill's contents, they may say, 'Well, it's a little bit complicated to come to Wales, I'll stay somewhere else, perhaps'. You said yourself that the ones who will take the cost, or any cost, will be the people at the bottom of the pile.

[253] **Mr Munro:** You do not have uniform things that you are comparing, with one having the additional cost highlighted. Everything is a bit greyer than that. I am not sure that the comparison would be so direct.

[254] **Mr Ellacott:** I think it would be difficult for a new customer coming on to a park to necessarily notice the difference. Looking at caravan parks that are BH&HPA members, for instance, they already require a note to say that you will not be using it residentially. There are already lots of local authorities scattered across the UK that are undertaking these residential tests. It is already happening a bit. I understand the concern completely, or we understand the concern completely. I think it is another one of these things that is incredibly difficult to quantify. The feedback that we have had from the results in Northern Ireland, for instance, suggests that it has not necessarily meant that people have switched to southern Ireland for their holiday caravan ownership. We do not get a lot of feedback from them, just in general; again, it is a smaller market. One would hope that if it went forward in Wales, it would go forward elsewhere.

[255] **Gwyn R. Price:** Thank you.

[256] **Mark Isherwood:** I have two short questions, both relating to issues that have been covered. You referred to a situation where an older person may put down their daughter's address, but I have been told by BH&HPA owners that they have had propositions put to them because of the model agreement by the daughter or son, saying, 'Okay, we will buy, but then our parents will live there, nudge, nudge, wink, wink. Will that be okay?' Is that a common issue within the demographic that you describe? Secondly, and finally, in terms of protection from harassment, you referred to a case where somebody had been given very short notice of eviction from their van, to what extent do we need protection whereby the site owner would need to prove the allegations that he might make against that van owner? To what extent should the site owner be able to show that they had made all reasonable efforts to remedy the issue before moving to eviction?

[257] **Mr Munro:** Most licence agreements contain disciplinary clauses, which work, on how the agreements have been breached. So, if you were talking about a situation where the caravan owner was deemed to have been in breach of their agreement with the park—is that what you were saying?

[258] **Mark Isherwood:** If a site owner alleges that—.

[259] **Mr Munro:** Sorry. If a site owner alleges that, they have to give the caravan owner the chance to remedy the breach.

[260] **Mr Ellacott:** I think that it comes back to the contract, again. If you look at, for instance, the British Holiday and Home Parks Association model wording, which is also used by the National Caravan Council and implemented by all of the major players in the industry, there is a very clear-cut process that needs to be undertaken. So, there are two things to that. First, there is the fact that there are breaches that are viewed as being capable of being remedied, in which case, they should be given an appropriate time to remedy the breach and then, if they do not remedy it, that results in breach of contract. There is also the fact that if we deal with a situation such as that, we are able to assist our member in analysing whether or not the park is acting in accordance with the terms of the contract. If it is not, which is one of the situations that we have got on the boil at the minute, that can be tackled in terms of the park being in breach of its own agreement. So, the fact that obligations are set on both sides is the benefit of having a written agreement. Again, where we do not have a written agreement, it is essentially down to who has got a vehicle that can move a caravan and, generally speaking, that is the park operator.

[261] Talking about the sons and daughters who purchase the unit, again, it comes back to this point about the difficulties of the residence test. In general, there are ways around it. That is not necessarily to say that we should not be aware of the issue or spend more time investigating the actual numbers involved in it in its entirety. Obviously, one study has been done, but its results cannot, as has been pointed out, be extrapolated right across the UK. However, it is obviously happening, and it would be good to have some firmer numbers on that. There are always going to be ways around it.

[262] **Mr Munro:** People do not generally phone us up, lay out a problem and say, ‘Oh yes, by the way, my daughter bought the caravan and I’m living in it’. That is in the background.

[263] **Mr Ellacott:** In our experience, it is the other way around. So, as I said, the grandparents have brought the caravan and the son or daughter is using it and there is a problem with the son or daughter over the weekend and the eviction moves forward because of them. Our general experience is the other way around.

[264] **Mark Isherwood:** Thank you.

[265] **Christine Chapman:** I do not think that Members have any more questions, so thank you both very much for attending today and answering the Members’ questions. We will send you a transcript of the meeting, so that you can check it for factual accuracy. If you are able to follow up on some of those further responses that we discussed, we would be very grateful. Thank you both for attending today.

[266] **Mr Ellacott:** Thank you all for your time.

[267] **Christine Chapman:** The next witnesses will be coming in soon, but we will take a quick comfort break.

Gohiriwyd y cyfarfod rhwng 11:00 a 11:07.

The meeting adjourned between 11:00 and 11:07.

**Y Bil Safleoedd Carafannau Gwyliau (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 5
Holiday Caravan Sites (Wales) Bill: Stage 1—Evidence Session 5**

[268] **Christine Chapman:** For the record, we are doing Stage 1 scrutiny of the Holiday Caravan Sites (Wales) Bill. This is evidence session 5 and I would like to give a warm welcome to our panel: Ros Pritchard OBE, the director general of the British Holiday and Home Parks Association; Huw Pendleton, a member of the British Holiday and Home Parks Association; Alicia Dunne, the deputy director general of the National Caravan Council; and Judith Archibold, a member of the National Caravan Council. A warm welcome to all of you.

[269] Members will have read the evidence. What we are doing today is seeking your views on the Bill as it is presented. So, obviously, we are looking for responses to those questions. I want to start off with a very broad question. What is your response to the assertions made by the Member in charge, Darren Millar AM, that the use of holiday caravans as permanent residences can lead to falling site standards and undermines the visitor experience?

[270] **Ms Pritchard:** Chair, on a mixed park of both residential and holiday pitches, of course it would not; where you have staff resident on a park, of course it would not; and, in some cases, nobody knows it is happening, therefore, the standards are not dropping. However, anecdotally, the line is that the nurse's uniform hanging on the line, suggesting that somebody is living and working there, can change the ambience of the park. However, that is anecdotal. We do not know how many there are, but that is the line I hear from members. If the usage is for holidays, obviously, people get in their cars and go out on day trips or they are swimming in the pool; usage is completely different if people are getting up and going to work. I do not know whether anybody else has anything to add.

[271] **Christine Chapman:** As you said, it is anecdotal, and you have described a mixed view of this as well, with regard to what is happening. Do you think that the Bill as drafted, which is what we are looking at today, is the most appropriate method of addressing these issues? You have alluded to some of the issues. Do you think that the Bill is the way to go forward?

[272] **Ms Pritchard:** We have engaged with the Member in charge of the Bill, as you know, from the outset. The objectives, broadly, the industry would share, but we have deep concerns, which we have put in our evidence, that the Bill is disproportionate in the way that it goes around addressing the issues at hand. Perhaps the easiest way to put this is that it applies to a small touring park. So, this is a green field with probably a reception, a husband-and-wife team, and perhaps 10 pitches receiving holidaymakers for a short break. If you look at the licensing provisions, or any of the provisions, looking through the lens of applying that to a husband and wife running a tiny touring park, you will see that it is grossly disproportionate. Then, you need to get into the devil of the detail; the devil is always in the detail in something like this. You have a 45-page Bill here, where we feel that it is disproportionate given the anecdotal evidence base and the issues to be addressed. That said, we did support the objectives. The 1960 Act is older than I am; there is a sound argument that formally looking at it would be a good idea. However, I am afraid that we do not support the way in which it is proposed in this Bill.

[273] **Christine Chapman:** Obviously, today we are looking at the Bill and that is our sole objective today. There may be issues for other times but, obviously, we would need to look at your views on the Bill. I now turn to Jocelyn.

[274] **Jocelyn Davies:** Obviously, this refers just to caravans, and that is only one section of our tourism offer. I just wondered whether you had thought, 'Why just caravans; what

about bed-and-breakfast accommodation, guest houses, hotels, chalets, cabins and so on? Why is this just about caravan parks?’

[275] **Ms Archibold:** From our perspective, we just cannot see why the holiday park industry and caravans have been singled out to be treated in a particular way. In fact, by singling out the holiday park industry, I think that one of the real unintended consequences of this Bill is that you put the caravan park industry at a real disadvantage not only actually to other holiday parks elsewhere in the UK—in England—but to other tourism industries within Wales. I have not seen any evidence as to why we should be singled out, and why our position should be regulated to the extent proposed in this Bill when hotels, guest houses and log cabins are not.

[276] **Jocelyn Davies:** Yes, I would agree with that. You say, of course, that perhaps it needs looking at because it is getting a bit jaded, but you say that this Bill represents radical reform rather than modernisation. Would you like to expand on that slightly?

[277] **Ms Pritchard:** Yes. If you look at what is proposed, you will see that there are more stringent protections in the Bill than there are to be commenced in October for residential mobile home parks. For Mr Black’s Act, there was a considerable evidence base, and we had protections being brought in to answer abuses that had been identified. We do not have that evidence base here, yet the protections proposed go beyond those that were previously proposed. Therefore, you have this disproportionate burden, and, again, if you think of the small touring park that sells short breaks, how can you justify a fixed penalty at level 2, which we learnt yesterday is anything up to £2,000 for a minor breach of site licence? That is disproportionate in our view.

[278] **Jocelyn Davies:** Do you think that some people would be tempted, such as a husband-and-wife team perhaps, just to give up and do something else?

[279] **Ms Pritchard:** Absolutely. In fact, we were looking at tweets from the membership already—it is not worth the candle. The burden of regulation grows on every business across the UK. We want entrepreneurs—people like Huw, who invest their own money and borrow to grow businesses and to create jobs. The burden of regulation is putting off entrepreneurship. For a small business, facing a 45-page Bill, we will have calls coming into the office from people saying, ‘Ros, we do not understand. What is it about, and why are they picking on us?’. They do not understand. The psychology of it is atrocious.

[280] **Jocelyn Davies:** So, you would describe this as anti-business.

[281] **Ms Pritchard:** As it is proposed, yes, without an evidence base.

[282] **Christine Chapman:** We now turn to Peter.

11:15

[283] **Peter Black:** You provide a very useful map, actually, mapping the current static caravan pitches against areas of multiple deprivation. There is a very interesting comment at the bottom, where it says,

[284] ‘It may be significant that the highest density of caravan pitches coinciding with areas of multiple deprivation is to be found in Mr Millar AM’s constituency.’

[285] Is the implication, therefore, that this Bill seeks to address a local problem on a Wales-wide basis?

[286] **Ms Pritchard:** Chair, I actually forwarded to the committee clerk the UK map, because I thought that it might be of assistance to you. We actually plotted this map in 2012 when the industry was in discussion with the Chancellor about his VAT proposals. We were fighting very hard to protect jobs, and we thought that it was important to know where the jobs were that we were protecting. Hence, we drew the map that we sent to you. The thing that struck me when the map arrived was that all the anecdotal evidence of issues on parks coincided with areas of high density of pitches and multiple deprivation—it was the coincidence of the two.

[287] I sent you the map because I thought that you might like to look at Lincolnshire, because I believe that you have evidence with regard to the Lincolnshire study—the East Lindsey study—coming to you. Lincolnshire, even in the report that we received, tells us that it has a uniquely large stock of static caravans, which I think you will be told are an asset. However, if you look at that and you look at the Lincolnshire map, and then you look at Wales, it strikes me rather strongly that, in terms of high density of caravan pitches coinciding with areas of multiple deprivation, you are looking at a small corner in the north. There has been no study on this but it just seems logical to me that where you get a high density, and perhaps over-supply, you are more likely to have problems and in an area of multiple deprivation.

[288] The other issue, of course, is tourism areas. For example, Huw's parks are in Pembrokeshire—I think that you heard from Pembrokeshire last week—and that is a tourism area. I have not heard a single report of any issues in Pembrokeshire and then I look at the map and I see all of the green blobs rather than red blobs and I am building a picture, which I think is worthy of the committee's consideration.

[289] **Peter Black:** Thank you for that. There are actually quite a lot of these big blobs along the whole east coast of England from looking at this map, and around the Thames estuary as well, I think. My geography is not that brilliant; I think it is the Thames estuary that I am looking at there. So, what you are saying is that, in the areas where there is a high density of caravan sites and areas of high multiple deprivation, there might well be evidence of these sites being used for permanent residences. However, you cannot put your finger on any specific evidence in terms of that use.

[290] **Ms Pritchard:** The only evidence of which I am aware is the East Lindsey study but, there is anecdotal evidence. What happens is a good park owner who tows the line and therefore turns a customer away if they are looking to buy a holiday unit to live in, will phone me up to complain if he thinks that the guy down the road is not doing so. I know where those calls come from. We are not saying that there is no residential misuse, because there is anecdotal evidence, but we are saying that we do not know how much. However, in terms of this map, it just struck me—when we plotted it, it jumped at me and then you look at Wales and you look where the Member in charge is working, and, again, it jumps at me.

[291] **Peter Black:** You painted a picture of potential misuse in those areas. There is not any evidence in terms of that. However, in terms of the—. I am losing the thread of my question. [*Laughter.*] In terms of the measures that we put in place to tackle that perception, am I to understand that you think that the Bill is, effectively, like using a sledgehammer to crack a very small nut in that regard?

[292] **Ms Pritchard:** That would be one way to put it. The enforcement powers are already there and, indeed, are used by local authorities. So, they have the powers to do it if they choose to do so. So, yes, but the Bill goes far beyond that, does it not? It does not just address residential misuse; it goes far, far, beyond that.

[293] **Peter Black:** Where you have those small sites of 10 caravans being run by a

husband-and-wife team, do they tend to comply with such things as having written agreements and stuff like that? Do you think that if we reviewed the model conditions, which have not been looked at in Wales since 1989, that that might be an alternative way of addressing these particular concerns?

[294] **Ms Pritchard:** Certainly, the model standards to which local authorities must have regard in issuing a site licence can always be reviewed, and I think that there could be merit in doing so. There is an element whereby to be in trade association membership it tends to be the larger businesses. For the husband-and-wife team with three, four or five pitches, we have a minimum subscription, and I am quite sure that they are not going to be coming into trade association membership. However, I think that Huw can tell you how, when you are selling caravans, actually offering a written agreement is a sales aid.

[295] **Mr Pendleton:** Yes. We have operated with agreements for a number of years. Quite often, when people are looking at buying, they ask why there is a need for an agreement, because not all parks operate them. We say, when people are buying, if they are clear at the outset what they are buying into, if there ever is a problem, at least there is a written understanding between us about how to resolve that. We find it aids us in selling caravans. It has been positive for us.

[296] **Mark Isherwood:** I have two questions. One is that you made reference to borrowing as an entrepreneur and investor. What, if anything, are your banks, your lenders, saying to you about the impact of these proposals upon their ability to lend? I have a second question for Ros; should we do them together or separately?

[297] **Christine Chapman:** Do the first one first.

[298] **Mr Pendleton:** My own business was established 15 years ago when I came into the industry. My background was in hotels. I built the business myself with the assistance of my family; we borrowed very heavily because we wanted to establish and develop the business to improve our quality of business. The banks are always very concerned about things that may affect value. The recession was a case in point, because the value of parks, if they were affected, could put you at high risk in terms of where the banks saw you in terms of supporting you. With anything that is a change, if it is a fundamental change to a business, it could raise concerns for lenders in the future, or for investors even. With Judith's business, it is very much investment driven.

[299] **Ms Archibold:** We have just gone through quite a long process, talking to our banks and looking at our financing. Some of the issues they raised are around uncertainty. There are ranks of advisers and any area that gives them some uncertainty that the business is not going to be run in the way you say it is going to be run; they will take an adverse view that it is a risk, especially after the last few years—they are very concerned about it. For example, in having an interim manager, what our bank said to us—and this was outside of the formal discussions, but it is looking to invest and it is investing in the people working there—is that if it feels that those people can just be removed and somebody who is not accountable can come in and run, as in the case of our business, businesses with a multimillion pound turnover, that is a huge risk. It is no good us saying to the bank that it is not going to happen because we manage it properly, as it will ask whether the power is there and whether it can happen. That is just one example. Throughout the Bill as currently drafted, there are so many uncertainties, which, on a common-sense level, we can say will not apply to us because we run it properly, but the bank and its advisers do not look at it like that. They will just mark it down as a risk. They can see the value of the investment dwindling. That is the problem. They do not take a common-sense view. Sadly, that is the world we live in and uncertainty is their key issue.

[300] **Christine Chapman:** Did you have another question?

[301] **Mark Isherwood:** Yes. Obviously, much of the legislation that this place passes will have more of an impact on some areas or demographics than on other areas or demographics—that is the nature of national legislation. Your written agreements, which is an excellent model, identify residential abuse because they always addresses the issue of residential abuse. That is something you wish to see and support in the Bill, as I understand. How do you respond to the WLGA's concern—I know that you referred to enforcement powers—when it said that, under the 1960 legislation, it has very limited powers to refuse a grant licence and that the enforcement powers available to it currently are limited and restricted. It said that to us in evidence last week, and also said in its evidence that the remedy for unauthorised residential occupation may exist through its prevention of local housing allowance claims, bus pass applications and GP registrations, which should be fully explored as an alternative to the test proposed in this Bill. What is your response to that?

[302] **Ms Pritchard:** I do not think that it is the experience of local authorities in England working under the same legislation, because we do see enforcement. However, I will give you the example of one member park, on 15 and 17 April last year. It had mixed-agency inspections, involving licensing, trading standards, and police—this was a park in north Wales—which came on twice in a week to check who was on the park, and find out what was going on. From those visits, I understand that seven people were not able to immediately produce the paperwork that was required, but did so at a later date, that the park received countless complaints—obviously—because of the heavy-handed approach, and being stopped by the police at the park gate, asking whether they were allowed to live there. The enforcement powers are there.

[303] However, it is quite true that the way that parks work, and have done since 1960, is dual control between planning and site licence. Actually, that has been held up as a model of excellent regulation, in that, as you quite rightly pointed out only last week, the planning stays. The licence, and the ability to review the licence, allows the local authority to move things on, with time. It is entitled to put in licensing conditions based on any licensing concern. The only test is that they should not be unduly burdensome, and if you can show a genuine licensing concern, you can address an issue through a site licence, and it is done.

[304] The dual control—with the fix and the flexibility—has actually served this industry, and it is the reason why we are talking about the successful industry that we have today, which supports 10.6 million jobs in Wales. What we want to do is not lose, in reform, that flexibility, which is the foundation stone. However, if it could be improved, and if they feel that they need more powers, or more teeth, that is something that there could be an intelligent discussion about, to protect the industry for the future. However, I think that the powers are there, because I do not think that abuse is rife, and therefore the system is largely working.

[305] **Mark Isherwood:** Are you sympathetic, nonetheless—and you seem to be—to a proposal that better enforcement of applications in the areas described should be explored?

[306] **Ms Pritchard:** Absolutely. There is a question why benefits, et cetera, are being given when they should not be.

[307] **Mark Isherwood:** Should we not be exploring what they claim to be the barriers to their use of enforcement powers?

[308] **Ms Pritchard:** Yes, we should, as well as looking at best practice across the UK.

[309] **Christine Chapman:** Leighton, did you want to come in?

[310] **Leighton Andrews:** Yes. Do you feel that the existing regime, then, on the basis of what you have just said, is sufficient to deal with whatever problems may arise from long-term residency on sites?

[311] **Ms Pritchard:** Yes, if there is the will to enforce. I think that the example that I gave you of the multi-agency approach shows that it can be done. One issue—and the local authorities pointed this out—is that there is no charge for site licensing, so local authorities receive no revenue, but they do receive quite a bit from business rates that businesses are paying in. If there is an issue, there is surely a duty on the local authority to address it.

[312] **Leighton Andrews:** If problems were drawn to the attention of your members, would you expect them to take action?

[313] **Ms Pritchard:** A good park owner—we have two here—could tell you what they would do if they found people living on their park. However, it is not in their interest to allow it to continue.

[314] **Mr Pendleton:** I think that, as an operator, there are a number of elements of residential misuse, which I would not want on my park. One primary one is the effect that it would have on the value of a park. If I am operating outside of my site licence, and I decide that I want to sell my business, whoever is going to come in will do due diligence, and if there are people living there beyond the scope of what they are allowed to do, that would have a detrimental effect on the value of the park, and also the ability to possibly lend to facilitate the purchase of it.

[315] We operate three parks in Pembrokeshire. Residential misuse is not something that we have experienced, because we operate in quite a diligent way. There are circumstances—a divorce, for example—that may result in somebody ending up taking occupancy on a short-term basis while they sort themselves out. It is a very difficult and sensitive situation, and we would always work with somebody to try to resolve that. However, residential misuse is not something that we have actually experienced ourselves, but we are diligent in the way that we operate.

[316] **Christine Chapman:** Judith, did you want to come in?

11:30

[317] **Ms Archibold:** Yes. If I can just add to that, Parkdean, which I am involved with, is the largest holiday park in Wales, and is in Porthcawl. We have around 1,500 people who own caravans on that site, as well as holidaymakers. It is in neither holiday home owners' interests nor our interests to have anyone living on the park. We do not have any problems with residential use and we carry out checks to make sure that we do not. I cannot say that we have never had an issue, because there are occasional issues, but to echo what Huw says, we do not find that people are deliberately buying caravans to live in them. I cannot think of any incidence, and we carry out checks to make sure that that is not the case. Where we have found people living in caravans, it is usually vulnerable people and is quite often—the once or twice that we have had this—the result of marital breakdown. As the park owner, we have had to work with the local authorities and with charities to try to sort these people out. Those are the situations where we come across residential misuse. They need to be handled very carefully, because you are not talking about criminals or people who are deliberately flouting the law, but people who are, often, very vulnerable, and you need to support them to get them into proper accommodation.

[318] **Leighton Andrews:** May I ask both operators if they have ever had an example of a local authority contacting them to say that someone has used their address on your site for the

purposes of obtaining, for example, a bus pass?

[319] **Ms Archibold:** No, we have not.

[320] **Ms Pritchard:** No, we have not.

[321] **Christine Chapman:** Jocelyn wants to come in, and then Jenny.

[322] **Jocelyn Davies:** I just wanted to come back on this divorce/relationship breakdown issue. Do you think that the solution in this Bill of reporting that person to the local authority would be the appropriate thing to do under those circumstances? That is what you would be required to do by law.

[323] **Ms Archibold:** It is. No, not reporting in the way that the Bill contemplates. I think that there are two points on this. On that very specific point, if we actually know that there is someone who is a resident, then, yes, we need to work with them and with their carers or advisers to sort matters out and find them some sort of accommodation. On the slightly wider point, I think that, by having to report to local authorities a large number of people who may have failed the paper residence test, but are nevertheless, completely non-resident, at the end of the day, you could end up criminalising them. That is just a recipe for a breakdown in the relationship between us and the people who are living on our parks. Our home owners will not understand why we are obliged to, in their eyes, report them to the local authority. It will inevitably drive some of them away, because they will not understand why a park owner is reporting them for something that is not their fault.

[324] **Jocelyn Davies:** You mentioned business rates, and the contribution of caravan parks to the public purse in Wales as far as local authorities are concerned. Would you have the figure for that, or can you send us a note on what that contribution is annually or whatever?

[325] **Ms Pritchard:** I think that it might be in the 2011 study that we did with Visit Wales, so I will pull that out.

[326] **Jocelyn Davies:** Thank you.

[327] **Jenny Rathbone:** One issue that has arisen since 1960 is the issue of flood-risk management. Obviously, there are several caravan sites in areas of flood risk and the risk is obviously greater if someone is permanently resident on that site than if they were there for a week or two. So I wondered what your views were on that aspect of this Bill in terms of allowing local authorities to try to manage that potentially very high risk.

[328] **Ms Pritchard:** We do not actually need the Bill to do it, because they are already doing it. The reason that you will not get houses on a flood plain is that you do not get planning to build them. If it is not in the planning, I can think of a very good licensing reason to put it under the licence that no-one should be living there. Natural Resources Wales has published guidance to all park owners on development of flood-risk management, on evacuation plans, and on informing the consumers. The biggest issue is being able to evacuate quickly, staff training to do it, et cetera. That is what they do, but you do not need—.This is almost just icing on the cake, because it is happening already. A good local authority can put anything in a site licence if it wants to and it should include in there the fact that, if it is on a flood plain, you need to have a flood risk plan.

[329] **Janet Finch-Saunders:** According to the explanatory memorandum accompanying the Bill, the Bill

[330] ‘will modernise the licensing regime for holiday caravan sites, and also strengthen

and clarify rights for both holiday caravan owners and site owners. The Bill therefore adopts a similar framework to the 2013 Act in many areas.’

[331] To what extent do you think it is appropriate that the proposed new licensing regime for holiday caravan sites has been modelled on the existing regulatory framework for mobile homes?

[332] **Ms Pritchard:** We had quite an interesting discussion with the Member in charge of the Bill on this. My view was that you should start with the 1960 Act and look at what is needed for holiday parks and look at touring parks separately, because it is very much a different business. I think that the approach being taken was that here was Welsh legislation, so this was the place to start. However, forgive me: just because it is Welsh does not mean that it is the right place to start if what you are doing is reviewing a 1960 Act and bringing it up to date for tourism businesses. I think that you will see in a lot of our evidence, and I think that the other witnesses’ evidence reflects this, that protections for vulnerable residents in their own homes, which in some cases are stronger in this Bill than in the Mobile Homes (Wales) Act 2013, are not appropriate for a touring park or even for a park selling holidays. There is a disconnect here. I have always felt that one should start with the 1960 Act, because that is what regulates today, and then look at how you modernise it. However, do so with care, because this is an enormous industry with lots and lots of jobs sustaining local economies. You do not want to rush into anything too quickly. You also have to look at competition across border—those who buy from Huw could just as easily go down to Somerset—and you have to be careful.

[333] **Janet Finch-Saunders:** Do you think that this Bill in its entirety would have a negative impact on tourism in Wales? Do you believe that this Bill should be going ahead or do you feel that there is another sort of mechanism to address some of the issues that have been raised by many of our witnesses?

[334] **Ms Pritchard:** No industry is perfect. We know that. We have legislation that is old, but you have already heard talk that uncertainty will drive investment in parks away from Welsh parks. You have the potential of customers having their details demanded of them every 12 months and park owners acting like bureaucrats. They can always go to buy in England. You also have the issue whereby, much as in the Mobile Homes (Wales) Act 2013, the consumer has the choice if they want to reduce their cooling off period. That is not in this Bill. In fact, the consumer can either go to England if they want to buy next week or they can wait a month in Wales. You put all those things together—less investment, inflexibility—it has to drive custom across the border. That is not going to be good for the industry in Wales. I represent a UK base and there are some English park owners on the border who are rubbing their hands and thinking—[*Laughter.*] It needs the right approach. They are not crying.

[335] **Janet Finch-Saunders:** Certainly, I have had representations from within my own constituency, in Aberconwy. The site owners that I am aware of and some of the ones that have made representations have objected to almost being described as ‘rogue’ site owners. When you start getting into language like that it can be quite damaging. Likewise, our own local authority feels that its hands are tied when it comes to enforcement. With regard to the point that you made about business rates, local authorities tend to work in their own little department with their own departmental budgets and it is difficult for the departments to enforce. With regard to the fee, are you content that each local authority would be able to set its own fee in relation to site licence and whether it would be more appropriate for a standard fee policy to apply across Wales?

[336] **Ms Pritchard:** With localism, there would be winners and losers, because in some local authorities it would be cheaper, and in others it would be more expensive. I know that my members, in those local authorities that would have a lower cost, would prefer it to be set

by the local authority. If you go for a national approach, it could be that everybody is the loser, because you would have to charge the costs of the local authority that would be the most expensive, or it could be that some local authorities are the loser. It is almost a political question rather than one for industry, because I know that each Member will have a different view. I know in England everything is localism; it is a very Tory thing to do.

[337] **Janet Finch-Saunders:** I believe in localism too, I must admit.

[338] **Ms Pritchard:** That is a political dilemma. As I say, there are winners and losers either way. What there does need to be is very careful controls on the fees—they must be ring-fenced; good park owners should not be paying for enforcement against the bad park owners; and there needs to be an ability to pay—there is no way that a touring park should be paying the same per pitch as a caravan holiday home park. It is not a simple thing. You would have a better hope of getting it right at national level, given the complexities, than having every single one of the local authorities reinventing the wheel. It is one thing under the Mobile Homes (Wales) Act 2013 for local authorities to set their fees for residential parks, because residential parks are residential parks, but a touring park versus a holiday park versus a holiday home park—. It is complicated.

[339] **Janet Finch-Saunders:** My question now is this: should this Bill be going ahead in your opinion?

[340] **Ms Pritchard:** Not as it is written, no.

[341] **Christine Chapman:** Mark, did you want to come in?

[342] **Mark Isherwood:** On that point, do you believe, nonetheless, that there should be action to introduce the mandatory written agreements that you seem to support and action, whether through improved legislation or better use of this legislation, to encourage better enforcement for local authorities?

[343] **Ms Pritchard:** As you know, in our evidence, the provisions for written agreements closely follow the industry model licence agreement, and we believe that the model licence agreement protects the business as well as the consumer. Everybody knows where they stand. This is actually an industry licence agreement that we developed together, and which was vetted by the Office of Fair Trading after it published its guidance, and it describes, in plain English, the practical procedures and issues necessary to manage a park. As you know, there is a requirement in Northern Ireland, which came in in the Northern Ireland Caravans Act 2011, for written agreements. There has to be a very, very careful transition. Yes, I think that we would all welcome a mandatory legal requirement that agreements should be in writing—all new agreements should be in writing. However, if you have somebody who has been on a park for the last 30 years, and everything has been done on a handshake, and they are happy, they will not want a load of writing thrown at them. Do you have a point on this one, Judith?

[344] **Ms Archibold:** Yes, I think that what we are saying is that, given the demographic of our owners, who are all, or not all, but many of whom are nearing retirement age, or retired, they genuinely want to be left in peace. They want to invest in their leisure time and enjoy their caravan. They both feel threatened, or could feel threatened, by having a written agreement imposed on them. Having said that, I am absolutely 100% in favour of written agreements. I think that they must be absolutely good for the consumer. They are good for business as well—we know where they are. If I can just speak on a personal level as a holiday home owner, without a written agreement I know that there would be issues with me and my other holiday home owners if suddenly we felt that there was a whole lot of bureaucracy being placed on us and actually rights were being taken away. I think it is a question of transition and how the written agreement is introduced, but I have absolutely no problem

whatsoever with the principle of a written agreement.

[345] **Ms Pritchard:** I think that we would all say that.

[346] **Ms Dunne:** As an organisation, NCC supported the concept of written agreements and indeed the code of practice for in excess of 25, 30 years. It is something that we impose on our membership, and something that we believe is of value, particularly for consumer protection and for the park. It clarifies roles and responsibilities and, at the outset, everyone is happy and gets into enjoying the lifestyle and their home from home. It is very much there just to remind us of things when things need to be clarified. Clearly, at the point of sale, when they come to resell, there will be issues there, although it can just be checked and dealt with. We do support it.

11:45

[347] **Jocelyn Davies:** Could that be added? You were saying that the site licences could be added to. Could the requirement for written agreements be added to the site licence?

[348] **Ms Pritchard:** I have never seen it done, but, given that the local authority can change site licences for licensing reasons, and so long as they are not unduly burdensome, I cannot see any reason why not.

[349] **Peter Black:** Could it be done for the model standard?

[350] **Ms Pritchard:** If the model standard suggested that this was what should be in site licences, that would certainly help any local authority, because if the park owner went to the magistrates' court to complain about it being unduly burdensome, the defence would be, 'Well, it's in the model standard'. So, I think that that could be a plan.

[351] **Christine Chapman:** We now turn to Mike.

[352] **Mike Hedges:** This is a question for Judith. I am a happy owner of one of your sites—[*Inaudible.*]—you ask me to provide a photograph every year—and you probably recognise this card, why do you not ask me to produce proof of where I live at the same time? You ask me to produce lots of different bits of paper, which I am not complaining about, but surely I could just bring my passport, my driving licence or a council tax bill at the same time that I bring my photograph to get a new card to have access to the facility? It would not be particularly onerous.

[353] **Ms Archibold:** I think that the problem from our point of view is that—. Before we sell any holiday home, we ask for proof of residence—we cannot go ahead with the sale unless someone can prove that they have a main residence somewhere else. The problem that we have about going back on an annual basis to people who may not want any contact with the holiday park is that they will just ignore, by and large, any requests for information where they do not see that information as being necessary. Asking people every year to produce copies of up-to-date utility bills and so on—. We know, from when we send out things like owner surveys to ask people what they feel about the parks, that we have a very low response rate. It is under 20%. For a lot of people, getting a letter asking them to produce evidence is not easy, because they do not work in offices where they can photocopy things. If they do not see any benefit in it, they will not send us the information.

[354] **Mike Hedges:** You ask me to bring a photograph every year.

[355] **Ms Pritchard:** It is in your interest to do so.

[356] **Ms Archibold:** Yes, in order to access the—

[357] **Mike Hedges:** In order to access the facilities. You could ask me to bring my passport or some other means of proving my address at the same time as you ask me to produce my photograph.

[358] **Christine Chapman:** There is no address on the passport, is there?

[359] **Mike Hedges:** It could be a driving licence, a council tax bill or anything that can prove it. It is more onerous to get photographs taken somewhere than it is to find a passport, driving licence or council tax bill.

[360] **Christine Chapman:** Huw, would you like to come in here?

[361] **Mr Pendleton:** I take your points on board. That is for a park with facilities. If you own a caravan park without facilities, quite often you may not see the caravan owner from one season to the next because they come and go at their own free will. People may find it intrusive if you are asking for personal information from them. When we sell a caravan, we always put on the invoice that it is not for residential use. It is in the written agreement with them. We remind them in the rules and regulations. We have a number of scenarios in place so that we can actually manage the potential for residential misuse of the park.

[362] **Christine Chapman:** Rhodri, did you have any questions?

[363] **Rhodri Glyn Thomas:** Na, dim diolch, Gadeirydd. Rwy'n meddwl bod y dystiolaeth yn glir iawn ynglŷn â'r sefyllfa. Nid oes angen deddfwriaeth o'r math hwn. Yn syml, gellid cyflwyno cytundeb ysgrifenedig sefydlog, ac fe allai'r Gweinidog wneud hynny drwy gylchlythyr at awdurdodau lleol.

Rhodri Glyn Thomas: No thanks, Chair. I think that the evidence is quite clear about the current situation. I do not think that we need this legislation. A written standing agreement could quite simply be introduced, and the Minister could do that through a circular to local authorities.

[364] **Christine Chapman:** Thank you, Rhodri. Jenny, did you have any questions?

[365] **Jenny Rathbone:** Both organisations strongly support written agreements. Nevertheless, there is always, potentially, a need to protect people who are tempted to enter into purchases that are too good to be true. So, we have written evidence that includes an example of somebody who bought a caravan for £11,000 and then asked for a written agreement and was told, 'Oh, no; it's all done on trust', and then it all went badly wrong. Those sorts of people need protection and consumer rights, and, therefore, although both organisations are promoting written agreements, do you acknowledge that legislation is required to ensure that everybody is protected by written agreements?

[366] **Ms Pritchard:** I think that we have both supported in our evidence that section of the Bill, but you cannot look at just one section of the Bill; you have to look at the totality of what is there.

[367] **Jenny Rathbone:** That is fair enough.

[368] **Ms Pritchard:** I think that the issue of the model standards—actually, the revision of model standards could include the flooding issue as well as the written agreement issue for all new agreements—is absolutely spot-on, but if you were to go to court without a written agreement, the court would look at the current consumer regulation, and the court would expect professional diligence from the park owner, as the business, and would note that the

consumer was vulnerable. Any park owner who does not have a written agreement is hardly showing professional diligence, and the court would therefore lean towards the side of the consumer. Therefore, the regulation is there, if somebody wanted to enforce it. So, you talk about that particular case; it sounds like unfair commercial practice to me, for which the professional diligence requirement is there. We would support written agreements for all new agreements, and some sensitive transition for the others, but not in the Bill as drafted, given everything else in there. You will have seen in our evidence that we are concerned about some of the implied terms that were proposed in the Bill. So, on the principle of written agreements, I do not know anybody who would argue with that.

[369] **Jenny Rathbone:** No, but on the specifics, you object to the 28-day cooling-off period, which is designed to protect people who think that they are buying something that looks very attractive but have not actually seen the detail.

[370] **Ms Pritchard:** I think that what you are objecting to is consumer choice.

[371] **Mr Pendleton:** I will give an example. If people are going on holiday they very often like the idea of buying a caravan. However, if they are not able to be supplied with a caravan for 28 days, and if they can go across the border to Cornwall or Devon and buy a caravan and have the standard industry practice of a five-day cooling-off period, then that gives England a slight competitive advantage over Wales. For example, if we have a two-bedroomed caravan on display for people to see and they want a three-bedroomed caravan, and we have to tell them that they have to wait 28 days or a month for delivery from the manufacturer, they quite often do not want to wait; they would choose something else rather than wait, because they want to get in there to enjoy their holidays. That is something that we need to be very sensitive about, so that we do not put Wales at a disadvantage compared with England.

[372] **Jenny Rathbone:** Okay; that point is noted.

[373] **Christine Chapman:** Alicia, did you want to come in?

[374] **Ms Dunn:** I was just going to say that I believe that there is a role for all parties involved here, in terms of awareness and raising awareness with consumers and with the industry. We get a number of enquiries about buying a holiday home—what they need to look for, what they need to do and all the rest. So, it is about signposting, directing them to information that exists. Huw, Judith and Ros made reference to our industry agreement. There is a cooling-off period in the purchase agreement. I think that it exceeds what is required, but some park operators give a longer period. However, it is about understanding what the purchase is about and taking the steps to make customers aware, and it is also about making it absolutely clear that the use is in the title—it is a holiday home. So, going back to the misuse element of it, it is about holidays. So, you will be buying it on that basis. Yes, certainly, circumstances change, but, you know, there are steps that everyone can take to raise awareness among all involved, to make it clear that we as an industry, and our members, are trying to enforce and promote that.

[375] **Jenny Rathbone:** Okay. I believe that the other aspect that you object to is the obligation on the caravan site owner to consult the caravan occupiers on any material changes to the site. So, for example, if they were to close the swimming pool, it would affect people's ability to enjoy what they thought was included in the deal.

[376] **Ms Pritchard:** You have a point on this, do you not, Judith?

[377] **Ms Archibold:** The consumer drives what happens on the park. On a holiday park, if holiday home owners do not like what is happening on the park, unlike the residential sector, they can get up and go, and would do so. However, having said that, a good park owner will

communicate and will talk to holiday home owners. However, practically, consultation does cause real difficulties. I have seen this in practice. What a holiday home owner thinks is of strategic or material importance is not necessarily what a park owner or operator might think is of importance. To be perfectly honest, one of our big complaints about the change in direction of one of our large parks was when we changed the offering in the fish and chip shop. For a lot of people, that was a real issue. That was more important to them than the fact that we were doing the coastal defences, or whatever, at the front of the park.

[378] My concern is that, while it sounds like absolute common sense to consult with your holiday home owners, you run the risk of encouraging litigation because people will say that they have not been consulted on a variety of matters that I could not even start to think were material, but they would think were material. So, there would be questions about what is material. Also, you raise people's expectations, because you might say that you will do something, but, because of planning or health and safety matters, or the availability of finance, or 101 other reasons, you cannot do that—I am thinking, for example, about Trecco, where we are rebuilding coastal defences at the front of the park and we have had to change what we are doing there quite significantly, given what has happened over the winter. Some of our holiday home owners are not happy about that, because they would have seen and heard about what was happening before, and they have raised questions. Having to consult at an early stage with them, saying, 'We are going to do x' and then come back would cause real problems for us in carrying out the real investment, the capital projects, and so on. It would create difficulties between the park owners and individuals. What I would say to you is that responsible park owners, like us, involve our owners. If they want to know anything, they come and talk to us. They know that we are there and it is a service that we offer. We are a consumer-facing organisation, and we have to engage with our owners. However, having a formal obligation would cause us problems.

[379] **Jenny Rathbone:** I accept that responsible park owners will consult, but legislation is aimed at those who are not responsible or good caravan park owners. So, that is the purpose of legislation: to ensure that everybody is doing what is considered best practice. Are you saying, therefore, that is it about the wording being too broad, rather than specifying the types of things on which consultation would be expected?

[380] **Ms Archibold:** That is exactly it. With regard to the idea of consultation, there is not a problem with that, but it is too broad.

[381] **Jenny Rathbone:** Okay; thank you.

[382] **Christine Chapman:** A few Members want to come in. I remind you that, because we started early, we are coming to the end of our session. I call on Janet, Gwyn, then Jocelyn.

[383] **Janet Finch-Saunders:** Earlier, on residential misuse, you said that there was no proven evidence, as such, did you not?

12:00

[384] **Ms Pritchard:** I said that the Lincolnshire study was the only evidence.

[385] **Janet Finch-Saunders:** Why would your organisation be looking to take action on this matter? Am I right?

[386] **Ms Pritchard:** The action that we have taken is on consumer education and industry education, because we do not want it to happen on holiday parks. We know that consumers—. I have told you about the park owners who are turning customers away because consumers want to live on their parks, because their parks are very nice places. Our education has been to

consumers to stop them asking and to business because we exist to advise our members, 'It is a jolly bad idea because, because, because, because'. We will continue to do so, just as we advise them on all other areas, such as flood risk.

[387] **Janet Finch-Saunders:** Just to get it straight, this legislation would not help you in your aims to tackle this?

[388] **Ms Pritchard:** Not as drafted.

[389] **Christine Chapman:** Gwyn, did you have any questions?

[390] **Gwyn R. Price:** Yes, just to round it all up really. Overall, in your opinion, would this Bill be detrimental to your industry?

[391] **Ms Pritchard:** Yes, and it will send customers to England.

[392] **Gwyn R. Price:** Thank you.

[393] **Jocelyn Davies:** My question is just on this issue of consultation, because consultation implies to me that you might change your mind if the majority of owners—. Owners might think, if you are consulting with them, that they do not like it because their fees would go up if you have a strategy to get to a five-star site; it would require considerable investment and the fees would go up. Would your investors and your banks see it as a risk that you have to consult owners about your plans?

[394] **Ms Pritchard:** It is also the issue of expectation. If you take a park owner that is ticking away merrily at two star with customers who have been there forever at two star, and who love it at two star, you consult them on taking it to five star and I think we already know what the response is going to be. However, if the entrepreneur wants to bring up the quality, you have a disconnect, have you not? So, you have a consultation, you have due regard to the responses, but if you do what you like, you will end up in court. It needs really tight definition as to what is meant, because it is obviously correct to consult with your customers, but that must not then be a damper on investment or the flexibility needed for tourism businesses in what is a fast-moving tourism economy.

[395] **Ms Dunne:** I think we need some indication of what is meant by 'significant'—I think that is the word used in the Bill. We have been advised that there is a legal definition of 'significant', but your day-to-day operator is not going to quite understand that, your home owners and caravan owners are not going to quite understand that, and there are all sorts of variables in between. If that is where it is going to go, we need to have that addressed.

[396] **Mr Pendleton:** In addition to what has already been said, you also need to consider the competitive disadvantage that we may have in Wales as a result of an ambiguous need to consult in terms of the development of parks, because if that product does not keep up with the product offer in England, we become at a competitive disadvantage to our colleagues across the border. There needs to be a health warning with that.

[397] **Mark Isherwood:** In the absence of any written agreements have any oral contracts between site and caravan owners been tested in court?

[398] **Ms Pritchard:** Yes, there have been cases, which is where I come from when I say that the court expects due diligence from the park owner, and will always lean towards the consumer. In that situation, the court takes the view that there is an oral contract, it comes down to word against word, what the park owners have said was in the contract and what the caravan owner said was in the contract. Any court sitting there will expect due diligence and

that it should have been in writing, and therefore sympathise with the evidence of the caravan owner.

[399] **Mark Isherwood:** In your e-mail to me, you said to your knowledge that this has not been tested in court, although that would be—

[400] **Ms Pritchard:** No, what I have never seen tested in court is the argument as to whether the absence of a written agreement breaches the unfair terms in consumer contract regulations already, because transparency is a requirement of the unfair contract terms. We have never seen it tested as to whether the absence breached those regulations. However, if the court is asked to decide where there is no written contract—there have been plenty of cases—and the court says there is an oral contract, it becomes word against word as to what that oral contract says. However, the specific point that has been argued to me by lawyers is that an oral contract does not meet the requirements for contracts for consumers, because oral is not sufficiently transparent.

[401] **Mark Isherwood:** That presumes that the caravan owner has the resource to fight to that level. We heard evidence that that might cost them up to £12,000.

[402] **Ms Pritchard:** You also have the consumer protection for unfair commercial practices, which is where trading standards comes in and prosecutes, and, again, there have been cases.

[403] **Mark Isherwood:** But, it would cost.

[404] **Ms Pritchard:** Trading standards would take the prosecution, so that would take it away from the consumer.

[405] **Mark Isherwood:** Okay; thank you.

[406] **Christine Chapman:** Okay. Members have no more questions, so I thank all of you for answering those questions and for attending today. We will send you a transcript of the meeting so that you can check it for factual accuracy, so thank you very much.

12:05

**Papurau i'w Nodi
Papers to Note**

[407] **Christine Chapman:** We have some papers to note. Do you agree with those? I see that you do.

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r
Cyfarfod
Motion under Standing Order 17.42 to Resolve to Exclude the Public from the
Meeting**

[408] **Christine Chapman:** I move that

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42(ix).

[409] I see that committee is in agreement. Thank you very much.

[410] *Derbyniwyd y cynnig.*
Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 12:05.
The public part of the meeting ended at 12:05.