



Cynulliad Cenedlaethol Cymru The National Assembly for Wales

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

**Dydd Mercher, 6 Rhagfyr 2012
Wednesday, 6 December 2012**

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

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

Eraill yn bresennol
Others in attendance

Clive Betts	Aelod Seneddol, Cadeirydd y Pwyllgor Dethol Cymunedau a Llywodraeth Leol Member of Parliament, Chair of Communities and Local Government Select Committee
Mike Burtonwood	Prif Swyddog Iechyd yr Amgylchedd, Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr Principal Environmental Health Officer, Bridgend County Borough Council
Louise Davies	Rheolwr Diogelu'r Amgylchedd, Cyngor Bwrdeistref Sirol Rhondda Cynon Taf Environmental Protection Manager, Rhondda Cynon Taf County Borough Council
Helen Kellaway	Cynghorydd Cyfreithiol, Llywodraeth Cymru Legal Adviser, Welsh Government
Huw Lewis	Aelod Cynulliad, Llafur (Y Gweinidog Tai, Adfywio a Threftadaeth) Assembly Member, Labour (The Minister for Housing, Regeneration and Heritage)
Alyn Williams	Pennaeth Tîm Tai'r Sector Preifat, Llywodraeth Cymru Head of Private Sector Housing Team, Welsh Government

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

Helen Finlayson	Clerc Clerk
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Joanest Jackson	Uwch Gynghorydd Cyfreithiol Senior Legal Adviser
Marc Wyn Jones	Clerc Clerc
Kath Thomas	Dirprwy Glerc Deputy Clerk

*Dechreuodd y cyfarfod am 9.19 a.m.
The meeting began at 9.19 a.m.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1] **Ann Jones:** Good morning, everyone and welcome to the Communities, Equality and Local Government Committee. I will just run through the usual housekeeping rules. I ask Members to be kind enough to switch off their mobile phones and other electronic equipment, as these can affect the broadcasting and translation. The committee operates in English and Welsh. Translation facilities are available: channel 1 on the headsets is for the translation from Welsh to English, while channel 0 is the floor language for amplification, if anybody needs that. We do not expect the fire alarm to operate, but, if it does, we will take directions from the ushers as to where to assemble. As I always say at this point, follow me, because I will be one of the first out of the building. Just so you know, the assembly point is by the Pierhead building.

[2] We have a full committee today, so that is quite nice. Welcome back to Ken from his little trip to another committee. Kirsty Williams is, of course, substituting, because Peter Black, the Liberal Democrat member of this committee, is the Member in charge of the Bill that we are scrutinising, but Kirsty is like a committee member now. I do not think that Members have any interests that they wish to declare that have not already been declared, so we will move on.

9.20 a.m.

Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru)—Sesiwn Dystiolaeth 6 Regulated Mobile Home Sites (Wales) Bill—Evidence Session 6

[3] **Ann Jones:** The substantive items on today's agenda are to carry on with our Stage 1 scrutiny of the Regulated Mobile Home Sites (Wales) Bill, which is Peter Black's Member-proposed Bill. We have with us today Mike Burtonwood, from Bridgend County Borough Council, and Louise Davies, from Rhondda Cynon Taf County Borough Council. I always look, because I wonder whether, sometimes, we get them mixed up. You are both welcome. We were to have had Jeremy Patterson from Powys County Council too. Unfortunately, a message was left at 5.30 p.m. last night to say that he was unable to attend, but we will try to chase that up. Maybe we can let Members know what that is about and whether we can fit it in again, so we will sort out what we will do with that. Thank you both very much for attending.

[4] **Janet Finch-Saunders:** Chair, could I ask what roles they have in the two local authorities?

[5] **Ann Jones:** I was going to ask whether you would like to introduce yourselves for the record. Janet is one step ahead of me, which is probably a first, but there we go. [*Laughter.*] Can you introduce yourselves for the record, please, and then we will go into questions?

[6] **Ms Davies:** I am Louise Davies, as the Chair announced. I am the environmental protection manager at Rhondda Cynon Taf County Borough Council, and part of my responsibilities is the housing strategy and standards service.

[7] **Mr Burtonwood:** Good morning. I am Mike Burtonwood from Bridgend County Borough Council. I am the principal environmental health officer in Bridgend and part of my team's role is private sector housing, and this type of work falls within that remit.

[8] **Ann Jones:** Thank you very much for that. If it is okay, we will move straight to questions, because we have quite a lot to get through. Ken will take the first set on the general principles and then Kirsty will take the next.

[9] **Kenneth Skates:** Good morning. In general terms, do you think that the Bill, as drafted, delivers the stated objectives as set out in the explanatory memorandum?

[10] **Mr Burtonwood:** Do you want us to take it in turns?

[11] **Kenneth Skates:** Sure.

[12] **Ms Davies:** Yes, the Bill addresses a number of the issues that have been raised around park homes, particularly from our perspective. I welcome the opportunity to make the licensing provisions more up-to-date. The structure of the Bill brings mobile-home licensing in line with houses in multiple occupation licensing, which local authorities are familiar with. So, in that sense, I think that it is appropriate.

[13] **Kenneth Skates:** Is it proportionate?

[14] **Ms Davies:** It is aligned with the Housing Act 2004 licensing provisions, which have worked well, although landlords felt that it was a new piece of legislation. These provisions are workable. Other than the fit-and-proper-person provisions, I do not think that they deviate much, in terms of model standards, from what site owners would ordinarily be expected to comply with.

[15] **Kenneth Skates:** On implementation, what barriers do you envisage and are there any that you think could not be overcome?

[16] **Ms Davies:** The main issue for me in the Bill is that it is unclear presently where the link between the Caravan Sites and Control of Development Act 1960 and this legislation sits, and some amendments are obviously required to that legislation in order to make that match. I am also keen to understand what transitional arrangements there would be, particularly if this Bill is to be retrospective and apply to existing sites, as I believe that that would be necessary in order to make this effective. In my area, we have had sites in existence since the 1960s and 1970s. Transitional arrangements for the owners of those sites would be important, so provided that those things are clear, I think that the Bill would be workable.

[17] **Kenneth Skates:** What are your views on the powers in the Bill for Welsh Ministers to make subordinate legislation such as regulations and Orders?

[18] **Ms Davies:** A number of items in the Bill ask for management regulations and code of conduct regulations to do with licensing conditions. I am not clear how all of those things would fit together. From my experience of housing licensing, it has worked very well to have a mandatory set of conditions, which would probably be the model standards. To help enforcement, I would advocate a mandatory management standard, which would be the management regulations. I am not clear where a code of conduct would add to that if the

management regulations were suitably robust and the mandatory licensing conditions were adequate.

[19] **Kirsty Williams:** Good morning to you. To bring you back to concerns about transitional arrangements, you said that they would be important to make the legislation effective given the large number of sites that already exist. Do you have any other concerns about the way in which transitional arrangements would work? Do you have any thoughts on whether certain provisions within the legislation should be prioritised in those transitional arrangements? Are there certain things that we would need to do first?

[20] **Mr Burtonwood:** It is important that we have the transitional arrangements, because it is only fair that those people who have run sites for a considerable time are treated equally with anyone thinking of entering the business now. The models set in housing legislation, particularly in HMO legislation over the last few years, have proven to work reasonably well for most local authorities. That is probably a good model to follow in this case. I do not see any specific problems, but, before we came in, Louise and I were chatting about the fact that Bridgend and Rhondda Cynon Taf do not have a huge number of caravan sites relative to other local authorities. There seem to be significant differences between local authorities in Wales as to how they perceive this particular piece of work.

[21] **Kirsty Williams:** Thank you for that. That is why it is so disappointing that we do not have a representative from Powys today, because Powys's experiences would be very different to yours. However, I am very grateful for your perspective. Therefore, Mr Burtonwood, given that these transitional arrangements will be so important, would it be wise to have them on the face of the Bill—that is, they should be set out in the legislation—or can we leave that to Ministers at a later date? Also, what administrative or other arrangements would you as the people out there at the coalface have to put in place to implement the Bill, because a lot of this is going to fall to you and local authorities? What will you have to do to implement this Bill?

[22] **Mr Burtonwood:** As regards your first point, I do not think that there is a huge difference as long as people are given plenty of forewarning, because some people will have to make substantial investments and capital arrangements, bearing in mind what is going to happen. The longer that people have to plan for that, the better.

[23] As far as local authorities are concerned, I do not see a real problem in our authority, but we only have a small number of caravan sites of this type.

[24] **Ms Davies:** In terms of the Bill, when the housing licensing provisions were introduced, the subordinate legislation discussed the transitional arrangements in detail. They were very helpful and very detailed, so, in that sense, it may be helpful to have it as subordinate legislation rather than in the Bill, although I am conscious that there are quite a few pieces of legislation there. However, as Mike said, those transitional arrangements are important for existing site owners to understand, and to enable local authorities, particularly if we have to go through a relicensing exercise, to be clear with owners about the cut-off date for complying with the conditions

9.30 a.m.

[25] With licensing, and particularly with mandatory conditions, we want to be clear about the point at which we would be required to enforce those. As Mike said, although this Bill must go through the legislative process, a number of site owners may not be prepared to make the investment they should until the Act is in their laps, so that would be helpful.

[26] **Kirsty Williams:** Thank you. Ms Davies, in answer to the first question, you also

said that you had some concerns about the interaction between this piece of legislation and existing legislation. Can you expand on what you perceive those problems to be? As a consequence of the Bill, site operators would need to hold two licences. Are you content with that approach or would you prefer to see consolidation of the licensing regimes?

[27] **Ms Davies:** My concern about the 1960 Act is that, currently, local authorities do not have any discretion with regard to refusing a licence. It would need to be explicit that the rules were different in Wales. I understand that, in England, they are going through a consultation on this, although different legislation will follow. Although all of our sites are residential in Rhondda Cynon Taf, I have experience of mixed-use sites from another local authority I worked in. We used to apply different models of standards to different elements of the sites, so, in that sense, it was not difficult to apply different standards. The issue might arise with regard to management arrangements on the site. If you can apply very rigid management conditions to some parts of the site but not others, it may be confusing. However, with regard to site standards, I think that local authorities are familiar with applying different models of standards to different elements of sites. Mike has different types of sites in his county borough, so he may have something to add on this.

[28] **Mr Burtonwood:** I have one point to make, although I am not sure whether now is the time to raise it. One interesting point is that there are a significant number of caravan sites that are holiday sites but that are now open for far longer each year than they ever were historically. We have a site in our borough that is open for 11 months of the year. We do not have any particular problem with that, but I could see that problems could arise and, by virtue of the fact that they are not residential sites, they would not fall within the remit of what we are discussing this morning.

[29] **Kirsty Williams:** I think it is very important to make that distinction between caravan sites and mobile home sites because people who live in mobile homes get very upset—very upset—if the two are mixed up. This legislation is very much about the needs of mobile home owners. However, do you think that there may be unintended outcomes, such as site operators applying to change the use of their sites to avoid the need for new licensing? Do you think that the Bill should be amended to reflect that? Might one of the unintended consequences be that people might think, ‘Oh goodness me, I don’t want to have to apply for that; I’ll just say that this is a holiday site’? Do we need to make provision for that?

[30] **Mr Burtonwood:** It all depends on the type of individual you are dealing with. The people who run reputable sites are not going to have any problem with this at all. However, I can well envisage a situation arising, if things become too complicated, expensive or whatever, where people would take action to avoid this, particularly as they can be open for 11 months of the year already.

[31] **Ms Davies:** Part 1 of the Bill refers to an agreement to which the Mobile Homes Act 1983 applies. From a practical enforcement perspective, as Mike said, unscrupulous site owners might try to get around these arrangements by effectively allowing people to live on their sites in a manner that should be regulated by a formal agreement but without such an agreement in order to bypass the rules, so it might be worth considering including something to clarify that in terms of enforcement so it is clear whether they have the agreement or whether we believe they should have the agreement. That might be helpful.

[32] **Ann Jones:** Mark has a supplementary question before we move on.

[33] **Mark Isherwood:** I just wish to clarify something: are you aware of the extent to which the owners of holiday park homes are using those homes as their main residences?

[34] **Mr Burtonwood:** This is only hearsay, but I think that that is happening quite

extensively, particularly on the sites that are well run, well operated and provide good services. It is an option for people to live on these caravan sites all year round and to go on holiday for a month in January, February or whenever to comply with the regulations.

[35] **Ann Jones:** I will bring Mike in now, but I do not want to get hung up on this issue because the Bill is not about this. The Bill is about mobile homes, which are different to caravans.

[36] **Mike Hedges:** I know, but I just want to make one point and ask one question. The key thing is that we are not dealing with those people within this piece of legislation. However, I know that there are sites in Swansea that are open for 12 months, but people are allowed only to be on them for 10 months. I do not wish to put words in your mouth, so please tell me if you think that I am doing that, but I believe that one fear is that systems of this kind could be operated by people who are not the best of landlords. They could decide that their site is a holiday home site that is open for 12 months, and that people could stay there for only 10 months. However, they would have no means of enforcing the months during which people would not be staying on the site.

[37] **Ms Davies:** Yes, the issue in terms of enforcement is trying to pin down the living arrangements in place on site. As I say, that is not a particular concern for my authority. However, having spoken to colleagues, particularly those in west Wales, I know that they have particular concerns in relation to migrant workers. So, as the Member said, it is not about the traditional population; people who choose to reside in park homes are very different to some populations in some areas that tend to use this option as their permanent accommodation.

[38] **Ann Jones:** Kirsty, would you like to come in here?

[39] **Kirsty Williams:** Yes, I would like to move on now to the residential property tribunal and the courts. Are the roles of the RPT and the courts under the Bill appropriate, and are they sufficiently clearly established in the Bill?

[40] **Ms Davies:** I think that the ability of residents and owners to use the RPT again aligns mobile home legislation with other housing legislation. Given that this is a growing tenure, particularly for elderly people, this is a more appropriate avenue where they can air some of their grievances and concerns. My only concern relates to the number of things that can be referred to the RPT. I am aware that the RPT has expressed concern about the volume of work with which it may have to cope. The Bill currently refers to all re-siting requests, including emergencies, having to be referred to the RPT. I am not sure whether the RPT is as responsive as a local magistrates' court would be in that sense. Certainly, the RPT is not available every day. That provision may need to be amended, certainly for emergencies. Regarding the composition of the RPT, there is a housing expert as well as a legal person. It is a more informal environment, particularly for some of the vulnerable people who are exposed to problems on mobile home sites. I welcome that.

[41] **Kirsty Williams:** Okay. I will now move on to finances. What assessment have you made of the potential financial impact on local authorities should the Bill become law? Perhaps that question is a bit like asking 'how long is a piece of string?'.

[42] **Mr Burtonwood:** Yes, it is. I keep harking back to the fact that it depends how many sites you have in your area. I do not think that this is going to be a huge onus on local authorities. It is something that we have dealt with in housing legislation, and something that we have discussed extensively in relation to private sector licensing. There will be implications, obviously, and they could be quite time-consuming, particularly at the beginning. However, once the system is up and running, it will be incorporated into

mainstream environmental health work, as far as licensing is concerned.

[43] **Ms Davies:** I agree with Mike. The principle of HMO licensing was that the licence fee funded the operation of the scheme, and the WLGA was very useful in—although I do not think that I would necessarily advocate a fixed national fee—developing a toolkit of all of the factors that local authorities should take into account, including enforcement costs, in introducing HMO licensing. Local authorities could use that toolkit, so there was a consistent way of calculating the burden on a local authority, and that is the manner in which fees were set. There is some variation across Wales in HMO licensing, but the vast majority of us, particularly in south Wales, have similar fees, because we have used a similar process to calculate them, and those authorities that have a particular burden are able to justify clearly why they have a different fee basis. So, the WLGA will be very useful in assisting us in calculating that.

[44] **Kirsty Williams:** You have anticipated my next question quite nicely.

[45] **Mr Burtonwood:** To clarify, it is important that local authorities are able to recover their costs through the fees. I was not implying that we were going to cover the cost from within the local authority; it should be cost neutral.

[46] **Kirsty Williams:** I absolutely agree, Mr Burtonwood. One of the important parts of this legislation is to be able to address that issue of the cost to local authorities. One reason that I often hear from my own authority as to why it cannot do very much is because it is not resourced to do it. I take it from your answer that you believe that fees should be set locally but that they should be decided locally on the basis, as you said, of some kind of toolkit that could give some guidance as to how fee levels are set. Do you think, Mr Burtonwood, that the way the Bill is drafted makes sufficient provision to ensure that the local authorities can recover their licensing and enforcement costs through this new regime?

[47] **Mr Burtonwood:** Yes, I do.

[48] **Kirsty Williams:** Brilliant. Last but not least, do you believe that the financial impact on site operators might affect the amount and quality of site improvements that they undertake in the future, based on your experience in the HMO sector? Would that be relevant to this? Would it put people off investing in their sites?

[49] **Ms Davies:** That certainly has not been our experience in Rhondda Cynon Taf. We have quite a number of houses in multiple occupation on an additional licensing scheme in a particular ward of our county borough. Landlords—site owners will no doubt be the same—never like parting with money. Calculating the fee and taking into account that it is for a five-year period, I would not support an annual fee. I think that the fee we set should stand, because, certainly in premises licensing for alcohol et cetera, that recovery of an annual fee becomes quite onerous. So, as long as park owners understand the basis of the fee and it is reasonable and there is an opportunity for them to scrutinise that if necessary, then I think they should be able to plan that and take it as a business cost.

[50] **Ann Jones:** We will move on to licensing and administration.

[51] **Janet Finch-Saunders:** Are the Bill's proposals in relation to a fit-and-proper-person test for site operators appropriate? Would they be effective in addressing the problem of rogue operators in the mobile-home park industry?

[52] **Ms Davies:** Again, the legislation, as it is worded, is very familiar to local authorities because it mirrors the wording in relation to houses in multiple occupation. Certainly, the application of a fit-and-proper-person test is something that we are familiar with. It has

worked well in my local authority. We have been able to refuse licences for landlords with criminal records, and ensure that appropriate managers are put in place. The only observation I would make about the application of the fit-and-proper-person test is that the Bill is proposing that more people are subject to that than currently is the case. Currently, we ensure that the licence holder and the manager, that is, the person with the day-to-day responsibility for the site, is fit and proper. As regards the owner of the site, as with HMOs, they are often remote owners and are not involved in the day-to-day work, and in relation to park-home sites, there may well be companies that are landowners. I am not clear as to how easy that would be to apply, and what benefit there would be to—

9.45 a.m.

[53] **Janet Finch-Saunders:** Peter Black, Assembly Member, has attempted to address that. He is suggesting that it should be the site managers as opposed to the owners, I believe. Do you think that that is more workable than both?

[54] **Ms Davies:** I think that it should be the person who has control of the site; so, if the owner is the person that has quite a lot of involvement in the site, in housing terms we would term them the person in control. However, if the day-to-day manager is the person that has control and the owner is very remote, it should be them. I think that it should be just those people involved in the management, as opposed to there being too many tiers of tests. So, if there are remote owners, it is about the test of who has control of the site.

[55] **Ann Jones:** Joyce has a supplementary question on that, I think.

[56] **Joyce Watson:** On that point, it is about trying to tie people in to deliver according to this legislation. That is what Peter Black is trying to do. I would like a further explanation. I understand what you are saying in that it should be the people who are hands-on, delivering what should be delivered according to this legislation, who are made accountable for that. However, on the other side of that, in terms of the ownership—if I have misheard you, please tell me—if we do not do both, there is wriggle room, as I see it. The onus could be put on the manager, and yet the manager might not have the finance from the owner in order to deliver. They are not always one and the same person, and they are not the same person in the worst sites, I believe. I would like to have some further clarity on what you are saying. I am not sure what you are saying.

[57] **Ms Davies:** A situation can arise with regard to houses of multiple occupation now in the sense that, sometimes, an applicant, an owner, will say, ‘This person is the manager’, but, when you scrutinise the arrangements for that manager, they do not have the ability to spend money on the property and they do not have the ability to make decisions. We are familiar with scrutinising that to make sure that we are clear as to who exactly has control of the site. If we are not satisfied with regard to the people who are named as in control, local authorities currently have the ability to determine who the most appropriate person is. So, people do try to get around it, thinking that it is just a name on a piece of paper, but we do scrutinise what the relationship is to make sure that the person who is the manager is the person who has control. If that is not the case, we would revert back to the owner and apply the test to them.

[58] **Joyce Watson:** Chair, may I just ask another question?

[59] **Ann Jones:** No, we need to move on. We are only half way through our questions, and we have around 10 minutes left. If there is anything else that we need to ask, perhaps we could write and get some clarification. So, we can think about that afterwards. Janet is next.

[60] **Janet Finch-Saunders:** We are talking now about collaboration of authorities and them trying to work together on this. There has been a suggestion of having a lead authority.

What are your views on local authorities working collaboratively on this?

[61] **Mr Burtonwood:** It is certainly something that has been considered across a whole range of matters, as I am sure that you know better than I do.

[62] **Janet Finch-Saunders:** Yes. It is a big agenda here.

[63] **Mr Burtonwood:** I think that it is probably a worthwhile thing to consider. It is very important, however, that, whichever local authority is chosen or volunteers to lead, however the system works, it need to be actively involved in this. If you have a local authority for which this is a fairly small piece of work, it would not be appropriate, and I do not think that it would have the interest or even the expertise, possibly. So, it would be crucial to make a good decision in that respect.

[64] **Janet Finch-Saunders:** Do you not think that the collaboration agenda and them working together would strengthen the weaker ones, as there is that knowledge base from working together?

[65] **Mr Burtonwood:** Yes, and it would ensure that there is more uniformity across Wales.

[66] **Janet Finch-Saunders:** Yes; I think that that is what we are looking for.

[67] **Mr Burtonwood:** That is obviously the criticism, which is quite valid at times: there are significant variations across small geographical areas. It would certainly improve that. I do not have any problem with that, but I can see that some people may do. It depends, because there are, as I say, significant differences within small areas.

[68] **Ms Davies:** My only reservation about that would be, if there was a national authority that administered the whole thing and undertook the enforcement as well, and we had a set of mandatory conditions that everybody complied with, if that was as far as local authorities could go in terms of their sites and they were not able to set local conditions that addressed particular issues within their communities. That might diminish some of the benefits that could be derived from the Bill. Again, referring to houses of multiple occupation in my county borough, the additional licensing scheme that we implemented was predominantly to address very specific local issues that the community had raised. We have robust conditions around environmental concerns and community responsibilities that go significantly over and above the mandatory conditions. So, that would be my main reservation about that, although I do welcome the opportunity, particularly because a number of site owners own a number of sites across the country and across the border, to reduce the burden on an owner by enabling them to go through one fit-and-proper-person test as opposed to six, or however many, so that there would be consistency there. Possibly, a national register of licences would be helpful to park residents as well in making choices.

[69] **Ann Jones:** Mark, do you think that your question has been covered?

[70] **Mark Isherwood:** I think that the second part has been covered.

[71] **Ann Jones:** Do you want to briefly ask the first part?

[72] **Mark Isherwood:** What are your views on the proposed requirement for local authorities to maintain a centrally held register for site licences?

[73] **Mr Burtonwood:** It is an excellent idea.

[74] **Ms Davies:** It would be helpful if there were a provision in there in relation to it not having to be a paper register. In my authority, certainly, we are trying to move towards electronic registers. So, as long as it is not too prescriptive about the format of the register, then it is to be welcomed—particularly the site agreements and site rules being part of that register and being publicly accessible.

[75] **Ann Jones:** Moving on to licensing enforcement, Joyce has the next question.

[76] **Joyce Watson:** My question is about the enforcement powers in the Bill. Do you think that the enforcement powers that the Bill provides are sufficient?

[77] **Ms Davies:** I particularly welcome the ability to serve enforcement notices. That is a welcome move for local authorities. Although prosecution is always there as a last resort for the worst offences, our main concern as local authorities is protecting residents and their health and safety, and the ability to serve improvement notices or enforcement notices and for us to then be able to go in and undertake works is welcome.

[78] I would like some clarification in relation to whether those enforcement notices are able to be issued just for compliance with model standards or whether they are also to do with management requirements. Particularly with the Housing Act that we have now—the previous legislation allowed local authorities to serve management notices to make sure that things were cleaned and repaired et cetera. As long as that facility is there for caravan sites—because the basics will be there, but how owners maintain those over time will be the issue for us. If we were able to serve enforcement notices and then go in and act if required, that would be welcome.

[79] **Joyce Watson:** Do you think that the responsibility of local authorities is defined sufficiently clearly within those enforcement actions?

[80] **Ms Davies:** Yes, I do.

[81] **Joyce Watson:** Do you think that local authorities should be able to inspect sites unannounced?

[82] **Ms Davies:** Yes.

[83] **Joyce Watson:** I think that you have answered this next question, but I will ask it for the record: are local authorities adequately equipped to monitor and enforce licences?

[84] **Ms Davies:** I believe we are, yes. It would be useful to have some guidance on the frequency of inspections that takes into account particular risks on sites, so that it is not a prescriptive annual inspection. In my area we have some very small sites that are very well run, which would probably need less attention than the larger sites. If that was forthcoming, that would be helpful.

[85] **Joyce Watson:** The Bill gives local authorities the power to carry out works in default and to appoint interim managers. Are local authorities equipped to undertake those particular functions?

[86] **Ms Davies:** We are familiar with undertaking works in default. In my authority we have a very robust policy of undertaking works in default and recovering the costs. My only reservation, in terms of the interim manager arrangements, is that, in housing terms, it is fairly easy to identify somebody who is a suitable manager for a property. We work in partnership with our housing associations or with letting agents. We maybe need to give more consideration to whom exactly we could go to if we needed to take over management of a

site, particularly if that could not be the local authority—that was not completely clear in the Bill. In real terms, it would probably be the local authority that would take over management of the site. It said ‘for the duration of the licence’—I was not clear about that. It might be helpful for site owners if there were some sort of interim arrangements, particularly if you had to do that; if there were a number of years to go, the cost implications for a local authority could be quite significant.

[87] **Joyce Watson:** You have already said that you think that inspections and the frequency of inspections should be based on risk, because the well-run ones do not need the same attention as the not-so-well-run ones. Do you think that that will have an impact on the cost to local authorities, in terms of the frequency of providing them, and should it be risk-based?

[88] **Ms Davies:** I think that it should be risk-based. With regard to HMO licensing, we factored in to the licence calculation an allowance for inspections. As long as we were able to do that and apply it proportionately, based on the local area, I do not think that it would be too much of a burden to local authorities.

[89] **Mike Hedges:** Do you support the provision of fixed penalties, and do you think that £100 is suitable?

[90] **Mr Burtonwood:** Yes, but with some reservations. The principle of an improvement notice, with the option of prosecution and/or works in default, works well, across the whole of environmental health legislation. Fixed-penalty notices could work quite well, but if people were in a situation where they could not be enforced—in other words, they were ignored—the costs of recovery would be disproportionate. If you did not recover a fixed penalty it would send the wrong signal to certain site owners and managers that they could get away with various misdemeanours, and it would make our main enforcement role that much more difficult.

[91] **Ms Davies:** I agree with Mike. The sum of £100 may not be a sufficient deterrent for some site owners, given the scale of some of the work that may be required. The enforcement notice is probably an avenue that local authorities would be more likely to use, given the types of work, in our experience, that you would want to address.

[92] **Ann Jones:** We are going to move on now to the contractual relationships between site operators and home owners.

[93] **Rhodri Glyn Thomas:** Rydych wedi cyfeirio at y gosb benodedig o £100 ac rydych wedi codi rhai amheuan ynglŷn â gweithredu hynny. Mae adrannau gorfodaeth awdurdodau lleol—rwy’n siarad o’r mhrofiad i yn sir Gaerfyrddin—yn ei chael yn anodd gorfodi yn gyffredinol. A ydych yn hyderus y gallai awdurdodau lleol ledled Cymru orfodi’r costau hyn?

Rhodri Glyn Thomas: You referred to the fixed-penalty notice of £100 and raised some doubts about implementing that. Local authority enforcement departments—I am speaking from my own experience in Carmarthenshire—find enforcement difficult in general. Are you confident that local authorities across Wales could enforce these fines?

[94] **Mr Burtonwood:** No, I am not. As I have just said, that is one of the concerns that I have.

[95] **Ms Davies:** Er fy mod yn deall Cymraeg, mae’n well gennyf ateb yn Saesneg, os yw hynny’n iawn.

Ms Davies: Although I understand Welsh, I would rather respond in English, if that is okay.

[96] I agree with Mike. Although you can issue them readily, we have experienced, particularly where we have had active enforcement and fixed penalties on dog fouling or litter, that a proportion inevitably end up having to go to court, and the costs escalate. However, an enforcement notice works in default and the recovery of that debt, particularly because it is often a more significant debt, is more worthwhile in terms of pursuing through the courts.

[97] **Ann Jones:** Are you happy, Rhodri? What about question 14?

[98] **Rhodri Glyn Thomas:** That was question 14.

[99] **Ann Jones:** No; it was on the unintended impact of removing the requirement for site operators to approve buyers.

10.00 a.m.

[100] **Rhodri Glyn Thomas:** I am happy with that.

[101] **Ann Jones:** Lindsay, you have the next question.

[102] **Lindsay Whittle:** Good morning. We know about the unintended impacts of removing the requirement for site operators to approve buyers. Do you think that that will be contentious? What other provisions should be examined in this Bill? Does it go far enough to reform the contractual relationship between owners of the site and owners of the homes?

[103] **Ms Davies:** I do not have detailed experience of contractual issues facing park-home residents. I have only had experience of one issue that has arisen in the last couple of years in our county borough. The opportunity for park owners to veto sales or such arrangements is to be welcomed, but with a note of caution in that if they have overall responsibility for management of the site, they should have some contribution through the residential property tribunal, if they object to a particular sale going through.

[104] On other provisions around making it less difficult for mobile-home owners to make improvements to their properties, internally and externally, that is also to be welcomed, although, again, I would sound an element of caution in that some mobile-home owners may undertake very extensive works that could upset the integrity of the mobile homes. The site owner would still need some element of control, particularly on external features, because an issue that we come across repeatedly is people encroaching on the fire space between dwellings. So, the site owner does need some way of addressing that.

[105] **Lindsay Whittle:** What about issues to combat anti-social behaviour from new home owners? You already have the power to deal with that.

[106] **Ms Davies:** Yes, we can deal with anti-social behaviour and, certainly in terms of HMO licensing, there is a requirement on owners of properties—the same would hopefully apply to park owners—in that they have a responsibility to deal with nuisance, anti-social behaviour and other issues arising from residents. That is why it is important that there is some opportunity for park owners to have a dialogue with residents on sales and so on, to ensure that they can have some control over their sites, particularly as the burden falls back on them.

[107] **Gwyn R. Price:** Are you satisfied that the Bill is sufficiently clear as to the purpose of the code of practice that would be made under Part 4 of the Bill? What should be included in a code of practice made under Part 4 of the Bill?

[108] **Ms Davies:** Given that the Bill proposes that we have management regulations and a code of practice, I am not clear whether there is a need for both. We could have a set of mandatory licensing conditions, including some management provisions or regulations. There is a necessity for the code of conduct to refer to ongoing responsibilities that will underpin—to use the analogy of landlord training again—landlord licensing for the private rented sector. That talks about having an understanding of the legislation and how they engage with their tenants, so it should address those sorts of issues.

[109] **Gwyn R. Price:** You said earlier that the enforcement part of the code of practice was not quite clear.

[110] **Ms Davies:** I do not think that you need a code of practice and a set of regulations. I would prefer just a set of management regulations, and not a code of practice as well. I am not clear what the purpose of having both would be. There should be very clear management responsibilities and very clear responsibilities in terms of how things are set out and how people behave and engage and any training that may be developed for park owners. The Bill talks about establishing the competence of owners. Local authorities worked collaboratively with the private rented sector on the landlord accreditation scheme. We have regard to that when deciding whether people are competent. If something like that could be developed across Wales, it would be helpful.

[111] **Gwyn Price:** So it is the clarity in the code of practice that you want to see being beefed up.

[112] **Ms Davies:** Yes.

[113] **Ann Jones:** We have run out of time—in fact, we have gone over. Thank you, both, for coming today to give evidence. We will send you a copy of the transcript to check for accuracy—to see that we have not put any words into your mouths. We will break for a few minutes before our next witnesses.

*Gohiriwyd y cyfarfod rhwng 10.06 a.m. a 10.10 a.m.
The meeting adjourned between 10.06 a.m. and 10.10 a.m.*

Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru): Sesiwn Dystiolaeth 7 Regulated Mobile Home Sites (Wales) Bill: Evidence Session 7

[114] **Ann Jones:** We will reconvene and carry on with our agenda. If you turned your mobile phone on during that short break, could you ensure that you have turned it off, please? Thank you.

[115] I am delighted to have the Minister for Housing, Regeneration and Heritage with us. We have not seen you for a while, Minister, so it is nice to have you with us. You are joined by Alyn Williams, who is head of the private sector housing team, and Helen Kellaway, who is a lawyer in the Welsh Government. You are all very welcome.

[116] Minister, we have loads of questions, and we have about an hour, so could we try to keep to that hour? This is our opportunity for us to ask you about the Government's views on Peter Black's proposed Bill. Ken has the first set of questions.

[117] **Kenneth Skates:** Good morning, Minister. In general terms, will the Bill as drafted deliver the stated objectives, as set out in the explanatory memorandum?

[118] **The Minister for Housing, Regeneration and Heritage (Huw Lewis):** In general

terms, yes. We have a few concerns, but nothing that cannot be resolved during the Bill's progress and the usual routines that we need to go through in terms of passing legislation. Our concerns are mainly about the transitional arrangements that might exist between the site licensing regime that exists at the moment and the new system that Peter has proposed. I should mention that a major concern of ours is that, throughout the wording of the Bill, there is a heavy reliance on Order making and supplementary legislation later. So, in relation to a number of issues, we would ask why they are not in the Bill to begin with. We also need to tighten things up to ensure that the new regime and the new licensing set-up apply to all sites, so that sites do not fall through the gaps. So, overall, yes, the Bill meets its objectives. Indeed, this is a piece of legislation that would have formed part of my housing Bill, had Peter not been lucky enough to have been drawn in the ballot.

[119] **Kenneth Skates:** Do I take it, then, that Welsh Government officials will be working with Peter Black in the drafting of Stage 2 amendments?

[120] **Huw Lewis:** We have already been working closely with Peter Black. Several meetings have taken place between Peter and me, and more frequent meetings still between Peter and officials. So, yes, we will continue that co-operation.

[121] **Kirsty Williams:** Minister, you talked about some of your concerns regarding transitional arrangements. In your evidence, you suggested that it might be better if the transitional arrangements were on the face of the Bill. Yet, the evidence that we heard this morning from local authorities is that they were quite relaxed about transitional arrangements coming later and for them not to be on the face of the Bill. Could you explain to us why that would be your preference?

[122] **Huw Lewis:** It would be my preference for the sake of balance, I think. There seems to be something of an imbalance in the Bill as drafted between the sheer amount of subordinate legislation that might be required and the size of the Bill. In other words, the Bill is quite small and the requirements regarding subordinate legislation are quite large. So, there are statutory instruments to implement and so on, which will take time and will have to be done carefully. Essentially, there is an argument to be made that we could have more of that on the face of the Bill to get it done and dusted in the first place, and not be quite so reliant on ministerial Order making and so on later on. So, it is a question of balance and of possible delay.

[123] **Kirsty Williams:** Thank you; I think that those will be interesting words to come back to when we are scrutinising Government legislation, when usually the opposite is the case. [*Laughter.*]

[124] **Ann Jones:** Now, now; let us just keep focused on this one, please.

10.15 a.m.

[125] **Kirsty Williams:** I want to move on to issues around interaction between this legislation and existing legislation. Do you have any views on how you see the two interacting? As you know, one of the consequences of the Bill will be that operators will have to have two licences; are you content with that approach or would you prefer to see a consolidated licensing regime?

[126] **Huw Lewis:** You are quite right. Essentially, we would have a two-licence scenario—we would have a site licence, for want of a better phrase, and people would be licensed as fit-and-proper persons. In an ideal world, perhaps we would not start from here, but I do not see that as any kind of insurmountable obstacle. Providing that we draft legislation carefully and that local government does its job well, it is not an unworkable

regime. It would be workable. It would be nice to see something more streamlined, but we are where we are in terms of existing legislation.

[127] **Kirsty Williams:** The picture is further complicated by the fact that, in some cases, there is mixed usage on a site, of permanent homes and holiday accommodation. Do you foresee any problems with site operators needing two licences and how that might work on mixed sites? Do you think that one of the unforeseen outcomes of the Bill might be that it drives people out of the permanent housing licensing regime into the holiday licensing regime? Obviously, that would have consequences for people on the site.

[128] **Huw Lewis:** It is conceivable that that could be a problem. We will have to be careful about how the licensing regime fits around that problem. A holiday-use-only site has, broadly speaking, a lower level of standards required under existing legislation, for instance, the actual units can be closer together and so on. So, the option might be put into the minds of some owners that it would be quite a simple thing to swap to a holiday-use-only site. That needs careful consideration. Perhaps, Alyn, you would like to expand on that.

[129] **Mr Williams:** We would have to have safeguards in place to ensure that if there were to be a change of use application, local authorities pay due regard to the wishes of existing residents on that site. Any transfer of licences should perhaps be refused until the residents have passed a vote to agree that. We can overcome that sort of problem and make sure that it does not happen.

[130] **Kirsty Williams:** Given that you have identified this particular problem and you feel that it can be overcome, how would you suggest that the Bill be amended to achieve that? Is it your intention to bring forward amendments to that end?

[131] **Huw Lewis:** It is not easy to answer that question. In terms of what the Bill might say, I would be interested in Peter's ideas around that. It certainly needs discussion and a lot of thought. Alyn has mentioned that there is a backstop here of good management when it comes to how local authorities manage the stock. They will have new responsibilities that go along with the licensing regime. So, this sort of thing should not happen in a well-managed set-up. I do not have a glib answer in terms of what you could write into the Bill to stop this happening. I do not know whether technical issues have been considered.

[132] **Mr Williams:** It would all come down to the guidance and the licensing regime that will be imposed.

[133] **Kirsty Williams:** May I move on to financial impact? Your evidence, Minister, is quite tough on the lack of financial implications, although I have seen worse in the Government's own financial impact papers in the past. You are quite tough on it, but you do come up with a figure as to what you perceive the cost would be to the Welsh Government. What proportion of that figure relates to existing staffing costs? From where in the Welsh Government's budget do you foresee that the costs of implementing this Bill would come?

[134] **Huw Lewis:** In terms of existing staff, I do not think that this is a doable thing. I think we are talking here about a dedicated team that would need to be established in order to deal with this within the Welsh Government—not a huge team, but I think we would need people that work on this as their job. In terms of where the money would come from, I would have to find it within my housing regeneration and heritage main expenditure group. It would just have to be absorbed into the costs of Government, really. I do not regard the figures as too scary. This potentially is a good piece of legislation that is worth doing, and the Welsh Government would not like to hold up the potential costs as any kind of red flag in any way.

[135] **Kirsty Williams:** If we could get to a situation where some of the subordinate

legislation could actually be put on to the face of the Bill, to what extent would the cost to the Welsh Government be reduced as a result or would it simply be marginal? Do you have any views on the financial impact on local authorities?

[136] **Huw Lewis:** It would help. It is impossible for me to say how many pounds, shillings and pence would be saved if some of the post-Bill regulations, if you like, were actually on the face of the Bill, but clearly it would mean that there was less running around for the Welsh Government to do after the passage of the Bill, obviously. That would depend entirely on how much was shifted from subordinate legislation and regulation to the face of the Bill.

[137] Sorry; what was the second part of your question, Kirsty?

[138] **Kirsty Williams:** It was on local authorities. In your paper you expressed concerns about the costs for local authorities, but, actually, the local authority representatives that we had in this morning were quite sanguine. They were not worried. It was the first time that I have ever heard a local authority representative come to a committee and not be worried about the cost of new legislation for them, but remarkably, this morning, the two people we heard from were very relaxed about it. Do you have any ideas about what you think the cost would be for a local authority? There may be 20 more of them that would object, I dare say. *[Laughter.]*

[139] **Huw Lewis:** I am sure they will feel the same about the housing Bill when it comes along. We will have a fees regime here. We need the proper investigation and consultation in terms of what the fees would be set at. We need to think also about sanctions, although that should not become a revenue stream, obviously. There would conceivably be a sanctions regime around site management, breaches of regulations and so on. The biggest difficulty, I think, is the uneven spread of these sites across the country. There are some local authorities that have one, or none, and there are others that have thousands of units. One of the suggestions that we have made in conversations around this is that it probably would be most efficiently managed in terms of cost if we could identify a lead authority or some lead authorities in order to take the work forward. You could even envisage one local authority in Wales actually managing the thing on behalf of other local authorities, or we could have a picture whereby north Wales has a lead authority and so on. We need to talk that through and local government is a key partner there, obviously. It needs to be something that does not put too onerous a burden upon local government. I am very relieved that, at this stage at least, local government sees this as something that is not too onerous.

[140] **Kirsty Williams:** Finally from me, what are your views on the fact that the Bill prevents site owners from passing on the costs associated with the Bill to residents? Are you satisfied with those provisions?

[141] **Huw Lewis:** This is another very difficult thing to legislate for, really. There is mention in the Bill of pitch fees specifically, and that they should not be passed on. Again, the day-to-day protection of residents here will be very much a matter for the good management set-up within the local authority regime. It would be very difficult, I think, for the Bill to do that. With all respect to Peter, I do not know that you could legislate for every cunning plan that an unscrupulous manager or owner might come up with, but it would be clear that it would be the kind of thing that you would recognise when you saw it. Good day-to-day management through local authorities is the best protection.

[142] **Ann Jones:** Janet, you have the next set of questions on the fit-and-proper-person test.

[143] **Janet Finch-Saunders:** Good morning, Minister.

[144] **Huw Lewis:** Good morning, Janet.

[145] **Janet Finch-Saunders:** Do you feel that the Bill's proposals in relation to the fit-and-proper-person test are adequate and appropriate?

[146] **Huw Lewis:** Broadly, yes. This is not an entirely new idea; a similar fit-and-proper-person test is contained within the Housing Act 2004, connected with houses in multiple occupation. I believe that Peter has pretty much based the workings of this fit-and-proper-person test on what is established in law there already, which is only sensible. We have a request, though. The Welsh Government has put it to Peter that we should take a look at what the Scottish Government has done and include firearms offences specifically. However, that could be looked at in terms of Stage 2 amendments and so on to make absolutely sure that we have the best possible written description of the fit-and-proper-person test. However, broadly, it is fine.

[147] **Janet Finch-Saunders:** Do you think that the amendments that Peter has brought forward, namely making the fit-and-proper-person test applicable to site managers, as opposed to site owners, are appropriate or should it be applicable to both? That is, in some instances, you may have site owners who take an active role in site management, or you could have site owners who have many sites and put a site manager in charge, and then you have some sites that do not have site managers and have remote owners.

[148] **Huw Lewis:** Peter has probably hit the best balance. He is proposing that only the manager, only the person who actually runs the site, needs to carry the licence. That is probably the best approach. It would be quite difficult to envisage legally barring someone from owning something because of a criminal record—

[149] **Janet Finch-Saunders:** How would we address the site owners who do not have site managers?

[150] **Huw Lewis:** Well, somebody is managing it, somebody is collecting the money, somebody is responsible for the site and somebody's name is on the documentation. There cannot be a site that has no name connected to it. That named person would have to be the licensee.

[151] **Kirsty Williams:** It has caused a little consternation that Peter has come forward and said that he intends to bring these amendments through at a later stage. Have you been in a position to give legal advice to Peter Black that the original provisions in this Bill that relate only to site owners are not legally watertight? Minister, you just said that it might be difficult to disbar someone from owning something because of a previous criminal record. I would be interested to see the legal basis on which you made that statement as Minister.

[152] **Huw Lewis:** I did not ask a lawyer in advance. I was attempting to use a bit of common sense there. In terms of the legal advice to Peter on this issue—

[153] **Mr Williams:** As far as the ownership of the property is concerned, I am not sure that we have the powers to restrict anybody from owning a property, be it a site licence, a site or any houses in multiple occupation. It is the manager who deals with the people on the ground day to day who we think should be regulated and restricted.

[154] **Huw Lewis:** May I bring Helen in?

[155] **Ann Jones:** Yes, certainly.

[156] **Ms Kellaway:** The issue is who should satisfy the fit-and-proper-person test, and, if

that person is the owner, it will be if he manages the site, otherwise it will be the manager of the site. I think that that was the intention, rather than restricting ownership of a site.

[157] **Mike Hedges:** Is it similar to the pub test? That is, somebody who applies for a publican's licence has to pass a fit-and-proper-person test in order to get one, even if the pub happens to be owned by a fairly large organisation.

10.30 a.m.

[158] **Huw Lewis:** That is a good analogy, I think. Yes.

[159] **Kirsty Williams:** The issue for residents is that you can have a particularly vicious site owner who avoids being caught up in this by putting up a front person, who they say is the manager, and that person qualifies under the fit-and-proper-person test, but, behind that manager, you have a person whom none of us would really regard as being a fit-and-proper person to own these sites having an impact on people's lives. These could be people with criminal convictions for terrible things that they have carried out on other sites somewhere. We all want to do the same thing, so how can we find a piece of legislation that would allow us to do that?

[160] **Huw Lewis:** Fundamentally, this is a question for Peter Black to answer. My reading of what he proposes is that, properly managed, this system will be a safeguard for residents with regard to the person to whom they relate from day to day. It would certainly also safeguard them with regard to future intimidation and criminal activity, of course, because that person could have their licence removed. This is a question for Peter to answer. We could conceivably go down the road of trying to disbar people who have done something criminal at some point in the past from owning property, but that would be quite difficult.

[161] **Ann Jones:** Minister, I think that Kirsty and I are on the same wavelength on this one. I think it is about where a manager will be acting under some sort of duress or fear because they are the named person and their name is there and that that would allow a site to be operated according to some practices that we are trying to stop with the rest of the Bill. We are keen to tease out whether Peter is proposing an amendment because he has had some advice that means that he feels that will not be able to be sanctioned, if you like, by people further down the legislative line. We are anxious to determine whether that is the reason that this amendment is being talked about.

[162] **Huw Lewis:** I cannot tell you exactly what legal advice Peter has had on that point.

[163] **Ann Jones:** Well, no; he will have to tell us that when he comes back. I just wondered whether, by looking at that, we are giving someone a loophole. It will be the site owner who does not want to co-operate, basically, I would have thought. The good site owners will probably have no problems, but you will get the one who will put a front person up.

[164] **Mr Williams:** Equally, the issue could be that the site owner might know that they would not pass a fit-and-proper-person test and they may have nothing to do with the business. Would it therefore be appropriate, if they failed such a test and the site had to change hands or whatever, if the manager is perfectly capable of coping with the day-to-day regime? The big issue is going to be with the enforcement of the legislation, making sure that local authorities are aware of the powers that they have and making sure that we have regular dialogue with the residents, the police and everybody else in the area, so that, if these problems arise, action is taken to revoke licences and to take people off the fit-and-proper-person list.

[165] **Ann Jones:** Do we think that we have enough on that?

[166] **Kirsty Williams:** I would like to see some legal advice on disbaring people from ownership. That is, from our side.

[167] **Ann Jones:** We can look at that as a committee. We can seek that advice.

[168] **Joyce Watson:** I heard what you said, Alyn, and that is fine, but there is a time frame for enforcement, is there not? What we are keen to see is that people are not trapped in the middle of the time frame by an owner who does not really care about anything, including his manager—because they are dispensable, are they not? The residents would be locked into the time frame of those two things: investigation and taking the matter to court. That is what we are really after, and we do not want that situation to happen or to continue.

[169] **Huw Lewis:** There is a point of substance in what committee members are referring to. This is something that needs further examination. I do not have a smart answer to this. Alyn is quite right in saying that, really, what matters is good management and enforcement of the legislation once it is up and running. That is the best protection that residents would have. Even the best Bill will be useless if it is not enforced and managed properly at a local level.

[170] **Mr Williams:** In the proceedings of the House of Commons committee investigation into this it was suggested that six or seven of the rogue owners in England would have passed the fit-and-proper-person test as it currently stands. So, I am not sure that it would remove the problem. The fit-and-proper-person test is only a stage towards ensuring effective management. It is about all of the other things that go with it.

[171] **Ann Jones:** Just for the committee to know, I think that we will take some advice before the Member in charge comes back in. We need to have that advice before we start to make recommendations. We will get that advice out to Members as soon as we receive it.

[172] I think that we have covered fit-and-proper-person tests. Mark has the next two or three questions on local authority collaboration.

[173] **Mark Isherwood:** What do you think might be the benefits or disbenefits of licensing authorities working collaboratively?

[174] **Huw Lewis:** It is hard to see any disbenefits. As I have said, the spread of mobile homes up and down the country is very uneven. It is certainly the case that we could face problems if a local authority has a very large or a very low number of units. Working together, either regionally or, indeed, nationally, I think local authorities would get the best benefit in terms of economies of scale and so on. As well as that, we could be better assured that the people, or the team, running the licensing system and the sanctions regime would become expert and really know their business. They would not be doing this as a part-time occupation as a small part of their job; this could be at the centre of their work every day, and that would only be a good thing, too.

[175] There is another element of benefit here in that, quite conceivably—it will be the case—we will have owners who have multiple sites in their ownership in different parts of the country. To have a good regional spread, regional management and good communication between regions or, indeed, one central office, if you like, running all of the schemes across Wales would mean that the potential danger of someone failing a fit-and-proper-person test in south-west Wales but getting away with things in north-east Wales would be minimised or eliminated. So, it is hard to see any disbenefit from local authorities working together.

[176] **Mark Isherwood:** I will jump ahead and come back to my other question, for the sake of continuity with the answer we have just had. Do you believe that licences should be transferable between sites where a site operator, as you indicated, might own sites in more than one local authority?

[177] **Huw Lewis:** Yes. Essentially, this is a licensed person that we are talking about. There is a site licensing regime that exists under the caravan Act—

[178] **Ms Kellaway:** The Caravan Sites and Control of Development Act 1960.

[179] **Huw Lewis:** Yes, that one. [*Laughter.*] So, that exists. The site licensing regime is an existing regime. What we are talking about here is a person with a licence in their hand that says that they are a fit-and-proper person to do this work.

[180] **Mark Isherwood:** What are your views on the proposed requirement for local authorities to hold a central register of site licences?

[181] **Huw Lewis:** Local authorities would be best placed to answer that question. Instinctively, I would say that would be a good thing, because we would ensure consistency across Wales. Local authorities might want to argue that there would be other ways of ensuring consistency across the country and may prefer a regional set-up. They would have to make that argument, and it would be something to be investigated carefully and looked at as this legislation progresses. However, instinctively I would say that a centrally held list would be the simplest and most straightforward approach.

[182] **Mark Isherwood:** Should that list be at a local authority level? We were discussing previously that the collaboration between local authorities should be on a more regional basis.

[183] **Huw Lewis:** A local authority somewhere will have to hold and maintain this list and make sure that it was operated properly. Whether that local authority was leading for a region or for the whole of Wales is something that we will have to talk through. The input of local authorities in that regard would be central to the debate.

[184] **Mark Isherwood:** You said in your evidence that the Bill needs to more fully address the issue of licensing costs. How?

[185] **Huw Lewis:** Again, it is very important—and I am sure that local authorities would be the first to say this—that this legislation is not too onerous when it comes to the costs of local authorities. You or I at the moment could pluck a figure out of the air and say, ‘This makes the whole thing self-financing’. The trouble is that this requires a proper piece of work to be done to figure out exactly what would make this self-financing. There is an uneven spread of park home sites across the country. There are owners with large sites of hundreds of units and owners who have a very small investment in mobile homes. So, we must have a regime that fits in terms of how big a player an owner is, but which also ensures that local authorities do not break the bank in managing this from day to day.

[186] **Mark Isherwood:** Therefore, you are saying that this should be determined by work with local authorities individually or collaboratively, rather than by Welsh Ministers such as yourself?

[187] **Huw Lewis:** I think that we need to be engaged with the work, although this is not something that we would lay out in the Bill. My understanding is that, through ministerial Order, a fee regime could be altered at pretty much any point after the Bill is passed.

[188] **Ms Kellaway:** It could be altered by Order of the Welsh Ministers. The fee in the Bill

is £100, but that could be altered in the future by Order.

[189] **Ann Jones:** Is the £100 the fixed penalty or the fee?

[190] **Huw Lewis:** It is the fee per unit.

[191] **Ann Jones:** So, it is £100 for a fixed penalty and it is £100—

[192] **Mr Williams:** It has been suggested that the fee per unit could be one of the options to be considered as part of the further evaluation.

[193] **Ann Jones:** Thank you; I was getting a bit confused there. Are you happy with that, Mark?

[194] **Mark Isherwood:** Yes, thank you.

[195] **Joyce Watson:** Minister, I would like to hear your views on the enforcement powers in the Bill, particularly in relation to the inspection of sites?

[196] **Huw Lewis:** Again, as regards enforcement, it is very important that, in order to make this a workable regime, local authorities need to be able to recover their costs. Peter is grappling with that issue. There is also the idea of fixed penalty notices, which bears on the question. We must have a regime where that is part and parcel of the way in which good enforcement works, but local authorities must not lean on that as a revenue stream. This balance is a familiar one with regard to the way in which local authorities impose sanctions in a number of areas. The same types of tests of reasonableness in terms of all that will have to be applied. The views of local government will be very important in that regard. Alyn, do you want to add anything?

[197] **Mr Williams:** It is about making sure that we work with local authorities and that they understand what their responsibilities are and what action they need to take. As the Minister said, for the first time, they have the power to recover their costs.

10.45 a.m.

[198] **Huw Lewis:** That is very important. One of the great issues that Peter Black's legislation is attempting to address is the problem that local authorities face in that they have had no way of financing this kind of enforcement work in the past. That has often been held up by local authorities as a reason why intervention by them is a problem. It is difficult for residents to persuade local authorities to get involved.

[199] **Joyce Watson:** There are two parts to getting involved. You have mentioned one, namely being financially equipped, and the other is being adequately equipped in terms of knowledge and expertise. So, are you currently convinced that local authorities are adequately equipped in terms of expertise and knowledge?

[200] **Huw Lewis:** No, they are not. That is why it is important that a discussion around lead authorities and regional or even national working is embraced. That conversation needs to be embraced by local authorities because, clearly, some local authorities could take a regime like this and run with it next week, but others would have a huge amount of difficulty doing so, particularly those with large numbers of units and those with very small numbers.

[201] **Joyce Watson:** Do you think that it is a good idea to allow local authorities to inspect sites unannounced?

[202] **Mr Williams:** There would be good reason to allow unannounced inspections in certain circumstances, but we would have to ensure that the ability was proportionate, reasonable and not used without due diligence. We would not want inspectors turning up, as the Minister said earlier, as a means of raising revenue. This is about ensuring that there is a bona fide reason for an unannounced inspection and if there are things that they think are going on, then the owners would need to be given time to correct things—there is no point turning up the next day and saying, ‘Here is another £100 fine.’ So, it is about ensuring that we get that balance right.

[203] **Ms Kellaway:** I have read somewhere that there has to be 24-hours notice before you can inspect a site. I am sure that there is provision in the Bill for that.

[204] **Mr Williams:** I think that is under the HMO legislation. This legislation suggests that there could be unannounced inspections.

[205] **Mike Hedges:** For the record, do you support fixed penalties as a means of dealing with some of the problems? Is £100 suitable or would you be happier with a regime more akin to that of restaurant visits, where, if what needs to be put right is only minor, they return to ensure that it is done and, if it is not, they may well take them to court, but if the breach is major, they are taken to court immediately?

[206] **Huw Lewis:** Again, this needs further examination. There could be a role for fixed penalties. It could concentrate the mind of recalcitrant owners very quickly, hopefully, especially if they want to get things right. We also need to give consideration to what the tipping point is. If a site manager is being issued with fixed penalties on a monthly basis and eventually begins to see that as part of their day-to-day costs, then that is not acceptable and we need a gradation of penalties. On the passage of the legislation, I do not think that we have a clear picture yet of where those tipping points should be. The committee’s view on that would be important in terms of the best way forward as well as the view of local government in terms of the practicality of this.

[207] **Mr Williams:** As the Minister said, we would need to ensure that we do not have too many repeated fixed penalty notices that just carry on. We need to reach a point where someone takes some firm action to rectify the problem. The other issue is that if the fixed penalty notices are being served in relation to the need for repairs et cetera, then the likelihood is that those costs might just be passed on to the site fee. So, there needs to be that balance again.

[208] **Rhodri Glyn Thomas:** Gyda phob darn o ddeddfwriaeth, mae’r posibilrwydd o effeithiau anfwriadol yn codi. Gwaith y Llywodraeth yw asesu hynny. Pa asesiad rydych chi wedi ei wneud o’r ffaith bod y gofyniad ar weithredwyr safle i gymeradwyo prynwyr newydd yn cael ei ddileu yn y ddeddfwriaeth ddrafft? Rydym ni i gyd yn deall y rheswm pam: oherwydd bod arfer drwg iawn yn digwydd o ran yr hawl honno. Ond a ydych chi wedi edrych ar ac asesu’r posibilrwydd o effeithiau anfwriadol yn y fan honno?

Rhodri Glyn Thomas: With every piece of legislation, there is always the possibility of unintended consequences arising. It is the responsibility of Government to assess that. What assessment have you made of the fact that the requirement upon site operators to approve new buyers is removed in this draft legislation? We all understand why: because there is very bad practice in relation to that right. However, have you looked at and assessed the possibility of unintended consequences there?

[209] **Huw Lewis:** Yes, but only in quite a limited way up until this point. You are quite right; the Bill, as currently drafted, would entirely remove any approval that might be necessary at the moment by a site owner in terms of a prospective buyer. So, it shifts things

entirely out of the control of site management. There could be unintended consequences for residents, as well as for managers and owners. We are all familiar with the kind of sites that cater for older people, who may have an expectation of a certain style of life. This is a problem in terms of how the Bill is discussed and how it is drafted. I do not know whether Peter Black has paid any further attention to this since we last met, but I know that he is aware of this as a bone of contention within the formulation of the Bill.

[210] It is conceivable that we could put together a regime in which the views, particularly of existing residents, were measured in some way, but I would not like to set that out on paper at the moment; it needs proper discussion.

[211] **Mr Williams:** One of the things that we would be keen to continue, not necessarily in an approval sense, is some sort of contact between the site owner and manager and the prospective buyer, just to make sure that the prospective buyer is aware of what is happening on the site and what they are taking on. Should we lose that, it would be a very dangerous thing not just for residents, but for prospective buyers, if there are issues with the site that they need to be aware of. Also, we need to be absolutely clear who would pay the commission fee in order to ensure that that is covered as well.

[212] **Ms Kellaway:** Similar amendments have been put to the Mobile Homes Bill in England regarding the removal of the consent requirement.

[213] **Huw Lewis:** There has been a discussion across the border that we need to look at.

[214] **Ann Jones:** The Chair of the Westminster Communities and Local Government Committee is coming in after you; he is having difficulties getting here at the moment because the trains are delayed.

[215] **Lindsay Whittle:** Prevention of sale blocking is, in fact, one of the main conclusions of the English Bill, and I hope that it will be one of the main conclusions of the Welsh Bill. Do you think that the Bill goes far enough in looking at reforming the contractual relationship between site owners and home owners? The English Bill does not do much more than prevention of sale blocking, and I think that the Welsh Bill should do more. I would be interested in your thoughts on that.

[216] **Huw Lewis:** We could tighten things and make things more comprehensive in terms of the regime in Wales. We need to think about issues such as gifting homes, the transfer of site licences within a family and an appeals mechanism. We also need to think further about the role of the residential property tribunal and its adjudication role. So, I think that we can do better than what is going on over the border. There are always things to learn from others when they are grappling with similar issues, but I do not see any reason why we cannot go beyond sale-blocking, because we are well aware that there is more to the issues surrounding mobile homes than simply sale-blocking. It is not just a question of that.

[217] **Lindsay Whittle:** That is good news, chair. Wales 1, England 0. Thank you very much.

[218] **Huw Lewis:** It is not our legislation, remember.

[219] **Ann Jones:** I am glad that you are a member of this committee, Lindsay, because you use sporting analogies, so I will not be the only one. On the management of sites issue, Gwyn is next.

[220] **Gwyn R. Price:** Good morning. Are you satisfied that the Bill is sufficiently clear about the purpose of the code of practice that will be made under Part 4 of the Bill?

[221] **Huw Lewis:** The code of practice sets out standards of conduct for the management of the sites. I think that we are on the right track with Peter Black's Bill at the moment. However, there is a degree of duplication within the code of practice and that lies within sections 28 and 29. I must get this right, as it is a matter of detail. Section 28 states that Ministers have discretionary powers to approve a code of practice by Order. On the other hand, section 29 places a duty on Welsh Ministers to make regulations to ensure that, in respect of every regulated site, there are satisfactory management arrangements.

[222] In terms of good legislation, there is a question hanging in the air about why we need both those provisions. If you have well-crafted management regulations, why would you need a code of practice? In other words, are you over-regulating and over-legislating? It is not a point of principle, it is just about ensuring that the law is well written. So, broadly, yes, but we have a particular issue with sections 28 and 29.

[223] **Gwyn R. Price:** So, you want clarity on the duplication there.

[224] **Huw Lewis:** Yes.

[225] **Gwyn R. Price:** Is the definition of 'satisfactory management conditions' in section 29 clear enough? Obviously, you do not believe that it is.

[226] **Ms Kellaway:** Which part are you referring to?

[227] **Gwyn R. Price:** The 'satisfactory management conditions' in section 29. Is that clear enough?

[228] **Ms Kellaway:** That is going to be done by Welsh Ministers via regulation, so we would need to give some thought to that during the passage of any regulations.

[229] **Gwyn R. Price:** So, it is something that you are going to look at; you are not quite clear on it.

[230] **Mr Williams:** There is always going to be a question about whether something is satisfactory or not. Perhaps a better phrase would be 'effective management arrangements'. Then again, we would need to develop a mechanism to test the effectiveness over time, so that we could then keep it under review to test the effectiveness as it progresses.

[231] **Gwyn R. Price:** Yes, ongoing.

[232] **Mr Williams:** That is absolutely right.

[233] **Ann Jones:** Mark, do you have a supplementary question?

[234] **Mark Isherwood:** Given that we have come to the end of the prepared questions, is it all right to seek clarity on a couple of the answers that we have had?

[235] **Ann Jones:** Absolutely.

[236] **Mark Isherwood:** On Mr Williams's answer regarding site inspections, as I recall, in evidence that we received last week—from the British Holiday and Home Park Association, I think—site inspections were not seen as a problem, because anybody can drive on to its members' sites, at any time, and have a look. Would such a visit be considered legally sufficient for a council or a local authority officer to take action, or would it still have to go through a formal notification process if it were intending to take action on the basis of that

visit? That is my first question. Do you want me to ask my second question at the same time or shall we come back to it?

[237] **Ann Jones:** Shall we have that answer first, as we have some time?

[238] **Huw Lewis:** Okay, I will leave that for Alyn.

[239] **Mr Williams:** I do not think that there is any opposition to unannounced inspections, so I think that that should be permitted under the legislation and, as far as local authorities are concerned, should be encouraged. However, the stumbling block would be if unannounced visits were just seen as a revenue-raising stream with local authority officers turning up one day and saying, 'This is a spot fine; you need to give us a cheque for this' and then coming back a couple of days later. They would have to allow enough time and there would have to be a reasonable approach in order to ensure that the manager is given enough time to rectify any problems. So, that is where we would have some concerns, but there would be no problem with unannounced inspections, and I think that local authorities should be encouraged to do that.

11.00 a.m.

[240] **Mark Isherwood:** Finally, given the answer earlier in which concern was expressed that a site operator might seek to evade this or existing legislation by applying for a change of use or, equally, that a site operator could apply for a holiday park licence when it is not really a holiday park, should we consider some requirement for a local authority to require the site operator applying for a change of use or a holiday park licence to show that they have made reasonable checks to ensure that their residents have a primary home elsewhere?

[241] **Mr Williams:** Yes, definitely. I think that they should also have some sort of ballot, for want of a better term, of the existing residents to ensure that they are happy with the application. Local authorities should perhaps take action to turn down applications for change of use unless the permanent residents have signed up to such a change.

[242] **Mark Isherwood:** What about new applications or renewals of applications for holiday parks?

[243] **Huw Lewis:** Particularly in the transitional period, in the early months and years of this legislation, I think that local authorities should be very alive to this as a potential get-out-of-jail-free card for difficult owners. Of course, we cannot outlaw a change of use. There could be legitimate reasons for that. However, good management and local authorities being on the ball in this regard will be very important.

[244] **Mr Williams:** Recently, it was suggested that the biggest problem is not going to be change of use to holiday sites but to Gypsy and Traveller sites. That is a new one to us; we had not expected that, so we are doing some research into that at the moment.

[245] **Ann Jones:** I have a couple of questions, given that we have some time left. When it came to give us evidence at the start of this process, Consumer Focus Wales felt that utility bills, which we have heard a great deal about from residents, should be displayed alongside the site licence terms. Minister, do you have a view on whether that should happen?

[246] **Huw Lewis:** We have obviously received the report from Consumer Focus Wales. It is a very valuable contribution to the whole debate. We have not yet had an opportunity to crunch through all of its recommendations. I am not aware of any discussions about utility bills as yet.

[247] **Mr Williams:** No, the matter of utility bills is being dealt with in the main by Ofgem, as I think it is a non-devolved matter. We would have to be careful that any action we took was not outwith our responsibilities and control.

[248] **Ann Jones:** The representative of Powys council was, unfortunately, unable to come today. However, in the written evidence it sent, the council comments that there should perhaps be a national scoring scheme linked to compliance, such as for food hygiene. It thinks that it would encourage improvement and alert prospective residents to poorly managed sites. You could have scores on the doors, or scores on the gates. Is that something that could happen?

[249] **Huw Lewis:** That is a matter for Peter Black to consider. The issue of consistency across Wales is very important. Whether you do that through awarding scores or not, I do not know, but what really matters is that there is a proper system for local authorities working together to ensure consistency. How that is then communicated to the public is another issue, but consistency is the important thing. Perhaps Peter will want to think about that.

[250] **Ann Jones:** Okay, thanks. Do Members have any other questions? I see that we are happy. Minister, thank you very much for coming to give evidence. As usual, you will receive a copy of the transcript so that you can see we have not put words into your mouth, not that any of us would dare to do that. We will now have to wait for our next witness, who is having trouble with the trains. Therefore, the committee will have to take a break.

*Gohiriwyd y cyfarfod rhwng 11.05 a.m. ac 11.40 a.m.
The meeting adjourned between 11.05 a.m. and 11.40 a.m.*

Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru): Sesiwn Dystiolaeth 8 Regulated Mobile Home Sites (Wales) Bill: Evidence Session 8

[251] **Ann Jones:** We now reconvene our meeting of the Communities, Equality and Local Government Committee. I am delighted to have with us, finally, Clive Betts MP, who is the chair of the House of Commons Communities and Local Government Committee. I believe that Clive's committee is doing a similar report on mobile and park homes, and so we are delighted that you have come to join us. We are sorry that you had a rotten journey. We might sit together and decide whether we can sort out the trains between here and Westminster.

[252] **Mr Betts:** I had heard that there were problems on the line and I experienced it this morning.

[253] **Ann Jones:** We are delighted that you are here. We have a set of questions. Given that time is now against us, would you mind if we move straight to the questions? If there is something that you feel we have not covered, we can come back to it at the end. Is that all right?

[254] **Mr Betts:** Yes, that is exactly appropriate.

[255] **Ann Jones:** Thank you very much. We will move to the first question, which will be asked by Ken Skates.

[256] **Kenneth Skates:** Good morning, Mr Betts. I note that your committee's report of June 2012 concluded that legislation is urgently needed with regard to park homes. Do you think that the Bill as drafted delivers on the stated objectives as set out in the explanatory memorandum?

[257] **Mr Betts:** Yes, by and large, I do. I will just apologise on behalf of Ed White who was going to be with me today and who was our clerk on the inquiry. If there are particular points of detail that I cannot respond to this morning, I will get back to you on them. However, in essence, it does deliver those objectives. Obviously, the Bill is a private Member's Bill, but essentially it is drafted by the Government with Government support, although it still leaves a lot to be determined in detail by the regulations that will follow. So, in that sense, we are not precisely clear on everything and as to how the Government will form the regulations. However, it seems to be moving in the right direction. Overall, it covers the scope of things that we had concerns about.

[258] I do not know whether you want to discuss the fit-and-proper-person test—

[259] **Ann Jones:** Yes, we will come to that later.

[260] **Mr Betts:** That was the one issue on which we had a clear difference with the Government at the time. However, in other respects, it very much follows what the committee recommended.

[261] **Kirsty Williams:** Good morning. So far, the committee has received a lot of evidence about the interaction between a new licensing regime and existing legislation. As Peter Black's Bill is currently drafted, site operators would need to hold two licences. Do you have any views on, or did your inquiry look at, the interaction between existing legislation and new legislation? Do you think that a consolidated licensing regime would be a better option?

[262] **Mr Betts:** We assumed that we would simply move to a new licensing regime, full stop and that there would not be dual running. There are slight differences in the legislation with regard to the sale of mobile homes in the future and where there may be existing rights for site owners. There is also a slight difference with regard to the way in which sale procedures operate for those with existing agreements and new agreements. However, in other respects, in terms of licences, we assumed that there would be a new regime, particularly because the current regime is completely and utterly ineffective. So, we assumed that there would be a clean break, and I think that is what the legislation provides for.

[263] **Ann Jones:** We are going to move on to talk about the contractual relationship between site operators and home owners. We operate bilingually, Mr Betts, so we have translation available. I think that Rhodri Glyn will speak in Welsh, so you need to have the translation equipment, which should be set to channel 1.

[264] **Rhodri Glyn Thomas:** Bore da a chroeso i'r pwyllgor, ac i Gymru. Hoffwn ofyn am y perygl o effeithiau anfwriadol deddfwriaeth. Rwy'n siŵr eich bod wedi edrych ar hyn yn fanwl yn ystod eich ystyriaethau yn y pwyllgor. Yn benodol, rydym ni i gyd yn deall bod angen cael gwared ar y rhan sy'n caniatáu i weithredwyr safleoedd gymeradwyo prynwyr newydd oherwydd y math o arferion drwg yr ydym yn ymwybodol ohonynt. A ydych yn poeni y gallai effeithiau anfwriadol godi o hynny ynglŷn â natur safleoedd a'r math o bobl a ffyddai'n prynu tai symudol ar y safle?

Rhodri Glyn Thomas: Good morning and welcome to the committee, and to Wales. I would like to ask about the risk of the unintended effects of legislation. I am sure that you looked at this in detail during your deliberations in committee. In particular, we all understand that we need to get rid of the provision that allows site operators to approve new buyers because of the examples of bad practice of which we are aware. Are you worried that there could be unintended consequences with regard to the nature of sites and the type of people who would buy mobile homes on the site?

11.45 a.m.

[265] **Mr Betts:** There is one specific set of consequences that we did look at, but essentially we saw the need for the owners of sites to approve sales as the fundamental problem and the cause of many of the difficulties on these sites. That was the clear evidence from the police who came to talk to us about it. They had taken action against site owners on specific sites in the past. They discussed the whole issue of, basically, sale blocking, because that is what it comes down to, on the part of site owners, who use that ability to block sales to intimidate the sellers and prospective purchasers who are called for interview—we had evidence on that—and give them a very hard time. They were discouraged from purchasing the mobile home in question. You would often find that the site owner would go along to the seller later on and offer a much lower price for the same mobile home, then sell it on at a profit or demolish it and put in a new home at an even bigger profit. That was a real problem.

[266] I think that you are right; the initial ability of a site owner to approve or block a sale was to ensure that the people who moved on to the site were in the right age group. If you had a rule that only those who were 50 or over could live on a site, it was reasonable for the owner of the site to ensure that people buying a mobile home were 50 or over. Therefore, we said in our committee report, which has been taken up in the Bill before Parliament, that when someone sells a mobile home, they should have to provide an amount of material to the prospective purchaser, including the fees to be charged, the agreement with the site owner, the site rules and make it clear, as the site rules will do, that the buyer must comply with those rules. So, there is an obligation on the seller to the new purchaser, and an obligation on the purchaser to ensure that they comply with the rules. As the Bill stands, the site owner will be provided with a copy of that documentation, the details of the person who intends to buy and will be given 21 days to lodge any objection.

[267] We do not know what the details of that will be, and I would hope that when the Government regulates it will make sure that, if there are vexatious objections from the site owner simply to delay a sale, there will be a penalty for that. However, the residential property tribunal will determine any disputes.

[268] **Rhodri Glyn Thomas:** A ydych wedi cael cyfle i edrych ar y Bil sydd ger ein bron, yn benodol ar Atodlen 1?

Rhodri Glyn Thomas: Have you had an opportunity to look at the Bill that is before us, particularly at Schedule 1?

[269] **Mr Betts:** I have briefly, yes.

[270] **Rhodri Glyn Thomas:** Mae Atodlen 1 yn ymwneud â'r berthynas gytundebol rhwng gweithredwr y safle a pherchnogion y tai symudol. A ydych yn credu bod y darpariaethau yn Atodlen 1 yn ddigonol? Rwy'n derbyn hwyrach nad ydych wedi cael cyfle i edrych arno'n fanwl.

Rhodri Glyn Thomas: Schedule 1 deals with the contractual relationship between the site operator and mobile home owners. Do you think that the provisions in Schedule 1 are adequate? I accept that you may not have had an opportunity to look at it in detail.

[271] **Mr Betts:** Do you have particular concerns about Schedule 1 that you would like me to respond to?

[272] **Rhodri Glyn Thomas:** No, I was merely asking whether you felt that Schedule 1 covered the necessary areas in terms of the contractual relationship between the site operators and the mobile home owners.

[273] **Mr Betts:** Without being able to respond in detail to every bit of the proposed Bill, we have said very clearly that that relationship should be laid down in a set of rules for the site and that they should be published. We are waiting for secondary legislation to decide precisely how it will be done. There will be requirements on the site owner, if they want to

change the rules, to consult properly with the occupiers of the mobile homes. We do not know what the Government will eventually do because we have not seen any regulations at this stage, but we recommended that the occupiers of the site would have a right to call a meeting. If a third of them wanted a meeting, there would have to be a meeting on matters and the agreement of a majority of the occupiers to any change of rules in the future. So, it is about making sure that the rules are published and that there are proper procedures to change the rules in future. Obviously, those rules could be seen by a local authority when they were deciding whether to give a licence for a site. Currently, a local authority has to give a licence as long as there is planning permission. Now, it would be able to look at site rules and determine whether matters such as the proper maintenance of a site, which would be contained in the site rules, were actually being delivered before a licence was then approved for the site.

[274] **Ann Jones:** I call on Janet to ask about the fit-and-proper-person test.

[275] **Janet Finch-Saunders:** Good morning. Is the introduction of a fit-and-proper-person test a proportionate response to addressing the problem of rogue operators in the industry?

[276] **Mr Betts:** This is the issue on which we probably, initially, had most disagreement with the Government and the Minister, Grant Shapps, when he came to give evidence. Having heard all the evidence, the committee felt that a fit-and-proper-person test was appropriate because the industry, unfortunately, has quite a few people in it who are not fit and proper, by anyone's reasonable definition. We had a lot of evidence of that. There was quite awful evidence of harassment of often elderly people, who are also often alone and frightened even to come together in associations and who are intimidated when they come to sell. The police came and gave us evidence on this, as did various campaign groups and others. Very unusually for our committee, we redacted some of the evidence we had because people were frightened of the consequences of giving that evidence. We felt that a fit-and-proper-person test was a useful addition.

[277] The Minister came and said that he thought that the other changes he was minded to make, including the strengthening of licence fees, fines et cetera, were sufficient. To be fair, I think that we came to a reasonable compromise. We recognised, as a select committee, that if we simply carried on and said to the Minister, 'You are wrong', he would probably say, 'No, I am right', and we would get very little further with it. So, we said to the Minister, 'Look, you may be right, but we think we are. We think there's a need for a fit-and-proper-person test, but you do not. So, given that primary legislation in Parliament can take an awful long time to come around again, at least put in any legislation a possibility that, if the changes that you want to make are not sufficient, you can then bring a fit-and-proper-person test in by secondary legislation without having to wait for further primary legislation.' That, effectively, is what he has agreed to do by supporting the private Member's Bill. We took a considered step and he responded in a considered way. So, we now have a situation where we may not have a fit-and-proper-person test immediately, but there is a provision to have one if the rest of the changes do not work.

[278] **Janet Finch-Saunders:** Peter Black AM is bringing this Bill forward. He is tabling amendments about the site manager having the fit-and-proper-person test. Do you think that it should be the site manager, the site owner, or both?

[279] **Mr Betts:** I think that we concluded that the site manager was the appropriate person to have it. We also said that there could be a possibility of a default for a local authority to pick up that role where the names coming forward were not appropriate. We also wanted, as part of the judgment about whether someone was fit and proper, to look at the liaison connection with other people who may not have been judged to be fit and proper.

[280] **Ann Jones:** That is quite interesting. We had a discussion earlier in this evidence session about whether it should be the site owners. Do you wish to come in on that, Kirsty, because you started that one, did you not?

[281] **Kirsty Williams:** I have a constituency that has a number of park homes and some of the worst owners that you could possibly hope to meet. My constituents are very concerned that regulating only the site manager will not offer them adequate protection. However, we have heard from Welsh Government lawyers this morning that you cannot preclude someone with a criminal record from owning something. I am wondering why your committee came to the conclusion that it was the manager who was the most appropriate person to be the fit-and-proper person, rather than the site owners.

[282] **Mr Betts:** It was because the managers are on site, actually doing the day-to-day work. We felt that they were the persons who were most upfront with the residents there. There is this problem of ownership in terms of how you take ownership away from someone if they are not fit and proper. That is a difficulty. I can see instinctively that I would like to do both but, in practical terms, it may have to be the manager. The other problem we saw was that ownership changed. That is one of the problems at present. Often, a company will have subsidiary companies and the ownership gets passed around between them. You can potentially deal with that in terms of the stricter licensing arrangements, because that would mean a change of licence under the new regime, when it could not be stopped under the old regime. However, it was about this issue of how you deal with an owner who is not fit and proper and how you force them to sell. If we can find a way around that, I do not think, instinctively, that the committee will be against doing both. If you would like me to have another look at that in terms of our advice in Westminster, I will be happy to give you a further note on that.

[283] **Kirsty Williams:** That would be helpful. I am anticipating a situation in which, on a day-to-day basis, the manager is on the site and it is all perfectly pleasant and reasonable, but that does not preclude the owner arriving at the site and intimidating people. So, the manager is perfectly reasonable, does his job well and is licensed, but that does not stop the unscrupulous site owner from turning up and spitting in my constituents' faces, which happens.

[284] **Mr Betts:** Yes, I have heard pretty horrible examples of what happens to people as well. I will come back with a further note on that.

[285] **Kirsty Williams:** Thank you; that would be really helpful, because we are trying to grapple with this and there is no easy answer.

[286] **Mark Isherwood:** If the manager is effectively acting as a de facto agent for the owner, if the owner, who may not have to pass a fit-and-proper person test, nonetheless acts in a way that is not fit and proper, could that legally be termed in a way so that it might be deemed a breach of the manager's fit-and-proper status?

[287] **Mr Betts:** It still would be possible. If harassment was going on at the site from the owner, the local authority would have more powers under the proposed regime to revoke the licence. That is the other way. The license could still be revoked if harassment or unacceptable practice occurred.

[288] **Janet Finch-Saunders:** I know that Kirsty has mentioned legislation in the context of preventing someone owning something. What we are looking for relates to the operation of the site. If you cannot operate a site, it has no value to the owner. Although you cannot preclude somebody from owning a site, is there any way that you could bring in some kind of legislation to prevent them from operating it as a mobile home site if they did not pass the fit-

and-proper person test? It is the same as buying a pub: you cannot run a pub unless the manager or whoever is on the premise is licensed. Could that kind of legislation or some kind of regulations not come in?

[289] **Mr Betts:** The licensing arrangements are essentially about the premise, so mobile home sites would have a licence, but the fit-and-proper person test would apply, as we suggested, to the manager. That is exactly the same way as it would happen in a licensed premise, where it would be that the manager who would be licensed.

[290] **Janet Finch-Saunders:** The concern that I have, though, is that, although you have owners, it is the operation of the site that gives it its value, is it not? In addition, I have sites in my constituency that do not have site managers; there is nobody.

[291] **Mr Betts:** If there is no manager, the owner is effectively the de facto manager, and they would be caught. To come back to the point, if the owner behaves badly on the site and if there is harassment of residents and non-fulfilment of the conditions of the rules of the site, the license can be revoked. So, that is the strength of the new proposals.

[292] **Ann Jones:** We will move on to local authority collaboration. Mark, will you take that question?

[293] **Mark Isherwood:** What are your views on the Bill's proposals for collaboration between local authorities?

[294] **Mr Betts:** It is essential that we have some ability for local authorities to join up their information on this. We suggested a national register, which we thought could bring things together and bring information together. Currently, there is nothing on that in the Bill before Parliament. In that Bill, as I understand it, the local authority has registered with it, for public information, the rules of the site and it would have to have registered, under the fit-and-proper person test, information about that as well; therefore, that could be seen now. I think there is probably a need for a further step forward to have that information collected centrally, because we know from our evidence that a bad site owner and someone who is seeking to make money out of this, as some are, will buy up more than one site in different local authority areas. You need to join that information up. It could either be a centralised register determined by legislation, or it could be that local authorities got together through the Local Government Association or some other body to enable that to happen.

[295] **Mark Isherwood:** By national register, presumably you mean in England.

[296] **Mr Betts:** Yes.

[297] **Mark Isherwood:** What potential do you feel there might be for information sharing between local authorities in England and Wales?

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[298] **Mr Betts:** I would hope that we could look at that seriously, because it seems to me that people who are intent on wrongdoing do not recognise national boundaries.

[299] **Joyce Watson:** Good afternoon. I want to talk about the enforcement powers in the Bill, particularly in relation to inspection. Do you think that the package of enforcement powers provided for in the Bill is sufficient?

[300] **Mr Betts:** Yes. Again, we are waiting for regulations for the specific detail, but I think that what we have is, if you like, three stages. First is the initial licence, by which the

local authority satisfies itself that proper conditions are in place for the running of the site and its maintenance et cetera, and an annual fee would be paid. That annual fee, at the beginning, could be part of the cost passed on in site rental to the occupiers.

[301] Secondly, the local authorities could then inspect and, if necessary, serve enforcement notices to get work carried out where there are deficiencies. Those costs would apply to the site owner in question—in other words, the good site owners would not incur them, and the bad ones would. Those costs could not be passed on, and it is very important that we make that distinction: those costs could not be passed on to the occupiers of the mobile homes.

[302] Thirdly, there is the ability of the local authority to go in and do work through the equivalent of the HMO legislation and then charge the site owners where that work has been done in order to get the costs back from them. There is then the possibility of taking legal action against site owners who do not comply.

[303] **Joyce Watson:** So, do you think that the Bill, as it stands, allows local authorities to recover their costs?

[304] **Mr Betts:** Yes, I think it does. The initial fee would be charged to all site owners according to the size of the site, and then, in the case of enforcement where site owners do not comply with the licence arrangements, those costs must be directed to the site owners in question. It is important that we make that distinction: those costs must not be passed on to the occupiers of the mobile homes.

[305] **Ann Jones:** I see that there are no other questions. Mr Betts, is there anything that you want to add that would help us in our deliberations?

[306] **Mr Betts:** I think that we have covered the key issues. We said that the licence fee would be renewable each year. We thought it important for local authorities to try to keep control of that. There is also the importance of distinguishing between costs that are part of the rental fee passed on to occupiers—costs incurred for improvements to the site could be passed on in addition—and any annual maintenance costs, which the owners of sites often try to pass on in addition to rental payments. They would not be additional.

[307] We had a slight disagreement with the Government over how fees should be updated. We said that, given that the Government uses CPI for virtually everything else now and that pensions and other things tend to rise in line with it, it would be more appropriate than RPI, but the Government is sticking with RPI at this stage. That is another issue.

[308] **Ann Jones:** Thanks very much. Do Members have any more questions for Mr Betts?

[309] **Mark Isherwood:** I have just one, if I may, and it follows on from questions to previous witnesses today. What consideration, if any, did your committee give to the potential for park home site owners to apply to license their homes as holiday parks or apply for a change of use to holiday parks in order to evade the legislation that you are seeking to put through?

[310] **Mr Betts:** We did not really give consideration to that particular issue. It was not raised with us as a problem. I suppose that it is an interesting question, in that, currently, site owners see no incentive to do that, because they have the wherewithal to make fairly large profits out of the current arrangements. Obviously, if the new arrangements tighten up the ability of bad site owners to profit, they may look for alternatives. It is probably something that we, at some point, ought to give further consideration.

[311] We asked the Government to conduct a comprehensive review of how the new

legislation is working after three years. If the Government has not said that it will do that, then we as a committee will go back and do it after three years. As with any changes to legislation, there are always some unintended consequences, and so following it up and reviewing it is a very important part of it.

[312] **Ann Jones:** Thank you for your evidence. I know that it was very brief, but I think that it has helped us to have somebody who has gone through it previously, and it will help us in our deliberations. It will also help us to question, I am sure, the Member in charge when he comes back after the Christmas break. Thank you very much for coming in today.

[313] **Mr Betts:** Thank you for the opportunity. I will come back on the specific point, as I indicated, and if there are further questions that you feel we have not covered, please drop me a line. In response to your final question, if I think of anything else, I will drop you a note about it.

[314] **Ann Jones:** Thank you, Mr Betts. With that, the committee has come to an end. I can see all my members getting up to go straight away; I hope that you are all going to the carol service, which is upstairs. That leaves me to wish you all a nice Christmas. Have a break and a rest, and we will return to legislation in the new year.

*Daeth y cyfarfod i ben am 12.05 p.m.
The meeting ended at 12.05 p.m.*