

# Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

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Lleoliad:  
**Ystafell Bwyllgora 3 – Senedd**

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Dyddiad:  
**Dydd Iau, 5 Mehefin 2014**

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Amser:  
**10.00**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



I gael rhagor o wybodaeth, cysylltwch â:

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## Agenda

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Cyfarfod preifat cyn y prif gyfarfod (10.00 – 10.15)

**1 Cyflwyniad, ymddiheuriadau a dirprwyon**

**2 Y Bil Safleoedd Carafannau Gwyliau (Cymru): Cyfnod 1 – Sesiwn  
dystiolaeth 2 (10.15 – 11.30) (Tudalennau 1 – 36)**

**Cymdeithas Llywodraeth Leol Cymru**

Simon Wilkinson, Swyddog Polisi Gwasanaethau Rheoleiddio

**Cyngor Bwrdeistref Sirol Conwy**

Y Cynghorydd Philip Evans

Nick Jones, Rheolwr Gorfodi Tai a'r Amgylchedd

**Cyngor Gwynedd**

Gareth Jones, Uwch-reolwr y Gwasanaeth Cynllunio a'r Amgylchedd

**Cyngor Sir Penfro**

Samantha Hancock, Uwch-swyddog Iechyd yr Amgylchedd

**3 Papurau i'w nodi** (Tudalennau 37 – 44)

**4 Cynnig o dan Reol Sefydlog 17.42 (ix) i benderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer y canlynol: eitemau 5 a 6**

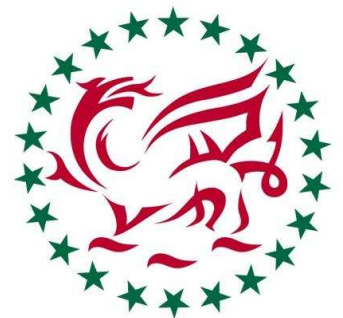
**5 Y Bil Safleoedd Carafannau Gwyliau (Cymru): Cyfnod 1 – trafod sesiwn dystiolaeth 2 (11.30 – 11.45)**

**6 Trafod blaenraglen waith y Pwyllgor (11.45 – 12.00)** (Tudalennau 45 – 51)

Mae cyfyngiadau ar y ddogfen hon

# Holiday Caravan Sites (Wales) Bill 2014

20<sup>th</sup> May 2014



WLGA • CLILC

## **INTRODUCTION**

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. We are pleased to provide evidence to the Committee on the proposed Bill. The modernisation of the legislation surrounding holiday caravans is well overdue, and local government welcomes the opportunity to assist the ongoing work to finalise the framework.
4. We broadly welcome the content of the Bill, and its intentions. One of the fundamental concerns of local government is however, that new duties placed upon local authorities are supported properly by Government in terms of financial arrangements and a robust cost recovery framework.
5. Local authorities recognise the fact that the vast majority of caravan site owners wish to comply with legal requirements. It is in that spirit, that local authority officers approach their work – primarily to assist and advise businesses on how to achieve compliance. Local authorities also recognise the significant importance of the positive impact that the industry has on the Welsh economy.
6. The use of the Mobile Homes (Wales) Act 2013 as the starting point for the drafting of this new bill is a sensible approach and will assist local authorities in applying the legislation consistently and effectively and will also be of benefit to those park owners with dual use sites.
7. The numbers of holiday sites across Wales is significantly greater than residential park home sites. A realistic timescale for the introduction of any new legislation in this area will therefore be required in order to allow local authorities and park owners' time to implement the legislation alongside other priorities.

## Fees

8. It is noted that there is a provision within the Bill to “passport” existing holiday sites licensed under the Caravan Sites and Control of Development Act 1960 into the new regime without need for application or fee payment to the local authority (Section 9).
9. Effectively, this will place significant burden on local authorities to undertake checks on managers, review licences and inspect sites with no up front income to recover costs. We have real concerns on this point.
10. The Regulatory Impact Assessment states that the costs the local authority will be diminished as a result of this “passporting” provision however the assumptions used should be challenged.
11. If sites have permitted residency over the years, it is feasible that they will be able to demonstrate this to planning authorities and obtain a certificate of lawful use, permitting individual vans to be occupied as residential units while the surrounding vans remain restricted for holiday use. As we understand matters this would mean that individual vans would need to be regulated under the Mobile Homes (Wales) Act 2013 and others under the proposed holiday parks provisions. This would need to be considered in any final proposals.
12. This requirement places a significant burden on local authorities to undertake checks on managers within 12 months of the Act coming into force with no income with which to offset the additional costs. Thereafter the costs of reviewing licences, checking residence tests and responding to failure reports and the inspection of sites will need to be met by local authorities that are already stretched.
13. The power of local authorities to charge an annual fee is welcomed. The concerns expressed above however in relation to income from existing sites remain as an annual fee that is set in accordance with Bill, will not cover all local authority costs. Clear guidance on the fee calculation and fee setting policy to be adopted would be required.

## **Licence duration and guidance**

14. To ensure local authorities are able to properly enforce the provisions (ie by securing fee income), it would be beneficial to set a maximum of five years duration for a site licence. It would appear sensible to mirror the Mobile Homes (Wales) Act 2013 in this regard.
15. We would also welcome a revision of the current “model conditions” at the same time as the introduction of the Bill. This should negate the need for regular review and amendment of conditions, and would ensure the model conditions are updated to take account of other legislative changes which have already occurred – and that the model conditions are enforceable.
16. The renewal rather than review of the site licence and conditions could generate cost recovery income for local authorities in Wales and ensure consistent application of caravan and mobile home legislation to all parks across Wales. All licences should be renewed every 5 years as with residential sites. Unless the model standards are to be reviewed every 5 years, it is unclear what the benefit of this formal review stage would be given the need for regular inspection and enforcement of standards. As stated in the Regulatory Impact Assessment, the power to review, revoke and amend existing licences exists under the 1960 Act so the purpose of this additional requirement on local authorities is unclear.

## **Site inspection and risk assessment**

17. The proposal to give local authorities greater flexibility in determining the inspection frequency of sites is welcomed. However, the detail of the proposal does give rise to some concern. Local Authority enforcement officers operate well established risk assessment programmes which control the frequency of inspections of businesses – based on the risk posed. Currently the large majority of sites would be classed as low risk, and in line with the “better regulation and enforcement” regime, would currently not be subject to routine inspection. It is likely that local authorities would not be in a position to achieve the number of physical visits, or paperwork checks based upon current and dwindling numbers of officers.
18. We would consider a risk based approach to inspection as being a necessary product of the legislation, where site size and conditions, confidence in management, and previous history are taken into account when determining inspection frequencies.

19. The potential of “no inspectable risk” sites, and a reduction in annual fees would reflect local authority costs and act as a driver to improve compliance and standards for site owners.
20. The ability of local authorities to use fixed penalty notices and or compliance notices to secure improvements on sites is welcomed as these are often more appropriate enforcement tools than prosecution alone as in the 1960 Act.
21. The ability for local authorities to recover the cost of issuing legal documents and taking enforcement action is also welcomed.
22. There appears to be a contradiction between the Power of Entry provisions in Section 37 and the enforcement options available to local authorities in emergency situations. Unlike the Mobile Homes Act where the site is the sole residence of dwellers and therefore their home, the need to provide 24 hours notice to site owners of holiday parks is unnecessary. Local authorities already have extensive powers of immediate access to deal with health and safety laws and food hygiene laws on these sites and the onerous power of entry requirements set out in the Bill are disproportionate. The Power of Entry to sites should be available at all reasonable times to authorised officers.

### **Fit and proper test**

23. The ability of local authorities to determine the fitness of a person is welcome. We would seek clarity on a number of issues though in this regard. Are local authorities required to used a standard or enhanced disclosure check?
24. The term “trading standards law” requires some more thought – the scope of TS law is very wide, from weights and measures, sale of goods, estate agency, to cosmetic product and toy safety legislation. If it is to be included, tighter definition will be required to ensure consistent application.

### **Residence test**

25. In general terms, the power to control the use of holiday sites as residential sites exists within planning legislation and this should remain the primary legislation for controlling site use. Additional measures should not be required, rather additional



guidance for local planning authorities in respect of residency tests etc should be considered. Local authorities would wish that this issue be clarified before the Bill progresses further.

26. The remedy for unauthorised residential occupation of holiday sites may exist through the prevention of local housing allowance claims, bus pass applications and GP registrations for persons with a holiday park address rather than the measures contained in this Bill. These and other potential measures should be fully explored as alternatives to the tests proposed in this Bill.
  
27. The requirement for site owners to undertake the residence test annually is an onerous requirement and will be challenging for local authorities to regulate. In the absence of the detailed guidance on the residence test proposed, it is difficult to comment on this aspect of the Bill. In general terms, it is accepted that owners of sites should be aware of and accountable for the occupiers of their site, however local authorities already have examples of situations where this type of test will be very difficult for an owner to apply.
  
28. Where confidence in the management of sites is high, with robust systems in place for monitoring for potential residential use (e.g. using the methods advocated by the BHHPA and evidence listed in Schedule 2 to the Bill) we would question the necessity for the proposed requirement for an annual inspection of the evidence of residency checks. We consider that these checks could reasonably be made as part of the routine risk-based inspections, reducing the projected costs to the Authority and in turn to the industry.
  
29. Details of how the residence test should be applied are required as there are opportunities for abuse of this requirement depending on when in the year site owners undertake the test. Given that many caravan owners have agreements over many years to remain on site, the requirement for an annual test may be burdensome. What evidence will be required by the residence test? Will a residence test be robust enough to ensure that an 'occupier' has a home address elsewhere?
  
30. There are flaws with requiring an 'occupier' to provide documentation detailing a permanent home address, as they could use relatives or a friend's address. The extent of expectations on local authorities when making enquiries in such matters will need to be clarified by the proposed guidance. It would be burdensome on both a site owner and a local authority to prove that the information provided is false.

31. If owners make reasonable enquiries with regard to the residence test but it is held that there is a breach, is it reasonable that they are penalised for abuses of the legislation by third parties? What steps should be taken and against whom where a residency test is applied by the site owner and upon completion of the pitch agreement, the caravan owner subsequently sells their permanent home?
32. If an occupier fails the residence test, the owner must notify the local authority of the failure as soon as possible. It is unclear how a local authority would regulate this requirement and it is unlikely that a caravan site owner would notify the local authority of a failure of a residence test especially as this could result in a compliance notice being served on them.
33. The restriction on occupation of a holiday caravan on the site in excess of 6 weeks should be amended to include "any holiday caravan on the same site" to control for moves between caravans within the same site/ ownership e.g. by migrant workers. Some holiday sites comprise of a number of older and smaller caravan sites that have amalgamated over the years, which may still have separate licences and be called different names. An 'occupier' could potentially stay in a holiday caravan on one section of the site, with a different licence, then move to another caravan on a different section of the site etc.
34. A local authority must give a compliance notice if there appears to be a breach of the condition prohibiting occupation of a holiday caravan as a person's only or main residence. It is also noted that this power already exists in Planning Legislation enforcement and has been used by some local authorities to remove occupiers of caravans with holiday use planning condition. Is this additional power necessary therefore or should local planning authorities be provided with strengthened guidance on the use of existing powers?
35. Caravan occupiers that are held to be using the caravan as their main residence should be afforded the same protection in terms of minimum notice periods as occupiers of residential sites. Vulnerable occupiers in particular may enter into agreements with third parties to hold a shorthold tenancy of a caravan only to find that the agreement is invalid. Local authorities as Statutory Housing Authorities wish to ensure that appropriate protection is afforded to all such individuals to enable them to make alternative housing provision when facing eviction. In addition, where the local authority require the eviction of such occupiers, it has been held that the persons are not intentionally homeless therefore presenting a potential homelessness duty to

the local authority. This needs to be appropriately managed by local authorities and a minimum notice period will enable housing advice services to work with affected individuals in a timely manner.

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## **CONSULTATION ON THE HOLIDAY CARAVAN SITES (WALES) BILL**

### **1. INTRODUCTION**

- 1.1. This submission is being sent on behalf of Conwy County Borough Council.
- 1.2. A local authority has the responsibility to licence caravan sites.

### **2. GENERAL PRINCIPLES OF THE HOLIDAY CARAVAN SITES (WALES) BILL**

- 2.1. Conwy County Borough Council supports the laudable intentions of the proposed legislation.
- 2.2. The manner in which sites are occupied in the present day compared with the 1960's when the current legislation came into force is very different.
- 2.3. There are a number of reasons for this including; improvements in the structure of caravans allowing more use during cold weather, greater leisure time being available and better transport and infrastructure allowing quicker access to sites.
- 2.4. This has made it more difficult to ensure that caravans on holiday sites are used for that sole purpose and not as residential caravans.

### **3. PARTS OF THE BILL**

#### **3.1. Licensing (Part 2)**

- 3.1.1. The Bill proposes that a site must be inspected once every 3 years and a review of the licence conditions every 5 years. However, it also proposes that once a licence is issued it lasts indefinitely.
- 3.1.2. Conwy CBC welcomes the requirement to inspect once every 3 years rather than annually.
- 3.1.3. It is understood that the industry would like to have the security that a licence would be renewed to have the confidence to reinvest in the site. Conwy CBC acknowledges that this is a reasonable consideration and also welcomes the opportunity to charge for the inspection and review of the sites.

## **YMGYNGHORIAD AR Y BIL MEYSYDD CARAFANNAU GWYLIAU (CYMRU)**

### **1. CYFLWYNIAD**

- 1.1. Mae'r cyflwyniad hwn yn cael ei anfon ar ran Cyngor Bwrdeistref Sirol Conwy.
- 1.2. Mae awdurdod lleol yn gyfrifol am drwyddedu meysydd carafannau.

### **2. EGWYDDORION CYFFREDINOL Y BIL MEYSYDD CARAFANNAU GWYLIAU (CYMRU)**

- 2.1. Mae Cyngor Bwrdeistref Sirol Conwy yn cefnogi bwriadau canmoladwy'r ddeddfwriaeth arfaethedig.
- 2.2. Mae'r modd mae safleoedd yn cael eu meddiannu heddiw o'i gymharu â'r 1960au pan ddaeth y ddeddfwriaeth bresennol i rym yn wahanol iawn.
- 2.3. Mae nifer o resymau dros hyn, gan gynnwys; gwelliannau yn strwythur carafannau sy'n caniatáu mwy o ddefnydd yn ystod tywydd oer, mwy o amser hamdden ar gael a gwell trafnidiaeth a seilwaith sy'n caniatáu mynediad cyflymach i safleoedd.
- 2.4. Mae hyn wedi ei gwneud yn anoddach i sicrhau bod y carafannau ar safleoedd gwyliau yn cael eu defnyddio ar gyfer y diben hwnnw yn unig ac nid fel carafannau preswyl.

### **3. RHANNAU O'R BIL**

#### **3.1. Trwyddedu (Rhan 2)**

- 3.1.1. Mae'r Bil yn cynnig bod yn rhaid i safle gael ei archwilio unwaith bob 3 blynedd ac adolygiad o amodau'r drwydded bob 5 mlynedd. Fodd bynnag, mae hefyd yn cynnig unwaith mae trwydded yn cael ei chyflwyno y bydd yn parhau am gyfnod amhenodol.
- 3.1.2. Mae Cyngor Bwrdeistref Sirol

<p><b>3.2. Residence test (Part 3)</b></p> <p>3.2.1. The intention of this test is to be welcomed. However, it is difficult to see how it will work in practice. The owners of caravans may let their caravan without notifying the site licence holder on very large sites it could be very difficult for licence holders to keep track.</p> <p>3.2.2. Section 9 (3) places the onus of undertaking the residency test on the 'owner'. We assume this is the owner of the caravan site and not the owner of the caravan but this needs clarifying. It would be preferable to place the onus on the site licence holder as this may be different to the site owner.</p> <p>3.2.3. The residency test needs only be applied to an occupier of a caravan the definition of which is someone who occupies a caravan on the same site for more than 28 days in any consecutive 3 month period. To keep a check on this could be burdensome on the site licence holder/owner.</p> <p><b>3.3. Holiday Caravan Agreements (Part 4)</b></p> <p>3.3.1. Agree with the contents of this part.</p> <p><b>3.4. Protection from harassment (Part 5)</b></p> <p>3.4.1. Agree with the contents of this part</p> <p><b>3.5. Supplement and general (Part 6)</b></p> <p>3.5.1. Agree with the contents of this part.</p> <p><b>4. POTENTIAL BARRIERS</b></p> <p>4.1. Any concerns with regard to the Bill have been raised above</p> <p><b>5. UNINTENDED CONSEQUENCES</b></p> <p>5.1. There is a concern that an assumption is made that occupiers of holiday caravans would have sufficient resources to fund alternative accommodation. That is unlikely to be the case the occupiers assets are likely to have been consumed in purchasing the caravan which would have devalued very quickly. These occupiers will be likely to present</p>	<p>Conwy yn croesawu'r gofyniad i archwilio unwaith bob 3 blynedd yn hytrach na phob blwyddyn.</p> <p>3.1.3. Deallir y byddai'r diwydiant yn dymuno cael y sicrwydd y byddai trwydded yn cael ei hadnewyddu i gael yr hyder i ail-fuddsoddi yn y safle. Mae Cyngor Bwrdeistref Sirol Conwy yn cydnabod bod hyn yn ystyriaeth resymol a hefyd yn croesawu'r cyfle i godi tâl am yr archwiliad hwn ac adolygu'r safleoedd.</p> <p><b>3.2. Prawf preswyllo (Rhan 3)</b></p> <p>3.2.1. Mae bwriad y prawf hwn yn cael ei groesawu. Fodd bynnag, mae'n anodd gweld sut y bydd yn gweithio'n ymarferol. Efallai y bydd perchnogion carafannau'n gosod eu carafán heb hysbysu deiliad y drwydded safle ar safleoedd mawr iawn a allai fod yn anodd iawn i ddeiliaid trwydded gadw trac.</p> <p>3.2.2. Mae adran 9 (3) yn rhoi'r cyfrifoldeb o gynnal y prawf preswyllo ar y 'perchennog'. Rydym yn cymryd yn ganiataol mai perchennog y maes carafannau yw hwn ac nid perchennog y garafán ond mae angen egluro hyn. Byddai'n well gosod y cyfrifoldeb ar ddeiliad y drwydded safle gan y gall hwn fod yn wahanol i berchennog y safle.</p> <p>3.2.3. Mae'r prawf preswyl ond angen bod yn berthnasol i feddiannydd carafán y diffiniad ohonynt yw rhywun sy'n meddiannu carafán ar yr un safle am fwy na 28 diwrnod mewn unrhyw gyfnod o 3 mis yn olynol. Gallai cadw llygad ar hyn fod yn faich ar ddeiliad/perchennog y drwydded</p>
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<p>themselves as homeless to the local authority that will have legal obligations towards them. It is accepted however, that this would not be an ongoing issue if the proposed legislation meets its objectives.</p> <p><b>6. FINANCIAL IMPLICATIONS</b></p> <p>6.1. The proposals set out are based on sound reasoning and assumptions.</p> <p><b>7. POWERS TO MAKE SUBORDINATE LEGISLATION</b></p> <p>7.1. No comments</p>	<p>safle.</p> <p><b>3.3. Cytundebau Carafan Gwyliau (Rhan 4)</b></p> <p>3.3.1. Cytuno gyda chynnwys y rhan hon.</p> <p><b>3.4. Diogelu rhag aflonyddwch (Rhan 5)</b></p> <p>3.4.1. Cytuno gyda chynnwys y rhan hon</p> <p><b>3.5. Atodiad a chyffredinol (Rhan 6)</b></p> <p>3.5.1. Cytuno gyda chynnwys y rhan hon.</p> <p><b>4. RHWYSTRAU POSIBL</b></p> <p>4.1. Mae unrhyw bryderon o ran y Bil wedi cael eu codi uchod.</p> <p><b>5. CANLYNIADAU ANFWRIADOL</b></p> <p>5.1. Mae yna bryder bod rhagdybiaeth yn cael ei wneud y byddai gan ddeiliaid carafannau gwyliau ddigon o adnoddau i ariannu llety arall. Mae hynny'n annhebygol o fod yn wir, mae asedau deiliaid yn debygol o fod wedi cael eu defnyddio i brynu'r garafán a fyddai wedi dibrisio'n gyflym iawn. Bydd y deiliaid hyn yn debygol o gyflwyno eu hunain fel pobl ddigartref i'r awdurdod lleol a fydd â rhwymedigaethau cyfreithiol tuag atynt. Derbynnir, fodd bynnag, na fyddai hyn yn broblem barhaus os yw'r ddeddfwriaeth arfaethedig yn cyflawni ei hamcanion.</p> <p><b>6. GOBLYGIADAU ARIANNOL</b></p> <p>6.1. Mae'r cynigion a nodir yn seiliedig ar ragdybiaethau a rhesymu cadarn.</p> <p><b>7. PWERAU I WNEUD IS-DEDDFWRIAETH</b></p> <p>7.1. Dim sylwadau.</p>
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<b>COMMITTEE:</b>	<b>RESPONSIBLE COMMITTEE – WALES NATIONAL ASSEMBLY</b>
<b>DATE:</b>	<b>5 JUNE 2014</b>
<b>TITLE:</b>	<b>RESPONSE OF THE REGULATORY DEPARTMENT, GWYNEDD COUNCIL TO THE CONSULTATION ON THE DRAFT MEASURE – HOLIDAY CARAVAN SITES (WALES) BILL</b>
<b>PURPOSE:</b>	<b>To submit evidence</b>
<b>AUTHOR:</b>	<b>HEAD OF REGULATORY DEPARTMENT, GWYNEDD COUNCIL</b>

**1. Introduction**

- 1.1 Gwynedd Council welcomes the opportunity to submit evidence to this Committee on the proposed changes to legislation relating to licensing and managing the use of holiday caravan sites in Wales. As a Council, we have already responded to two previous consultations on the Measure, and it is heartening that observations made on specific aspects have been addressed in the latest version of the Measure.
- 1.2 There are around 380 holiday caravan sites in Gwynedd. In 2006, a desktop exercise was undertaken using Gwynedd Council’s Geographical Information System (GIS) to find out approximately how many static caravans were in the area of the Gwynedd and Anglesey Joint Local Development Plan. The findings revealed there were 9442 units in Gwynedd with 8678 (91.9%) of them located within 2km of the coast.
- 1.3 An Economic Impact Assessment of the Holiday Park Industry in Wales (September 2011) was commissioned jointly by the British Holiday and Home Parks Association and Visit Wales. The main findings of the Economic Impact Assessment were that the total turnover and visitor expenditure as a result of the holiday park industry in Wales is £727 million per annum. Its total economic impact has been calculated as a Gross Value Added (GVA) contribution of £317 million per annum supporting a total of 10,645 direct and indirect jobs in Wales.
- 1.4 The Wales Coastal Tourism Strategy (Welsh Government, 2008) states that caravans and camping, particularly static caravans were the

preferred accommodation for tourists staying at coastal locations, accounting for 44% of all trips in 2006.

## 2. **Occupation season of holiday caravan sites**

2.1 Current local policy promotes the use of static holiday caravan sites for a period of up to 10 and a half months (the Gwynedd Planning Authority area). As the standards of the holiday units and facilities on sites improve, and as the demand in the holiday industry changes, there is pressure to extend the holiday occupation period. From the perspective of local planning policy, the aim is to manage developments in the countryside carefully, avoid random residential developments that are contrary to the settlement strategy, and ensure that the caravan parks add as much as possible to the local economy. It is believed that promoting regular turnover in the use of the caravans promotes the last objective. National planning policy promotes proposals to extend the occupancy period of holiday units subject to some conditions. These include:

- That it can be shown that the accommodation is used for holiday purposes only and not as the occupier's main or sole residence,
- That extending the occupancy period will not have an adverse effect on local amenities and/or the local environment.
- That the accommodation and the site are considered acceptable for occupation during the low season (especially during the winter months).

2.2 Generally, the concern of some Members with planning applications for extending the holiday season to 12 months is how can this be appropriately monitored and enforced. In conjunction with this concern is the possibility that caravans will be used as permanent living accommodation and the resulting community and linguistic side effects.

2.3 Snowdonia National Park Authority operates as the Planning Authority for vast areas of Gwynedd. The Authority does not have a specific policy in the Local Development Plan in relation to extending the season on static sites, but the Park does not permit static sites to extend the season from eight or ten months to 12 months. Permission is granted to extend the season on some sites from eight months to ten and a half months subject to restricting the use to short-term self-catering holiday accommodation only (no more than 28 days at a time).

## 3. **Holiday caravan sites (Wales) bill**

3.1 Currently, holiday caravan sites are licensed under the provisions of the Caravans and Development Control Act 1960. The general opinion is that the legislation no longer enables sufficiently effective management of these standards for licensed sites. At present, prosecution is the



only option in terms of enforcement, in relation to a breach of licence conditions under the Act. Introducing other enforcement options; such as the use of Enforcement Notices / a Licence Review Procedure which is similar to the procedure permitted under the Licensing Act 2003, would enable better control in order to maintain a high and safe standard on caravan sites.

- 3.2 In the last consultation on the measure, additional enforcement sanctions were restricted to controlling the occupancy of holiday caravans as a main residence. By now, there is greater clarity in the measure and the intention is made clear of extending the enforcement sanctions to the entire range of conditions within caravan site licences. It is noted that the recommended enforcement powers are robust and address the need to be able to enforce improvements through a system of Compliance Notices or Fixed Penalty Notices on all site licence conditions.
- 3.3 Concern it expressed that the range and nature of the proposed licensing system and the additional enforcement duties place a substantial burden on resources; and it is not clear whether it will be possible to recover additional costs through the fee levels that will be set.
- 3.4 A new duty is introduced to ensure that every site receives an inspection in accordance with risk assessment, at least once every three years. Additionally, all licences will be reviewed every five years. The reasoning behind such a review is not clear, given that there will be a comprehensive inspection programme in place.
- 3.5 The main fundamental purpose of imposing conditions on a site licence is to ensure the health and safety of the public. Following the Löfstedt Review in 2013, there is a presumption against undertaking proactive health and safety inspections on businesses if there is no evidence that the inspection is proportionate to the risks relating to the management of health and safety. Consideration should therefore be given to whether or not there is justification for introducing a duty to undertake proactive inspections in this broader context.
- 3.6 The measure introduces the power to act in an emergency situation where there is risk to health on a site. This duplicates adequate enforcement powers that already exist under the provisions of the Health and Safety at Work Act 1974.
4. **Managing residential use on holiday caravan sites**

- 4.1 Generally, the powers to manage the use of holiday sites as residential sites already exist in planning legislation; and planning legislation should remain as the main enforcement tool in this context. Attempting to manage the use of caravans for holiday use only is a land use planning matter. The only time there would be justification for enforcing a residential condition on a licence is if the period of caravan use affected health and safety aspects.

It is of crucial importance that licensing legislation and planning legislation intertwine and facilitate the management of caravan sites rather than duplicating it thus complicating the situation for the Council / Authority and caravan site operators.

- 4.2 The Measure refers to the need to include a condition that places requirements on site owners to conduct tests to establish whether the occupiers of caravans on the site comply with the "Residence test". This condition places considerable pressure on site owners, and is very difficult for Local Authorities to enforce. There will be a need to ensure that adequate support is offered to site owners and managers to ensure they are able to comply.

- 4.3 Additional responsibilities have been introduced for site owners to undertake a 'residence test' on specific residents who have agreements to occupy holiday caravans for more than six weeks. The site owners will be required to maintain records and evidence of these tests in order for Local Authority officers to inspect them. The fact that the responsibility for gathering the 'residence test' evidence falls on the site owner is welcomed; however in practice, it is anticipated that the site owners will find it difficult to comply without support and clear guidance.

## **5. Conclusions**

- 5.1 The fact that the Measure is a full and comprehensive review of the Legislation relating to controlling the use of holiday caravan sites is welcomed. Current legislation is no longer fit for purpose; and the proposed legislation offers much more effective enforcement options to address non-compliance.

- 5.2 It is important that the Measure does not lead to legislation which is too complex and difficult to enforce, and does not impose an unjustified burden on local government resources; and impractical expectations for business owners. There is also a need to address the fact that the Measure duplicates enforcement powers relating to Planning and Health and Safety legislation. It should be ensured that the measure does not seek control over land use planning matters, and that it

endorses and facilitates the control that exists through the Planning system.

**Pembrokeshire County Council : Response to CELG Committee Consultation on the Holiday Caravan Sites (Wales) Bill (as introduced) – dated 20 May 2014**

(Contributors: S Hancock, Senior Environmental Health Officer; J Beynon, Food, Safety & Port Health Manager; S McSparron, Senior Trading Standards Officer; D Popplewell, Development Manager (Planning))

**Context: Holiday caravan parks in Pembrokeshire**

1. There are currently 152 holiday caravan parks licensed in Pembrokeshire. In addition, a large number of caravan sites exist that are operated by exempt organisations (inc. the Caravan Club and Camping & Caravanning Club). These do not require a site licence, nor do they receive any intervention by the Authority.
2. The sites are inspected in accordance with a locally devised risk rating scheme that bands sites into 4 risk categories A to D. Sites in Categories A to C are inspected at 1, 2 and 3 year intervals respectively. Sites in Category D (approximately two-thirds of the total) are not subject to routine programmed inspection, but may be inspected in response to a service request (e.g. complaint), or otherwise subject to alternative intervention (e.g. newsletters and self assessment forms). This scheme was developed having regard to measures introduced in other regulatory areas (e.g. food safety and health and safety), to ensure a risk-based approach to intervention and the careful and proportionate management of the Authority's finite resources. This approach was also consistent with the Government's agenda on deregulation and lifting the red tape on business. Approximately 21 sites are currently subject to proactive inspection annually. In addition, the Authority processes approximately 10 licence transfers annually.
3. Limited formal enforcement action has been taken in response to identified non-compliance, with matters tending to be resolved informally or in rare circumstances through the application of wider health and safety powers. This approach has been influenced by a number of factors:
  - Blurring of the boundaries and hence responsibilities under planning legislation and caravan site licensing provisions.
  - Model conditions being ambiguous and therefore difficult to enforce.
  - Absence of any national policy steer or guidance on the application of the Act and associated conditions.

**General Principles of the Holiday Caravan Sites (Wales) Bill and the need for legislation to modernise the regulatory framework for holiday caravan sites in Wales.**

4. The Authority is in firm support of modernising the regulatory framework for the licensing of caravan sites, providing a more consistent basis and effective tools for ensuring compliance with conditions aimed at protecting public safety and consumer rights, and for preventing the potential uncontrolled drift towards residential use - though we have little evidence of this locally. However, it is appropriate that any new provisions are evidence based and proportionate, and that any increased burden is adequately resourced. The following comments are provided with these objectives in mind.

**Licensing – Part 2**

*Proposed fit and proper person test*

5. While the Authority fully appreciates the relevance of introducing a 'fit and proper person' test for 'residential caravan parks (under the Mobile Homes (Wales) Act 2013), having regard to vulnerable nature of many residential occupants, we are not convinced

that a similar test is needed for owners/managers of holiday parks, where caravans will generally be privately owned holiday units or otherwise let for short vacations. In the absence of a clear need, the introduction of such a test might be seen to impose an unnecessary burden and cost on the industry.

#### *Site fees*

6. The Authority fully supports the introduction of appropriate licence fees and system of annual charges. This charging mechanism will ensure that the cost of re-issuing site licences and of subsequently monitoring compliance at an enhanced level will be appropriately resourced, which is critical at a time when local authority budgets are under immense pressure. These charges should be tiered appropriately, so that smaller sites are not subject to a disproportionate cost burden.

#### *Power to attach conditions to site licence*

7. In seeking to modernise the primary legislation for the licensing of holiday sites we consider it essential that the model conditions are similarly revised, at the same time, to bring them up to date, to account for the impact of other regulatory changes (in particular the Fire Safety Regulatory Reform Order) and to ensure that they are clear and enforceable. This would in our view be preferable to merely tagging on new conditions relating to residency, preparing for flood risks and the need for public liability insurance, with the 'possibility' of reviewing and updating new conditions at a later date. We consider that the updated conditions relating to park home (residential) sites offer a useful starting point and should enable this work to be completed within a relatively short timeframe. This would avoid the need for a further round of licence revisions at a later date, which would have implications from a resource and cost perspective. In addition, retaining existing conditions that are out of date, no longer relevant and/or ambiguous would not facilitate effective enforcement, which is one of the objectives of the Bill in introducing a range of new enforcement tools.

#### *Site inspections and licence reviews*

8. We welcome that the proposal does not require the annual inspection of all sites, as was originally intended, and support the proposal of allowing scope for a risk-based approach. We understand that this proposal has been made recognising the disparity in approaches taken by local authorities in the absence of any national guidance and the desire to increase the level of inspection and enforcement in certain cases. However, the proposed requirement for all sites to be inspected at intervals of not less than 3 years still provides considerable scope for significant variation. This could have a direct bearing on local authority costs and in turn licence and/or annual fees, creating an uneven playing field. It might also give rise to ongoing concerns regarding the comparable levels of compliance. We would therefore support the introduction of a nationally agreed risk-rating scheme with corresponding inspection frequencies.
9. However, we would question whether all sites would warrant a routine programmed inspection and whether there might be scope for establishing a 'non-inspectable' risk category, having regard to the principle of earned recognition which is increasingly becoming a common feature across other regulatory areas (e.g. health and safety, and to a lesser extent food safety), and ties in with the Government agenda of minimising burdens on generally compliant businesses. This might be relevant for those with a strong track record of compliance and robust management systems in place for ensuring compliance with site licence conditions.

#### *Fixed penalty notices and compliance notices*

10. We welcome the opportunity to recover, separately, costs associated with any formal enforcement necessary. This will again help resource necessary intervention while ensuring that only those poorest performing sites, responsible for the more serious and/or persistent breaches are affected by this cost element.
11. One of the issues encountered is the numbers of units on site exceeding those permitted on the licence. This can result in site conditions being compromised and provide operators a commercial advantage over those sites that are run vigilantly. Fixed penalty notices, with an appropriate penalty, might deter such breaches.
12. The majority of breaches encountered can take time to resolve and require consultation with occupiers, e.g. the siting of wooden verandas/sheds/hedges within the separation distance between units, and issues with the separation distance between caravans and between caravans and the boundary. The introduction of compliance notices would seem to offer a far more effective tool in such instances, allowing for improvements to be secured over time, hopefully without recourse to the court system.

### **Residency test – Part 3**

13. Historically, holiday static caravan sites in the County were given planning consent with a condition requiring a 6 week closed period during January and February. The purpose of this requirement was to prevent residency in accommodation that was not suitable for winter occupation. However under these terms occupiers could potentially live in their caravans throughout the open period and seek alternative accommodation for the 6 weeks that the site is closed. Such use would conflict with the proposed residency test designed to ensure holiday use only. More recently other forms of occupancy restriction have been imposed through planning permissions. These conditions clearly state that units must be used for holiday purposes only and that the length of any holiday is restricted to 8 weeks, with no return in 4 weeks and that site registers are maintained. More recently, 12 month planning consents have been issued to increase the tourism offer and it is foreseeable that residential misuse might arise as an unintended consequence.
14. Due to limited resources the Authority's Planning Division have not proactively monitored compliance with these residency conditions, though do respond to complaints. This situation might enable sites to set on a path to a 10 year breach that would allow them to provide evidence of lawful use. This can lead to residential development in the countryside and other areas, where it would not otherwise have been approved, can affect the appearance of the locality, put pressure on local services and change the dynamics of the community.
15. Enforcement options available to planning officers are very time consuming, having regard to the difficulties that can be involved in gathering evidence in relation to whether or not a breach has occurred. Any opportunity to deal with these matters more expediently would therefore be welcome.
16. The justification for making LAs responsible for taking direct action against an occupier who fails the residency test is unclear. As site owners will be responsible for obtaining evidence to ensure against residential occupation, it would seem reasonable to expect them to tackle breaches by the occupier, as they would for other conditions (e.g. those prohibiting the erection of verandas and wooden sheds that breach required separation distances). However, we can appreciate that the use of the proposed 'residence test failure notice' might be more expedient and that the option of issuing a fixed penalty notice on the occupant might also act as a further deterrent. Based on the limited evidence of residential occupancy on the holiday sites within the County we do not anticipate this being a significant issue for site owners, and the new condition, better awareness of the restrictions and enhanced monitoring should serve as an adequate deterrent in most cases. The advantages and disadvantages of each approach should be identified and subject to careful consideration in arriving at a final proposal.

17. Where confidence in the management of sites is high, with robust systems in place for monitoring for potential residential use (e.g. using the methods advocated by the BHHPA and evidence listed in Schedule 2 to the Bill) we would question the necessity for the proposed requirement for an annual inspection of the evidence of residency checks. We consider that these checks could reasonably be made as part of the routine risk-based inspections, reducing the projected costs to the Authority and in turn to the industry.
18. If sites have permitted residency over the years, it is feasible that they will be able to demonstrate this to planning authorities and obtain a certificate of lawful use, permitting individual vans to be occupied as residential units while the surrounding vans remain restricted for holiday use. As we understand matters this would mean that individual vans would need to be regulated under the Mobile Homes (Wales) Act 2013 and others under the proposed holiday parks provisions. This would need to be considered in any final proposals.

#### **Holiday caravan agreements – Part 4**

19. The proposals for holiday caravan agreements are welcomed. Numerous sites in Pembrokeshire do not have written agreements, as while this is best practice there is no legal requirement for them to do so. A statutory obligation will ensure consistency across the sector, make enforcement easier and ensure protection for consumers.

#### **Financial implications - Regulatory Impact Assessment (RIA)**

20. We have a number of concerns regarding the RIA, for Option 2, in so far as it relates to the anticipated costs to local authorities should the Bill become law, which will in turn have a bearing on the licence and annual fees. It is recognised, however, that the costs are based on the current proposals, and presumptions made in support of these, and that actual cost would be heavily influenced by any final decisions regarding the frequency of inspections, necessity for residency checks by local authorities etc.

#### *Presumptions regarding officer grades*

21. The RIA presumes that following initial work to re-issue modified licences, which it anticipates will be undertaken by Environmental Health Officers (EHOs), that the subsequent inspection of sites and work to verify that residency checks are being undertaken will be undertaken by 'technical officers' (TOs) on a lower grade.
22. In Pembrokeshire, caravan site licensing is undertaken by the Health and Safety Regulatory Team, who are generally responsible for advising on and enforcing these provisions, in conjunction with other relevant health and safety arrangements. The team is staffed by EHOs, with no staff employed at a lower technical grade. While the proposals would increase the demands on the service, this would not be to the extent where it would be necessary/appropriate to employ additional staff (other than on a temporary basis to resource work to re-issue modified licences to the 152 holiday sites in the County), and so we anticipate that this work will continue to be undertaken by EHOs and salary costs would need to be reflected accordingly. This situation is likely to be relevant to other, though perhaps not all local authorities.

#### *Estimated employment costs*

23. In estimating employment costs, the RIA has used a typical salary for specified officer grades (EHOs and TOs), inclusive of salary on-costs (to cover National Insurance costs and employer pension contributions). Other corporate on-costs have not been included, yet would be relevant in calculating the full employment costs and be reflected in the calculation of the relevant fees. This will have a significant bearing on the local authority

costs that would inevitably need to be passed on. For example the RIA indicates the cost of employing an EHO to be in the order of £38,100, which is consistent with the rates for Pembrokeshire if corporate on-costs are excluded. However, with the inclusion of corporate on-costs this figure rises by a further 34.6% to £51,270.

*Proposed requirement for the proactive inspection of all sites*

24. Under the new proposals local authorities would be expected to inspect all licensed holiday caravan parks at intervals of not less than 3 years, with the expectation that actual intervals be determined through a process of risk assessment. As indicated under point 2 above the Authority currently implements a risk assessment scheme with 3 inspectable risk bands (A-C) and a further category (D) where alternative interventions are generally employed. The introduction of a requirement that all sites be subject to proactive inspection will increase the demands on the service significantly. In the absence of a nationally agreed risk rating scheme, the number of inspections that might be required each year remains unclear. Based on the Authority's current rating criteria and banding, we would class the majority (>90%) of our 152 sites as relatively low risk, and as such they would be inspected at the maximum interval of once every 3 years. However, the RIA anticipates an average inspection interval of every 2 years, suggesting that a more intensive programme of inspections might be expected.
25. The following table compares the cost to the Authority of monitoring compliance with the licensing requirements under the existing regime; the expected cost under the proposed regime using the assumptions in the RIA (i.e. regarding officer grade, discounted corporate on-costs and typical 2 year inspection interval); and, our predicted costs (i.e. where EHOs are employed, corporate on-costs included and a 2 year inspection interval becomes the norm). The table also indicates the average costs to be passed on to each site over the initial 5 year period, though we recognise in practice that this should be tiered appropriately.

	Current costs	Estimated costs based on assumptions in RIA	Predicted costs based on LA calculations
Over 5 years	£19,430	£97,865	£150,676
Annual costs for first 5 years	£3,886	£19,573	£30,135
Average cost per site over 5 years	Not applicable	£644	£991

26. The above costs reflect the costs in Year 1 of issuing modified licences (spread over 5 years), the cost of conducting annual risk-based inspections as required, and the cost of undertaking residency checks for sites not inspected in a given year.
27. Indirect costs associated service management and administration are not reflected in these calculations (e.g. policy and procedure development, training, monitoring, planning and co-ordination meetings, etc.), but would need to be determined and reflected in due course. Similarly, time spent dealing with associated service requests (e.g. requests for advice from site owners) has not been included, though would be expected to be fairly minor at the outset, due to the level of planned activity to be undertaken in support of re-issuing licences.
28. Enforcement costs have been specifically excluded as these would not be relevant to the setting of licence and annual fees, being recoverable directly from offending sites.



Papur rhif:	Mater a dyddiad y cyfarfod	Oddi wrth	Cam Gweithredu
5	Bil Safleoedd Carafannau Gwyliau (Cymru), 7 Mai 2014	Darren Millar AC, Aelod sy'n gyfrifol	Ysgrifennodd Cadeirydd y Pwyllgor at Darren Millar AC yn dilyn y sesiwn dystiolaeth ar 7 Mai 2014, i'r afael ag unrhyw gwestiynau na chafodd y Pwyllgor gyfle i ofyn o fewn yr amser oedd ar gael.

# Darren Millar AM / AC

Cyf: CA/SG/CC

29 Mai 2014

Christine Chapman AC  
Cadeirydd  
Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol  
Cynulliad Cenedlaethol Cymru  
Tŷ Hywel  
Bae Caerdydd  
Caerdydd  
CF99 1NA

Annwyl Christine

## Bil Safleoedd Carafannau Gwyliau (Cymru)

Diolch am eich llythyr ar 9 Mai yn dilyn fy sesiwn gyda'r Pwyllgor ar 7 Mai i roi tystiolaeth yng nghyswllt Bil Safleoedd Carafannau Gwyliau (Cymru).

### *Y Sefyllfa Ddeddfwriaethol ar Hyn o Bryd*

Cyn imi ymdrin â'ch cwestiynau penodol, efallai y byddai o gymorth pe bawn yn nodi rhai pwyntiau mwy cyffredinol ynglŷn â'r sefyllfa ddeddfwriaethol ar hyn o bryd. Nid yw'r Bil yn ceisio cyflwyno rheoleiddio mewn maes nad yw'n cael ei reoleiddio'n barod. Nid yw ond yn ymdrin â Safleoedd Carafannau Gwyliau sydd eisoes yn cael eu trwyddedu a'u rheoleiddio o safbwynt cynllunio o dan Ddeddf Safleoedd Carafannau a Rheoli Datblygu 1960, Deddf Safleoedd Carafannau 1968 a chyfraith gynllunio berthnasol arall.

Fel yr wyf wedi egluro yn y Memorandwm Esboniadol, nid yw carafannau gwyliau wedi'u bwriadu i bobl fyw'n barhaol ynddynt, ac mewn llawer o achosion nid ydynt wedi cael eu dylunio i'r diben hwnnw. Yn fwy perthnasol, nid yw'r ddeddfwriaeth bresennol wedi'i bwriadu i ganiatáu na hwyluso defnyddio safleoedd carafannau gwyliau fel llety preswyl parhaol.

Yn anffodus, mae'r ddeddfwriaeth bresennol a gweithredu gan y diwydiant carafannau gwyliau wedi profi'n aneffeithiol i atal defnyddio safleoedd carafannau gwyliau at ddibenion preswyl. Pwrpas fy Mil i yw rhoi i awdurdodau lleol y grym y mae ei angen arnynt i reoleiddio safleoedd carafannau gwyliau'n effeithiol ac i gynorthwyo perchnogion safleoedd carafannau gwyliau i wneud yn siŵr fod y carafannau ar eu safleoedd yn cael eu defnyddio fel llety gwyliau yn hytrach nag fel cartrefi parhaol – gan nad dyna eu diben, fel rwy'n siŵr y byddai pawb yn cytuno.

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Yn y sesiwn ar 7 Mai, mynegodd Aelodau'r Pwyllgor rai pryderon nad oes digon o dystiolaeth efallai i gyfiawnhau deddfwriaeth. O ystyried faint o amser ac adnoddau y mae'r Cynulliad Cenedlaethol yn eu darparu i gynorthwyo 'aelodau meinciau cefn' sy'n ceisio cyflwyno deddfwriaeth, rwy'n siŵr y bydd yr Aelodau'n gwerthfawrogi na fu'n bosibl gwneud rhagor o ymchwil. Fodd bynnag, er fy mod yn derbyn na fydd modd efallai i'r dystiolaeth sydd ar gael ddangos union faint y broblem camddefnyddio preswyl, mae'r dystiolaeth sydd ar gael yn amlwg yn awgrymu problem yng Nghymru a diffyg trefniadau gofodi i fynd i'r afael â hi.

O ystyried bod y dystiolaeth sydd wedi'i nodi yn y Memorandwm Esboniadol yn cyflwyno achos clir iawn i ddangos bod nifer sylweddol o garafannau gwyliau yng Nghymru yn cael eu camddefnyddio fel llety preswyl parhaol, a'i bod yn wir y tu hwnt i unrhyw ddadl nad yw'r ddeddfwriaeth bresennol wedi'i bwriadu i ganiatáu defnydd o'r fath, credaf fod achos cryf bellach o blaid moderneiddio'r gyfundrefn drwyddedu, sydd dros 50 mlwydd oed, a'i gwneud yn addas i fynd i'r afael â'r mater hwn.

Trof yn awr at eich cwestiynau penodol.

## **Rhan 2 - Trwyddedu**

- *A yw'r amcangyfrif yn y Memorandwm Esboniadol o'r adnoddau y bydd eu hangen ar awdurdodau lleol i adnewyddu'r 1,500 o drwyddedau safle presennol yn y flwyddyn gyntaf yn amcangyfrif cadarn, o gofio'i fod yn seiliedig ar drafodaethau gyda dau awdurdod lleol?*

Rwy'n credu bod yr amcangyfrif yn un cadarn. Cysylltwyd â phob un o'r 22 awdurdod lleol yng Nghymru fel rhan o'r gwaith o ddatblygu'r Bil a chafwyd ymateb gan 18 ohonynt. Cymharol ychydig o safleoedd carafannau gwyliau sydd gan y 4 na wnaeth ymateb yn eu hardaloedd nhw. Cynhaliwyd trafodaethau manwl pellach gyda dau awdurdod lleol sydd â chryn brofiad yn y maes hwn.

Hefyd, dylid nodi y bydd gan bob safle eu trwyddedau presennol o dan y ddeddfwriaeth gyfredol ac y bydd y rhan fwyaf o'r darpariaethau hyn yn parhau. Nid yw'n wir, felly, y bydd angen datblygu trwyddedau o'r newydd yn llwyr.

- *Pam mae'r Bil yn caniatáu i drwydded safle carafannau gwyliau barhau am gyfnod amhenodol (nes y caiff ei therfynu'n benodol), yn wahanol i'r Ddeddf Cartrefi Symudol (Cymru) 2013, sy'n dweud nad oes modd rhoi trwydded sy'n para'n hwy na 5 mlynedd?*

Bydd safleoedd sydd eisoes wedi'u trwyddedu o dan Ddeddf 1960 yn cael eu trin fel safleoedd â thrwydded o dan y Bil hwn. Bydd hyn yn lleihau'r baich gweinyddol ar berchnogion safleoedd ac awdurdodau lleol. Mae hyn yn parhau â'r trefniadau presennol o dan Ddeddf 1960 ac yn adlewyrchu pryderon yn y diwydiant ynglŷn ag effaith trwyddedau 'cyfnod cyfyngedig' ar eu busnesau, yn enwedig o ran gallu cyrchu at arian i ddatblygu'u busnesau. Fodd bynnag, bydd trwyddedau safle yn cael eu hadolygu bob pum mlynedd

Rhagwelir y bydd yr adolygiad yn ddigon syml i'r rhan fwyaf o safleoedd ac ni fyddai disgwyl i amodau trwydded newid heb reswm haeddiannol. Gan fod pwerau gan awdurdodau lleol yn barod o dan Ddeddf 1960 i amrywio amodau trwydded neu i wneud cais i'r llys ynadon am ddirymu trwyddedau, yr unig fwriad wrth wraidd y ddyletswydd newydd yw cyflwyno cysondeb i'r trefniadau 'adolygu' anffurfiol sy'n digwydd yn barod ar sail ad hoc.

- *Beth yw bwriad ei gwneud hi'n ofynnol i awdurdodau lleol adolygu amodau trwydded safle bob pum mlynedd ar yr hwyaf?*

Gweler yr ateb i'r cwestiwn blaenorol.

- *Beth yw'r sail dros ei gwneud yn ofynnol i awdurdodau lleol archwilio safleoedd o leiaf unwaith bob tair blynedd fan leiaf ac a yw amserlen archwilio fel hyn yn rhesymol ac yn gymesur?*

I ddechrau roeddwn yn ffafrio archwiliadau mwy rheolaidd, blyneddol. Fodd bynnag, mae'r ymatebion i'r ymgynghoriad a thrafodaethau gyda chynrychiolwyr o'r diwydiant wedi fy argyhoeddi y byddai cyfnod hwy yn well.

Mae'n bwysig fod pob safle yn cael ei archwilio fel bod modd ymdrin â'r pryderon nad yw rhai safleoedd yn cael eu harchwilio a bod angen trin pawb yn yr un modd.

Drwy ei gwneud yn ofynnol cynnal archwiliad bob tair blynedd o leiaf gall awdurdodau lleol fabwysiadu trefn sy'n cael ei seilio ar risg a chynnal profion yn gynt neu'n fwy aml os ydynt yn credu bod angen gwneud hynny.

Mae'r cyfnod hwyaf o dair blynedd yn rhesymol ac yn gymesur. Efallai y byddai cyfnod byrrach wedi cael ei feirniadu am fod yn rhy drwm ar adnoddau i bawb dan sylw tra byddai cyfnod hwy wedi caniatáu i bethau lithro ac i safonau gwael ddechrau ymddangos.

- *Ydw i wedi cael unrhyw drafodaethau â*
  - *Cyfoeth Naturiol Cymru ynghylch goblygiadau ymarferol ac ariannol adran 15;*
  - *y Gwasanaeth Tân ac Achub a Cyfoeth Naturiol Cymru am oblygiadau ymarferol ac ariannol darparu cyngor fel rhan o adnewyddu trwyddedau presennol safleoedd (gan amcangyfrif bod oddeutu 1,500 ohonynt) o fewn blwyddyn gyntaf cychwyn y ddeddfwriaeth?*

Nid wyf wedi cael unrhyw drafodaethau gyda'r Gwasanaeth Tân ac Achub. Fodd bynnag, gallaf gadarnhau nad oes unrhyw oblygiadau ychwanegol i Awdurdodau Tân. Mae rheoli risg tân yn rhan o'r ddeddfwriaeth bresennol drwy adran 5 yn Neddf 1960. Cedwir y gofynion hyn fel rhan o'm Bil i ond nid oes gofynion ychwanegol.

Rwyf wedi trafod y Bil gyda Cyfoeth Naturiol Cymru, sydd wedi datgan cefnogaeth mewn egwyddor i'm cynigion. Nid yw goblygiadau'r Bil yn feichus nac yn afresymol, ac mae'r adnoddau ar-lein sydd ar gael, fel mapiau cynghori TAN15 Datblygu a Pherygl o Lifogydd, yn dangos ar unwaith a yw safle wedi'i leoli mewn ardal lle mae perygl o lifogydd.

Mae'r llifogydd dros y gaeaf yn dangos mor bwysig yw bod cynlluniau perygl llifogydd digonol ar gael ar gyfer Safleoedd Carafannau Gwyliau sydd wedi'u lleoli mewn ardaloedd lle mae perygl o lifogydd. O ystyried cyfrifoldebau allweddol Cyfoeth Naturiol Cymru o ran rheoli'r perygl o lifogydd yng Nghymru, rwy'n gobeithio y bydd Aelodau'r Pwyllgor yn croesawu'r mesurau diogelu ychwanegol sy'n cael eu cynnig yn y Bil hwn.

- *A allaf sôn am y sylfaen dystiolaeth sy'n dangos bod angen cyflwyno prawf person addas a phriodol ar gyfer rheolwyr safle carafannau gwyliau?*

Mae Safleoedd Carafannau Gwyliau yn rhan bwysig o'r economi twristiaeth. Rwy'n creu eu bod at ei gilydd yn cael eu cynnal gan bobl onest a galluog. Nid oes gan weithredwyr da ddim i'm ofni o'r darpariaethau hyn.

Fodd bynnag, mae'n bwysig sicrhau bod hynny'n parhau a bod y safonau uchaf yn cael eu cynnal. Dylai safleoedd carafannau gwyliau barhau i fod yn fannau o fwynhad a diogelwch i'r teuluoedd a'r plant niferus sy'n eu defnyddio. Bydd cyflwyno Prawf Person Addas a Phriodol

cadarn yn sicrhau bod safonau uchel yn parhau a bod yr awdurdodau'n canfod unrhyw weithredwyr diegwyddor.

- *Pam mae'r prawf person addas a phriodol sydd yn adran 33 o'r Bil wedi'i ddrafftio mewn ffordd sy'n golygu bod ei gwmpas yn fwy eang na'r prawf yn Neddf Cartrefi Symudol (Cymru)?*

Mae model busnes a maint y diwydiant Safleoedd Carafannau Gwyliau yn wahanol i'r sector cartrefi mewn parciau. Mae Safleoedd Carafannau Gwyliau yn aml yn eiddo i gwmnïau mawr ac yn cael eu rhedeg gan y cwmnïau hynny ac mae angen trefniadau pur wahanol (i'r rhai ar gyfer Cartrefi mewn Parciau) i sicrhau bod y prawf yn gymwys i'r bobl iawn o fewn strwythur rheoli'r cwmni.

Bydd y prawf sy'n cael ei gynnig yn y Bil yn sicrhau bod pob unigolyn sy'n gyfrifol am reolaeth y Safle Carafannau Gwyliau o ddydd i ddydd (h.y. y rheolwyr ar lawr gwlad) yn ddarostyngedig iddo.

Bydd hyn yn atal y sefyllfa lle mae person addas a phriodol ar lawr gwlad yn cael cyfarwyddiadau ynglŷn â rheoli'r safle gan berson uwch i fyny yn y sefydliad nad yw'n addas a phriodol. Felly, mae'r prawf yn gymwys i bob unigolyn sydd â rôl yn y gwaith o reoli'r safle ac unigolion sy'n rhoi cyfarwyddiadau ynglŷn â rheoli'r safle.

Mae trefniadau apêl cadarn yn y Bil wrth gwrs pe bai unrhyw un am herio penderfyniad awdurdod lleol nad yw rhywun yn berson addas a phriodol.

- *Beth yw'r goblygiadau ymarferol ac ariannol i awdurdodau lleol yn sgil y gofyniad i gynnal prawf person addas a phriodol ar gyfer rheolwyr presennol safleoedd o fewn 12 mis ar ôl cychwyn adran 9?*

Mae amcangyfrifon o'r costau a'r goblygiadau cysylltiol i berchnogion safleoedd wedi'u nodi ym mharagraff 203 yn y Memorandwm Esboniadol. Yn gryno, amcangyfrifir y bydd y rhain yn £95,000 yn y flwyddyn gyntaf ar ôl cychwyn a £9,500 yn y blynyddoedd dilynol.

Mae'r costau i awdurdodau lleol o ran adolygu trwyddedau, yn cynnwys sicrhau eu bod wedi darparu tystiolaeth ddigonol i fodloni'r meini prawf ynglŷn â phersonau addas a phriodol yn rheoli'r safle, wedi'u nodi ym Mharagraff 191 yn y Memorandwm Esboniadol.

- *Beth yw'r rheswm dros fynnu bod awdurdodau lleol yn ystyried, fel rhan o'r prawf, dystiolaeth sy'n dangos bod y rheolwr wedi torri cyfraith safonau masnach?*

Mae angen i Safleoedd Carafannau Gwyliau fod yn fannau o ddiogelwch a mwynhad i deuluoedd a'u plant. Bydd y prawf yn help i sicrhau bod pobl briodol yn gyfrifol am safleoedd i sicrhau mai felly y mae hi. Bydd llawer o safleoedd gwyliau, wrth gwrs, yn cynnwys unedau manwerthu ac adloniant lle mae'n hynod bwysig gweithredu'n ddi-fai ar faterion Safonau Masnach.

Hefyd, mae camddefnydd preswyl o garafannau gwyliau'n digwydd weithiau am fod gweithredwyr Safle Carafannau Gwyliau wedi rhoi gwybodaeth gamarweiniol pan fydd cwsmer yn prynu carafan wyliau. Dylai ystyried unrhyw dramgwydd o ran gwerthu carafannau gwyliau, neu werthu mewn diwydiant tebyg, fod yn ffactor pwysig felly wrth benderfynu a yw rhywun yn berson addas a phriodol i ddibenion y prawf.

Fodd bynnag, mae'n bwysig bod yn glir – er bod rhaid i awdurdodau lleol ystyried y materion sydd wedi'u nodi yn Adran 34 o'r Bil, nid oes yr un o'r materion hyn ynddo'i hun yn gwahardd

rhywun rhag cael ei ystyried yn berson addas a phriodol. Yn yr un modd, bydd dyletswydd ar awdurdodau lleol hefyd i ystyried unrhyw faterion eraill y maen nhw'n eu hystyried yn briodol.

### **Canlyniadau anfwriadol**

- *Beth yw sylfaen y dystiolaeth ar gyfer yr honiad yn y Memorandwm Esboniadol sy'n nodi 'ni ddylai nifer fawr o bobl fod yn ddigartref o ganlyniad i'r Bil' a sut y gellir cysoni hyn â'r diffyg data cadarn fel y nodwyd ym mharagraff 144 o'r Memorandwm Esboniadol?*
- *Sut mae'r honiad hwn yn cydweddu â'r ffaith bod rhai o'r bobl y bydd y Bil yn effeithio arnynt yn hawlio budd-dal tai ac y gellid tybio eu bod yn debygol o gyflwyno eu hunain yn ddigartref i awdurdodau lleol?*

Nid yw'r ddeddfwriaeth bresennol wedi'i dylunio na'i bwriadu i hwyluso defnyddio carafannau gwyliau fel llety parhaol. Mae'r Bil yn ceisio sicrhau y bydd carafannau gwyliau yn y dyfodol yn cael eu defnyddio at ddibenion gwyliau yn hytrach nag fel cartrefi parhaol. Bydd hyn yn golygu y bydd angen i rai pobl, sydd ar hyn o bryd yn byw mewn carafannau gwyliau, ddod o hyd i lety amgen, ond bydd digon o amser i'r rhai sy'n byw mewn carafannau gwyliau i baratoi a gwneud trefniadau llety amgen cyn i'r darpariaethau yn y ddeddfwriaeth ddod i rym.

Hefyd, mae amseriad cychwyn y ddeddfwriaeth, os caiff ei mabwysiadu, yn llwyr bron ar ddisgresiwn Gweinidogion Cymru. Byddwn yn disgwyl iddynt ymgynghori'n eang cyn cychwyn darpariaethau allweddol. Mewn rhai achosion, mae gofynion pellach ar wyneb y Bil i ymgynghori cyn defnyddio pwerau.

Hyd yn oed ar ôl cychwyn, ac unrhyw ymgynghori angenrheidiol, bydd gan berchnogion safleoedd dri mis pellach i gynnal y prawf preswyl a bydd gan feddianwyr hawliau apelio wedyn.

Bydd cryn dipyn o amser felly i feddianwyr carafannau gwyliau wneud trefniadau llety amgen, a chofio bod gan lawer o'r rhai sy'n byw mewn carafannau gwyliau adnoddau sylweddol yn aml ac na fyddent, felly, yn cyflwyno'u hunain fel pobl ddigartref.

Casglwyd data oddi wrth awdurdodau lleol wrth ddatblygu'r Bil. Dangosai'r data fod niferoedd arwyddocaol, er nad niferoedd mawr, o bobl sy'n hawlio Budd-dal Tai yn byw mewn carafannau gwyliau. Gallai rhai o'r hawlwyd hyn geisio cymorth yr awdurdod lleol o dan y ddeddfwriaeth digartrefedd ond nid yw'r niferoedd yn debygol o fod yn fawr, yn enwedig gan y bydd llawer ohonynt yn gwneud trefniadau amgen ymhell cyn y bydd gofyniad cyfreithiol arnynt i adael eu llety.

Wrth gwrs, dylai awdurdodau lleol gymryd camau i helpu pobl sy'n agored i niwed sy'n byw mewn llety anaddas ac mae'r cynnydd yn y pwyslais y mae awdurdodau lleol yn ei roi ar atal digartrefedd yn fy nghalonogi. Rwy'n hyderus y byddant yn rhagweithiol yn y cyswllt hwn. Nodaf y bydd Bil Tai (Cymru) yn rhoi gwaith atal digartrefedd ar sail statudol ac rwy'n croesawu'r datblygiad hwn.

Tra wyf yn nodi'r pryderon ehangach ynglŷn â'r angen am gyflenwad mwy o dai fforddiadwy ar draws Cymru, rwy'n siŵr y bydd yr Aelodau'n cytuno nad yw defnyddio carafannau gwyliau fel cartrefi parhaol rhad yn rhywbeth i'w ddymuno.

Yn olaf, hyd yn oed os oes rhai canlyniadau anfwriadol, ni ddylai'r rhain ailddigwydd gan y bydd y Bil yn atal unrhyw feddiannu preswyl parhaol arwyddocaol ar garafannau gwyliau yn y dyfodol.

- *A oes unrhyw asesiad wedi cael ei wneud o'r posibilrwydd y gallai'r ffioedd y bydd perchnogion carafannau gwyliau yn eu talu'n codi yn sgil y Bil hwn, o gofio nad yw'r Bil yn atal perchnogion safleoedd yn benodol rhag trosglwyddo costau cydymffurfio â'r Bil?*

Nid yw'n bosibl dweud yn bendant na fydd perchnogion safleoedd yn trosglwyddo costau ychwanegol i berchnogion carafannau. Fodd bynnag, mae'n farchnad gystadleuol ac mae hynny'n debygol o liniaru'r risg i ryw raddau. Yn fwy na hynny, cymharol fach yw'r costau dan sylw. Mae'r amcangyfrifon yn y Memorandwm Esboniadol ym mharagraff 199 yn nodi cost lawn yr uned o ddim ond £3.43 y flwyddyn dros y 5 mlynedd cyntaf ar ôl cychwyn. Rwyf hefyd wedi nodi amcangyfrif o'r costau i berchnogion safleoedd ym mharagraff 225 o'r Memorandwm Esboniadol, ac mae'r rhain wedi'u crynhoi ymhellach yn y tabl ar dudalen 65.

Hefyd, bydd y datganiadau ysgrifenedig sy'n ofynnol o dan Adran 55 y Bil yn help i sicrhau bod gan feddianwyr fwy o eglurder ynglŷn â ffioedd cyn iddynt ymrwymo i gytundebau.

- *A oes perygl, os caiff y Bil ei basio, y bydd perchnogion safleoedd carafannau gwyliau'n gwneud cais am gael eu trwyddedu'n safleoedd preswyl er mwyn osgoi'r drefn reoleiddio newydd?*
- *Os oes, pa effaith y gallai hyn ei chael ar y diwydiant carafannau gwyliau yng Nghymru?*

Ni welaf unrhyw reswm pam y byddai niferoedd sylweddol o safleoedd carafannau gwyliau yn dewis newid eu model busnes a gwneud cais i gael eu rheoleiddio o dan fframwaith rheoleiddio llymch na'r hyn sy'n cael ei gynnig yn fy Mil i. Fodd bynnag, efallai fod nifer cyfyngedig o achosion lle gallai hyn ddigwydd. Os bydd perchnogion safleoedd yn dewis gwneud hyn, byddant yn cael eu rheoleiddio wedyn o dan Ddeddf Cartrefi Symudol (Cymru) 2013, sef y fframwaith rheoleiddio priodol i safleoedd preswyl.

***Gofynnodd y Pwyllgor hefyd am eglurhad pellach ar y pwyntiau canlynol a godwyd yn ystod y cyfarfod.***

- *a yw'r darpariaethau yn adran 61 ond yn gymwys mewn achosion lle mae perchennog y safle yn cymryd camau yn unol â chyfarwyddiadau a roddir gan awdurdod lleol o dan adran 53?*

Na. Mae'r amddiffyniad yn gymwys o dan yr amgylchiadau a nodir yn adran 61, ac mae angen ei ystyried o dan yr holl amgylchiadau a allai fodoli, er y gallai hyn gynnwys amgylchiadau a achosir gan gyfarwyddiadau a roddir o dan adran 53. Mae'r amddiffyniad wedi'i seilio ar yr hyn sy'n rhesymol, a byddai angen i hynny gael ei bennu gan lys. Lle mae'r ymyrryd yn afresymol, ni fydd yr amddiffyniad ar gael.

Cymerwyd y geiriad o Ddeddf 2013 ac mae'n darparu amddiffyniad synhwyrol i bobl sy'n ymyrryd yn anfwriadol â mwynhad meddiannydd o garafan wyliau.

Er enghraifft, gallai fod diffyg eglurder ynglŷn â phryd mae cytundeb carafan wyliau yn dod i ben, e.e. gallai rheolwr safle fod yn credu'n rhesymol fod cytundeb carafan wyliau wedi dod i ben er bod y cytundeb mewn gwirionedd yn dal mewn grym. (Er y dylid nodi bod y Bil yn gwneud darpariaeth benodol i atal dryswch o'r fath rhag codi, gan fod gofyniad penodol am eglurder ynglŷn â dyddiadau cychwyn a gorffen cytundebau carafannau gwyliau.)

Dylid nodi hefyd nad yw'r amddiffyniad yn Adran 61 yn effeithio ar gyfraith droseddol arall sy'n delio ag aflonyddu.

- *A allai cofnodion pensiwn gael eu defnyddio fel tystiolaeth ar gyfer y prawf preswyllo; eithriadau rhag gofynion yn y Bil ar gyfer safleoedd carafannau teithiol a pherchnogion tir sy'n caniatáu i garafannau teithiol aros ar eu tir o dro i dro?*

Mae tystiolaeth at ddibenion y prawf preswyllo yn cynnwys cyfeiriad y meddiannydd ar gyfer gohebu gyda sefydliad ariannol. Ni welaf unrhyw reswm pam na ddylai hyn gynnwys darparwr pensiwn.

- *Beth yw'r sail ar gyfer y ffigurau a ddarparwyd yn y Memorandwm Esboniadol, sy'n amcangyfrif y bydd y costau gweinyddol i berchnogion safleoedd o gwrdd â'r holl ofynion mewn perthynas â'r Bil yn £100 y safle yn y flwyddyn gyntaf ac, yn benodol mewn perthynas â'r prawf preswyllo, yn £75 y flwyddyn o flwyddyn 2 ymlaen?*

Mae'r rhagdybiaethau wrth wraidd yr amcangyfrif wedi'u nodi ym mharagraff 205 y Memorandwm Esboniadol. Mae wedi'i seilio ar amser gweinyddol o oddeutu diwrnod bob dwy flynedd ynglŷn â diweddarau blynyddol a darparu gwybodaeth i'r awdurdodau lleol ynglŷn â phrif gyfeiriad perchnogion carafannau ac unrhyw ymwelwyr sy'n aros mwy na 6 wythnos. Bydd y costau ychydig yn uwch yn y flwyddyn gyntaf felly rydym wedi rhagdybio ffigur o £100 ar gyfer y flwyddyn honno.

Hefyd, rydym wedi amcangyfrif y bydd cost flynyddol lawn monitro safleoedd gan Awdurdodau Lleol yn £110,000 y flwyddyn, a hynny wedi'i seilio ar drafodaethau ag awdurdodau lleol. Mae'r rhagdybiaeth o gost flynyddol lawn o £150,000 i berchnogion safleoedd yn y flwyddyn gyntaf a £112,500 wedi hynny yn un rhesymol mewn cymhariaeth.

***Yn olaf, gwnaethoch hefyd gytuno i ddarparu nodyn mewn perthynas â chyfleoedd a allai godi o'r Bil ar gyfer diogelu defnyddwyr.***

Fel yr eglurais yn y cyfarfod, nid Bil yn ymwneud â diogelu defnyddwyr yw hwn yn bennaf – yn ôl a ddeallaf, nid oes gan y Cynulliad gymhwysedd deddfwriaethol llawn dros ddiogelu defnyddwyr. Fodd bynnag, mae agweddau penodol o'r Bil yr wyf yn siŵr y bydd defnyddwyr yn eu croesawu. Mae'r rhain yn cynnwys y gofynion newydd mewn perthynas â:

- Chytundebau ysgrifenedig (Adran 55);
- Telerau ymhlyg safonol i gytundebau (Adran 56);
- Yr hawl i gael mynegi barn ar newidiadau arwyddocaol yn ymwneud â rheoli neu weithredu safleoedd (ymgyngori) (Adran 56);
- Rheoli perygl o lifogydd (Adran 12, 15, 16 a 18);
- Diogelu rhag aflonyddu (Rhan 5);
- Y sicrwydd y mae'r Prawf Person Addas a Phriodol yn ei gynnig (Adran 33);
- Gorchmynion ad-dalu (adran 38); a
- Y defnydd o reolwyr interim (adran 35).

Edrychaf ymlaen at roi tystiolaeth i'r Pwyllgor eto pan fydd wedi cael cyfle i ystyried tystiolaeth tystion eraill.

Yn gywir



**Darren Millar AC**



Mae cyfyngiadau ar y ddogfen hon