

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Lleoliad:
Ystafell Bwyllgora 2 – y Senedd

Dyddiad:
Dydd Mercher, 11 Mehefin 2014

Amser:
09.00

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



I gael rhagor o wybodaeth, cysylltwch â:

Sarah Beasley

Clerc y Pwyllgor

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Agenda

Cyfarfod preifat cyn y prif gyfarfod (09.00 – 09.15)

1 Cyflwyniad, ymddiheuriadau a dirprwyon

2 Y Bil Safleoedd Carafannau Gwyliau (Cymru): Cyfnod 1 – Sesiwn dystiolaeth 3 (09.15–10.15) (Tudalennau 1 – 39)

Carl Sargeant, y Gweinidog Tai ac Adfywio

Alyn Williams, Tim Tai Sector Preifat

Helen Kellaway, Gwasanaethau Cyfreithiol

Egwyl (10.15–10.30)

3 Y Bil Safleoedd Carafannau Gwyliau (Cymru): Cyfnod 1 – Sesiwn dystiolaeth 4 (10.30–11.30) (Tudalennau 40 – 42)

Cymdeithas Genedlaethol y Perchnogion Carafannau (NACO)

Steve Munro, Cyfarwyddwr

Dan Ellacott, Tîm Cynghori

4 Y Bil Safleoedd Carafannau Gwyliau (Cymru): Cyfnod 1 – Sesiwn dystiolaeth 5 (11.30–12.30) (Tudalennau 43 – 55)

Cymdeithas Parciau Gwyliau a Pharciau Cartrefi Prydain

Ros Pritchard OBE, Cyfarwyddwr Cyffredinol

Mr Huw Pendleton, Cadeirydd a Rheolwr Gyfarwyddwr Cenedlaethol o Barc Gwyliau Celtic

Y Cyngor Carafannau Cenedlaethol

Alicia Dunne, Dirprwy Gyfarwyddwr Cyffredinol

Judith Archibold, Cyfarwyddwraig Gwasanaethau Cyfreithiol a Chorfforaethol,

Parkdean Holidays Limited (cwmni sy'n aelod o'r Cyngor Carafannau Cenedlaethol)

5 Papurau i'w nodi (Tudalennau 56 – 61)

6 Cynnig o dan Reol Sefydlog 17.42 (ix) i benderfynu gwahardd y cyhoedd o weddill y cyfarfod

7 Y Bil Safleoedd Carafannau Gwyliau (Cymru): Cyfnod 1 – trafod sesiwn dystiolaeth 3, 4 a 5 (12.30 – 12.45)

Mae cyfyngiadau ar y ddogfen hon

Carl Sargeant AC / AM
Y Gweinidog Tai ac Adfywio
Minister for Housing and Regeneration



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref LF/CS/0490/14

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

28 Mai 2014

Annwyl Chris,

**Tystiolaeth i'r Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol – Bil
Safleoedd Carafannau Gwyliau (Cymru)**

Diolch ichi am eich llythyr dyddiedig 1 Ebrill yn fy ngwahodd i gyfrannu at y gwaith craffu y mae'ch Pwyllgor yn ei wneud ar Fil Safleoedd Carafannau (Cymru), a gyflwynwyd gan Darren Millar AC. Hoffwn ddiolch ichi am roi cyfle imi gyflwyno fy sylwadau.

Yn unol â'ch cais, amgaeaf fy nhystiolaeth ysgrifenedig.

Yn gywir

Carl Sargeant AC / AM
Y Gweinidog Tai ac Adfywio
Minister for Housing and Regeneration

Dogfen 4Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol: Ystyriaeth Rhan 1 o'r Bil Meysydd Carafannau Gwyliau (Cymru) – Darren Millar AC (aelod cyfrifol)Tystiolaeth ysgrifenedig gan y Gweinidog Tai ac Adfywio**Cyflwyniad**

Diolch i'r Pwyllgor am y cyfle i roi sylwadau ar Fil Darren Millar.

Pan glywais i gyntaf fod Darren yn cynnig deddfwriaethu ar feysydd carafannau gwyliau, roeddwn yn falch ac yn cefnogi ei amcanion yn gyffredinol. Credwn fod ymyriad Darren yn amserol, yn dilyn Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru) Peter Black, bellach Deddf Cartrefi Symudol (Cymru) 2013, ac y byddai'n rhoi cyfle i ni foderneiddio'r ddeddf sy'n ymwneud â charafannau gwyliau yn yr un ffordd ag â'r cartrefi symudol hynny a ddefnyddir fel prif gartref. Roeddwn yn ymwybodol, o'm trafodaethau â Darren, ein bod yn rhannu'r un pryderon am bobl sy'n defnyddio carafannau gwyliau fel eu prif gartref a'r problemau a ddaw yn sgil hyn. Gall hynny fod yn torri'r caniatâd cynllunio sydd yn ei le ar gyfer y maes carafannau ond mae hefyd yn gosod baich ychwanegol, nas ariannwyd ar ei gyfer, ar y gwasanaethau cyhoeddus ac roedd angen gwneud rhywbeth i ddod â'r arfer hwn i ben. Fodd bynnag, wedi gweld y Bil erbyn hyn ac wedi cael y cyfle i ystyried cynigion Darren yn ofalus a'r dystiolaeth a roddwyd gan y rheiny sydd yn y sector twristiaeth, yn cynnwys fy nghydweithiwr Gweinidog yr Economi, Gwyddoniaeth a Thrafnidiaeth, nid wyf wedi fy argyhoeddi fod y Bil hwn yn briodol nac yn gymesur. Felly ni allaf ei gefnogi.

Cwestiynau penodol gan Gadeirydd y Pwyllgor

Gofynnodd y Cadeirydd am fy marn ar agweddau penodol o'r Bil a rhoddaf sylw i bob un o'r rhain yn eu tro:

- **Yr angen am ddeddfwriaeth i foderneiddio'r fframwaith rheoleiddio meysydd carafannau gwyliau yng Nghymru**

Y ddeddfwriaeth bresennol sy'n ymdrin â meysydd carafannau gwyliau yw Deddf Safleoedd Carafannau a Rheoli Datblygu 1960 a Deddf Safleoedd Carafannau 1968. Ni fyddai'r ddeddfwriaeth hon yn gymwys yng Nghymru mwyach pe bai Bil Darren yn dod yn ddeddf.

Mae yna resymau da dros awgrymu fod angen moderneiddio Deddf 1960 o safbwynt carafannau gwyliau, yn rhannol i roi'r gallu i awdurdodau lleol ymateb yn well i faterion trwyddedu a rhoi iddynt y pwerau i adennill costau gorfodi'r ddeddfwriaeth. Wrth foderneiddio'r Ddeddf hon, gallem hefyd fynd i'r afael ag anghenion perchnogion carafannau er mwyn rhoi mwy o sicrwydd ac eglurder iddyn nhw. Ffactorau eraill sydd angen sylw yw lefel y dirwyon y gellir eu gorfodi pan fo troseddau wedi digwydd, mewn perthynas â Deddf 1960,

sy'n fân iawn yn ôl safonau modern, a'r camau sydd eu hangen i ddirymu trwydded, lle bo modd, sydd yn hirfaith ac yn or-fiwrocraidaidd. Roedd materion felly, wrth gwrs, yn nodweddion allweddol o Fil Peter Black o ran safleoedd cartrefi symudol, a gafodd gefnogaeth Llywodraeth Cymru ac sy'n cael eu gweithredu ar hyn o bryd. Byddwn felly yn cefnogi'r angen i foderneiddio'r ddeddfwriaeth i safleoedd carafannau gwyliau yn amodol ar ymchwil fanylach bellach ar natur y problemau a'r ffyrdd posibl o'u datrys.

- **Rhannau'r Bil, sef: Trwyddedu (Rhan 2); Prawf preswyllo (Rhan 3); Cytundebau carafannau gwyliau (Rhan 4); Gwarchod rhag aflonyddwch (Rhan 5); ac, Atodol a Chyffredinol (Rhan 6)**

Gan gymryd y rhain yn eu trefn:

Trwyddedu (Rhan 2)

Rwyf yn synnu o weld nad yw'r Bil yn mynnu fod pob trwydded safle gwyliau presennol yn cael eu dirymu, ond yn parhau trwyddedau safle Deddf 1960 a roddir o dan adran 3 o Ddeddf 1960 (adran 9). Mae gan y cynnig i barhau trwyddedau safle sy'n bodoli'n barod y potensial i greu dryswch. Awgrymwyd yn flaenorol nad yw'r awdurdodau lleol eu hunain, mewn rhai ardaloedd, yn gwybod yn iawn pa safleoedd sydd wedi'u trwyddedu yn eu hardal a pha rai sydd heb - yn enwedig os sefydlwyd y safle cyn Deddf 1960.

Mae Cymdeithas Parciau Gwyliau a Pharciau Cartrefi Prydain (BH&HPA) yn datgan eu bod hwy'n cynrychioli 423 o barciau yng Nghymru eu hunain. Er bod hwn yn nifer sylweddol, deallaf fod nifer o safleoedd eraill yng Nghymru nad ydynt yn aelodau o'r BH&HPA. Mae Adran 9 o'r Bil yn datgan y bydd angen i awdurdodau lleol, o fewn 12 mis o'u cychwyn, asesu a yw rheolwyr y safleoedd hyn yn addas a phriodol ac os felly, mae'n rhaid i'r drwydded a roddwyd o dan adran 3 o Ddeddf 1960 gael ei haddasu i sicrhau cydymffurfiaeth â gofynion y Bil o fewn 12 mis ac mae'n bosibl y bydd yr awdurdod lleol yn gosod amodau. Nid yw safleoedd carafannau gwyliau wedi'u dosbarthu'n gytbwys ar draws Cymru ac mae gan rai ardaloedd niferoedd llawer uwch nag eraill. Mae gan y gofyniad hwn y posibilrwydd o osod baich ychwanegol sylweddol ar rai awdurdodau lleol.

Nid yw'r Bil yn darparu ar gyfer safleoedd "defnydd cymysg" felly mae'n debyg y byddai angen dwy drwydded ar safleoedd o'r fath, y naill o dan y Bil hwn ac un arall o dan Ddeddf Cartrefi Symudol (Cymru) 2013, a allai gael ei weld fel gormod o fiwrocraitiaeth ac yn ddrud i berchnogion safle.

Nid wyf yn siŵr a yw'r Prawf "Person Addas a Phriodol" wedi cael ei ystyried hyd at ei ben. Yr awgrym yw defnyddio'r un prawf â meini prawf ag a gyflwynir ar gyfer safleoedd cartrefi symudol preswyl. Mae safleoedd gwyliau'n

fusnesau twristiaeth a byddai angen datblygu prawf a meini prawf gwahanol sy'n fwy priodol i'r diwydiant hwnnw.

Prawf Preswyllo (Rhan 3)

Rwyf yn gwerthfawrogi'r hyn y mae Darren yn ceisio'i gyflawni - gostwng niferoedd pobl sy'n defnyddio carafannu gwyliau fel eu prif breswylfa, ond nid wyf yn siŵr ai'r Bil yw'r dull gorau o gyrraedd y nod hon. Ceir gofyniad fod trwydded safle yn cynnwys amod sy'n mynnu fod perchennog y safle'n cynnal profion i ddangos nad yw'r meddiannwyr yn meddiannu carafannau gwyliau fel eu hunig neu eu prif breswylfa ac mae'n rhaid i feddiannwyr ddangos tystiolaeth nad ydynt yn defnyddio'r garafán felly. Mae'n rhaid i'r dystiolaeth gynnwys 2 ddogfen a restrwyd yn Atodlen 2. Yn ychwanegol at osod baich ychwanegol ar fusnesau, nid wyf yn sicr yn union sut byddai'r prawf hwn yn helpu i fynd i'r afael â'i bryder. Os gall meddiannydd carafán ddangos nad eu carafán wyliau yw eu hunig neu eu prif breswylfa yna ni fydd dim yn newid o ran meddiannaeth. Ar y llaw arall, os yw perchennog maes carafannau gwyliau'n credu fod meddiannydd wedi methu'r prawf preswyllo, mae'n rhaid i'r perchennog hysbysu'r awdurdod lleol cyn gynted ag y bo'n ymarferol bosibl. Os yw'r awdurdod lleol yn credu fod meddiannydd wedi methu'r prawf preswyllo, mae'n rhaid iddynt roi "rhybudd methu prawf preswyllo" i'r meddiannydd, a gallant roi hysbysiad cosb benodedig iddo (adran 49). Mae gan hyn y potensial o effeithio ar ddigartrefedd, yr amgylchedd a chynyddu aflonyddwch (gweler Canlyniadau Anfwriadol isod).

Mae'r Memorandwm Esboniadol (para 75) yn datgan "...mae'r prawf yn annhebygol o fod yn gymwys i'r rhan fwyaf o bobl sy'n aros mewn carafannu gwyliau nad ydynt yn berchen arnynt". Rwyf yn poeni fod hyn yn cynnig dihangfa y bydd y rhai llai dibynadwy yn y gymdeithas yn manteisio arni - yn enwedig y rheiny sydd â mwy o arian nag asedau ac sy'n hapus i rentu carafán am gyfnodau hir.

Cytundebau Carafannau Gwyliau (Rhan 4)

Byddwn yn cefnogi'r mesur hwn. Mae darparu cytundebau ysgrifenedig sy'n gosod y telerau allweddol y cytunwyd arnynt rhwng y cwsmer a busnes y parc eisoes yn cael ei weld fel arfer gorau yn y diwydiant a chredaf y dylai hyn ddod y peth arferol.

Gwarchod rhag aflonyddwch (Rhan 5)

Eto, byddwn yn cefnogi unrhyw fesur sy'n ceisio gwarchod pobl rhag aflonyddwch, ond nid wyf yn siŵr a yw'r mesurau sydd yn y Bil yn ychwanegu at yr amddiffynfeydd sydd eisoes yn bodoli o dan y ddeddfwriaeth bresennol (e.e. Deddf Safleoedd Carafannau 1968). Yn ychwanegol, gallai'r cyfrifoldebau ychwanegol a gynigir i berchnogion safle o safbwynt profion preswyllo, beri i aflonyddwch gynyddu (gweler Canlyniadau Anfwriadol isod).

Atodol a Chyffredinol (Rhan 6)

Mae'r rhain yn ymddangos yn briodol ac nid oes gennyf sylwadau i'w cynnig.

- **Unrhyw rwystrau posibl i weithredu darpariaethau'r Bil ac a yw'r Bil yn eu hystyried**

Mae'r Bil yn creu hawliau apelio newydd i'r Llys Ynadon ac un i'r Llys Sirol.

Mae angen cynnal asesiad o'r hawliau apelio newydd hyn er mwyn sicrhau eu bod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru.

Adnoddau awdurdodau lleol - bydd y Bil yn golygu cryn dipyn o waith ychwanegol i awdurdodau lleol, rhai yn fwy nag eraill, a fydd angen ei gwblhau o fewn amserlen arbennig. Ar yr un pryd, bydd awdurdodau lleol yn delio â gweithredu'r newidiadau a gyflwynwyd i safleoedd cartrefi symudol preswyl, ac os caiff ei basio, y Bil Tai. Mae gen i bryderon am eu gallu i gyflwyno trefn drwyddedu newydd i safleoedd carafannau gwyliau a gorfodi'r drefn honno.

- **A oes unrhyw ganlyniadau anfwriadol yn deillio o'r Bil**

Y canlyniad anfwriadol mwyaf sy'n deillio o'r Bil yw'r un a nodwyd gan fy nghydweithiwr, y Gweinidog dros yr Economi, Gwyddoniaeth a Thrafnidiaeth, ac eraill, sef y byddai'r Bil yn gwneud Cymru yn llai cystadleuol o safbwynt twristiaeth na rhannau eraill o'r DU. Credaf fod y Gweinidog wedi gosod allan y goblygiadau o safbwynt twristiaeth a'r economi yn ei thystiolaeth i'r Pwyllgor, felly wnaf i ddim ymhelaethu arnynt yma. O safbwynt ehangach, gallai rhai o'r canlyniadau anfwriadol eraill fod:

- Yr effaith ar ddigartrefedd - ychydig o dystiolaeth sydd yna i awgrymu fod y broblem "meddiannaeth anghyfreithlon" mor eang ag y mae Darren yn ei awgrymu ond, hyd yn oed wedyn, byddai angen i bob un a fethodd y prawf preswyl gael ei ailgartrefu. Mewn rhai ardaloedd, gallai hyn osod baich ychwanegol sylweddol ar yr awdurdod ar adeg pan fo cyllidebau yn dynn. Agwedd fwy rhesymol at y broblem hon fyddai efalla caniatáu "trwyddedu deuol" ar safle sy'n tramgwyddo (e.e. rhoi trwydded dros dro neu rannol breswyl i'r unedau hynny'n unig a ddefnyddir fel unig breswylfa ac a ddaw i ben gyda deiliadaeth y meddianwyr.
- Effaith amgylcheddol - mae'r Bil fel y'i drafftwyd ar hyn o bryd yn darparu ar gyfer symud carfannau pan fo'r perchennog yn methu'r prawf preswyl. Nid yw adleoli fel hyn yn rhad ac mae'n dibynnu ar safle arall yn cytuno i gymryd y garafan, gan wybod fod perchennog y cartref yn "broblematic". Ni fydd rhai unedau yn werth y gost o'u hadleoli, a gallai hyn arwain at eu dympio yn anghyfreithlon ayb a fyddai'n arwain at gostau ychwanegol i awdurdodau lleol.
- Mwy o aflonyddwch – mae'r Prawf Preswyl arfaethedig yn rhoi cyfle i berchennog y safle ddylanwadu ar a yw perchennog yn aros ar y safle.

Gallai'r grym hwn gael ei gamddefnyddio gan berchnogion safle llai egwyddorol.

- Y beichiau ychwanegol ar y Llysoedd – mae'r Bil yn argymhell mai'r Llysoedd, gan mwyaf, fydd yn penderfynu ar unrhyw anghydfodau sy'n deillio o'r ddeddfwriaeth hon. Ni roddir amcangyfrif o'r gost debygol i'r Llysoedd na'u gallu i ymdopi â'r galw ychwanegol tebygol. Gallai'r costau hyn fod yn eithaf sylweddol a bydd angen cynnwys y gost o roi canllawiau/hyfforddiant i Ynadon.

- **Goblygiadau ariannol y Bil (fel ag y'i gosodwyd yn rhan 2 y Memorandwm Esboniadol (ME), yr Asesiad Effaith Rheoleiddiol (AERh), sy'n amcangyfrif costau a manteision y Bil**

Mae gen i sawl pwynt i'w gwneud ar y ME a'r AERh:

- Mae'r AERh yn datgan yn gywir nad oedd modd, ar yr adeg y paratowyd y Bil, amcangyfrif yn gywir y costau i Lywodraeth Cymru heb wybod y manylion. Nid oes gennym amcangyfrif cywir o hyd, ond, o ystyried y nifer mwy o barciau, gallwn ddisgwyl yn rhesymol y byddai cyfanswm y gost yn fwy na'r amcangyfrif o £270,000 o gostau y credir eu hwynebwyd o ganlyniad i weithredu Deddf Cartrefi Symudol (Cymru) 2013.
- Mae'n aneglur o'r ME/AERh beth yw hyd a lled y broblem ar hyn o bryd ac a oes gwir angen y ddeddfwriaeth hon. Nid yw'r wybodaeth a gyflwynwyd ar drigolion parhaol yn derfynol a gallai'r cyfraddau ymateb cymharol isel i'r ymgynghoriadau (e.e. 2 ymateb gan Awdurdodau Lleol i'r ymgynghoriad cyntaf a 6 i'r ail) awgrymu nad yw'r broblem yn sylweddol.
- A oes opsiwn pellach 'Gwneud y Lleiafswm' o ran diwygio'r ddeddfwriaeth bresennol neu wneud yn siŵr fod y ddeddfwriaeth bresennol yn cael ei gorfodi gan awdurdodau lleol? O farnu o'r crynodeb i'r ymgynghoriad, ymddengys mai dyma'r dull gweithredu a ffefrir o safbwynt y diwydiant ac felly mae'n debygol o gael ei godi yn ystod y broses graffu. A yw'r opsiwn hwn wedi cael ei ystyried a'i archwilio'n llawn?
- Dim ond asesiad o gostau a manteision yr opsiwn a ffefrir a gyflwynir yn yr Asesiad Effaith Rheoleiddiol. Byddai o gymorth cael asesiad o bob un o'r opsiynau a nodir er mwyn galluogi gwneud penderfyniad cytbwys ar gostau a manteision cymharol pob opsiwn.
- Yn gysylltiedig â'r pwynt uchod, a yw pob un o'r costau a nodwyd o dan Opsiwn 3 yn ychwanegol?
- Mae Para 199 yn datgan y bydd cynllunio trefniadau'r ffi drwyddedu yn cael ei adael i bob awdurdod lleol unigol benderfynu arno. Er bod y dull hwn yn gyson â'r un a amlinellir yn Neddf Cartrefi Symudol (Cymru) 2013, mae'r Bil hwn yn cynnwys llawer mwy o safleoedd. Mae'r cynnig yn codi'r potensial am lefelau ffi gwahanol ar draws Cymru a gallai hynny effeithio ar gystadleuaeth (gweler hefyd isod). Ceir cost ychwanegol i awdurdodau lleol hefyd wrth orfod cynllunio, ymgynghori (yn ôl pob tebyg) a chyfleu'r drefn ffioedd yn eu hardal.
- Mae'r ME/AERh yn cyfeirio'n aml at gamau gorfodi/apeliadau yn mynd trwy'r llysoedd, fodd bynnag, nid yw'r AERh yn gwneud unrhyw asesiad o'r gost ychwanegol a osodir ar y system gyfiawnder heb ei datganoli (neu ddatganoledig). Er y bydd Gweinidogion, a'r Cynulliad Cenedlaethol rwyf

yn siŵr, yn dymuno'n naturiol gweld sylw clir ar yr effeithiau ar Gymru, dylai'r dadansoddiad cost a budd ymdrin ag unrhyw effaith ar economi'r DU, yn cynnwys Adrannau Llywodraeth y DU. Nid yw'n eglur a gysylltodd Mr Millar â'r Weinyddiaeth Gyfiawnder mewn cysylltiad â'r Bil hwn.

- Er nad yw cost yr opsiwn a ffefrir i ddiwydiant yn ansylweddol, nid yw'n amlwg o'r AERh fod buddiannau cyflwyno'r ddeddfwriaeth hon yn cyfiawnhau'r costau hyn. Mae hyn yn gysylltiedig â'r pwynt cyntaf par: beth yw hyd a lled y broblem ar hyn o bryd. Fodd bynnag, byddai'r AERh yn cael ei gryfhau hefyd drwy gynnwys tystiolaeth fod y gofynion/y gweithgareddau yn y ddeddfwriaeth wedi bod yn effeithiol yn mynd i'r afael â'r problemau mewn lleydd eraill.
 - Byddai o gymorth pe bai'r AERh yn cynnwys asesiad cystadleuaeth. Gallai'r ddeddfwriaeth roi meysydd carafannu yng Nghymru o dan anfantais o'u cymharu â safleoedd yn Lloegr drwy osod beichiau rheoleiddiol a chostau ychwanegol arnynt - byddai hyn yn wir p'un ai y byddai'r costau'n cael eu trosglwyddo i'r meddianwyr ai peidio.
 - Mae gan yr AERh adran ar Effeithiau Cydraddoldeb ond byddai o gymorth pe bai'r effeithiau ar feysydd pwysig eraill, megis hawliau dynol neu'r iaith Gymraeg, wedi'u gosod allan.
 - Mae'r AERh yn nodi'n gywir mai darluniadol yw nifer o'r costau meintioledig, yn y cam hwn. Mae hyn yn ei gwneud yn anodd i mi ddeall union effaith ariannol y Bil ac a ddylid ei gefnogi. Bydd angen gwaith pellach felly os yw'r pwerau sydd yn y Bil i gael eu gweithredu.
- **Priodoldeb y pwerau yn y Bil i Weinidogion Cymru wneud is-ddeddfwriaeth (fel ag y gosodir allan yn Rhan 1 o'r Memorandwm Esboniadol, sy'n cynnwys tabl yn crynhoi'r pwerau i Weinidogion Cymru wneud is-ddeddfwriaeth)**
Rwyf yn rhesymol fodlon fod y pwerau is-ddeddfwriaeth yn briodol. Nid yw nifer o'r pwerau sy'n galluogi Gweinidogion Cymru i wneud is-ddeddfwriaeth angen gweithredu arnynt yn syth.

Communities, Equality and Local Government Committee CELG(4)-18-14 Paper 2

Introduction

1. Since forming in 1996, NACO's aim has been to provide a voice for static holiday caravan owners throughout the UK. We want to see an acknowledgement of the special relationship that exists between these caravan owners and the owners of the parks on which the caravans are sited. We want a fair contractual arrangement, reflecting the unique nature of the purchasing of a static holiday caravan and proper redress for those caravan owners who fall victim to unscrupulous behaviour.
2. NACO's membership currently sits at 10,373. Our membership is very well distributed across the UK with representation at 2565 parks nationally. We have NACO members at some 616 parks in Wales.
3. NACO has, in general, been very supportive of Mr Millar's bill and its objectives. We have canvassed our entire membership via our member publications, our website and social media. Our member magazine which has a circulation figure of 20,000 per issue has published numerous articles including one with a questionnaire to encourage 'grass roots' involvement with the consultation process.
4. NACO acknowledges that there is a need to re-evaluate the Caravan Sites and Control of Development Act 1960. This includes providing local authorities with appropriate policing mechanisms. For us, as an organisation, a key piece of interest within the proposal is the requirement for a written licence agreement to be issued to holiday caravan owners. Additionally, the protection of caravan owners from harassment is welcomed.

Licensing (Part 2)

5. We question why section 10(5) provides for a fixed penalty notice in a case of breach of condition at level 2 on the standard scale, when level 1 applies to the residential sector.
6. We welcome the new requirement for local authorities to inspect holiday caravan sites at least once every three years. This pro-active stance should assist in maintaining licence conditions.
7. **Fit and Proper persons** We understand that this would be unpopular in the industry and difficult to administer. However, given that such a test exists in the residential sector, our concern is that a person deemed to fail the 'fit and proper' requirements in the residential sector would seek to pursue park operating in the holiday sector to the detriment of holiday caravan owners. The question of what happens to a holiday caravan site if/when the operator fails the 'fit and proper' test is also troubling and could, again, be detrimental to holiday caravan owners.
8. The provision for local authorities to charge holiday caravan site operators for their licence is understandable, but our members have expressed concern that this will be passed on to them via an increase in their pitch fee.

Residence test (Part 3)

9. We have received numerous enquiries regarding the residential use of holiday caravans and our consistent advice has been that this should not be undertaken. However, the scale of the problem is difficult to gauge without structured analysis. We feel that the annual check of residence is too onerous and that the requirements of the act could be satisfied if the check were to be carried out when the caravan is purchased – either from the park or as a second-hand unit. We would note that various local authorities in England are already requesting a residence test be carried out, following increased site licence periods being granted and generally. Once again, we note that any cost implications of the test would ultimately be borne by caravan owners.

Holiday caravan agreements (Part 4)

10. Buying a static holiday caravan normally means a substantial outlay, and it's vitally important that caravan owners are provided with written terms that offer security of tenure. The terms of any pitch licence agreement offered should reflect the complex relationship between park owner and caravan owner.
11. At present there is nothing, in law, which means people buying static holiday caravans are obliged to be provided with written terms. The major park operators in the industry have realised the importance of good written terms and most offer good agreements with security of tenure and fair terms. This is helped by the efforts of their representative bodies – The NCC (National Caravan Council) & The BH&HPA (British Holiday & Home Park Associations). However, most parks in the UK are smaller, family-run type parks, typically under 100 units.
12. This often has the impact of 'legacy' terms and conditions and in some instances sales and obligations are dealt with either verbally or by annual agreements. Annual agreements are just that, you pay your pitch fee, you stay for the year and either party can elect not to renew. NACO believe that annual agreements are not appropriate to govern the use of a static holiday caravan. This view is shared by the OFT.
13. One of our major concerns is that the caravan owner has so much more to lose. Ordinarily, the purchase price will be representative of a 'package price'. The caravan - on a pitch, on a park. If the agreement is ended after only a season or two, the caravan owner's financial losses will be severe.
14. Much like the reform in Northern Ireland, it would be better to have a number of things that are required from a contract as a minimum, and allow operators to adopt their own favoured terms. Pinning down to say, one industry model, has its own complications.
15. However, this said, we feel that the stipulations in the Northern Ireland model don't really go far enough with regard to the specific requirements of the contractual terms. Things like minimum tenure and maximum private sale commission or 'transfer fee' are really key.

Protection from harassment (Part 5)



Supporting static caravan owners across the UK

Consultation on Holiday Caravan Sites (Wales) Bill

Evidence of the National Association of Caravan Owners (May 2014)

16. We applaud the inclusion of this section as we feel that a specific instrument for the protection of holiday caravan owners from harassment and aggressive eviction behaviour is overdue.

financial implications of the Bill

17. Once again, the cost of implementation will ultimately be borne by holiday caravan owners. Whilst this is not of itself desirable for our members, we feel that the benefits of the act should be considered.

Communities, Equality and Local Government Committee
CELG(4)-18-14 Paper 3

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Communities, Equality and Local Government Committee, National Assembly for Wales
By email: CELG.committee@wales.gov.uk

Consultation on Holiday Caravan Sites (Wales) Bill
Evidence of the British Holiday & Home Parks Association

19 May 2014

1. The British Holiday & Home Parks Association (BH&HPA) is the representative trade body of the parks industry in the UK. 1,877 BH&HPA members own and manage 2,922 parks accommodating 385,056 pitches across the UK, including 423 parks with 53,912 pitches in Wales¹.
2. Over 70% of Wales' tourist bed stock is provided by camping/caravanning (touring and static) establishments: 399,124 tourist beds in 1,322 establishments². The turnover and visitor expenditure as a result of Wales' holiday and touring park industry is some £727m per annum. Its economic impact to Wales has been calculated as a GVA contribution of £317m per annum, supporting 10,645 direct and indirect jobs in Wales, with further employment sustained in other areas of the UK³.

General principles

3. The industry has given qualified support to Mr Millar AM's objectives. Mr Millar AM has engaged with us in the development of his Bill and whilst the requirements now proposed are more pragmatic than the earlier version upon which we were consulted, considerable grave concerns remain.
4. For example, the industry recognises the need to modernise site licensing for holiday parks under the Caravan Sites and Control of Development Act 1960 including in order to provide local authorities resources for their licensing work. However rather than modernising the system, the Bill proposes radical reform.
5. Such sweeping change creates risk for the industry and its contribution to the Welsh economy. Given the magnitude of the changes proposed, they should not be enacted in the absence of an evidence base for the problems the Bill seeks to address, nor without proper evaluation of their costs and impact. A more cautious approach is necessary to give knowledge and experience to safeguard the economics of the industry and the employment it sustains, whilst ensuring a regulatory system to safeguard the industry and its consumers for the future.

¹ BH&HPA database, April 2014

² Welsh Government Bedstock Data : Situation as at March 2013 - <http://wales.gov.uk/docs/drah/publications/Tourism/bedstock2012en.pdf>

³ Economic Impact Assessment of the Holiday Park Industry in Wales, British Holiday & Home Parks Association / VisitWales study September 2011

6. The Bill modifies and applies the requirements of the Mobile Homes (Wales) Act 2013 to holiday and touring parks. However, protections designed for housing vulnerable elderly residents are inappropriate when applied to tourism businesses and would create a disproportionate burden.
7. Whilst residential parks trade in a relatively stable market, consumers of and investors in tourism businesses can simply decide to take their custom and/or investment elsewhere. Flexibility is essential to respond to the volatility of the holiday market. Tourism is price sensitive and regulation should not disadvantage Welsh park businesses' ability to compete.
8. Despite incorporating elements of industry best practice amongst its proposals, when viewed in the round, the whole is greater than the sum of its parts. Combined, the measures would create a disproportionate burden of uncertain cost and unknown impact.
9. The regime for residential parks upon which the Bill is based will not be commenced until October, so its costs and consequences for residential parks are as yet unknown. If the Bill is enacted, Wales's holiday and touring parks would be unique in the UK to be trading under such a complex regulatory regime as is proposed. There is considerable potential for unintended consequences – and therefore high risk - in applying such an untested, burdensome system to the sector which is central to Wales' tourism economy. In the absence of evidence, we also question the justification for such a complicated – and therefore costly - regime.

Licensing (Part 2)

10. As above, the Bill tailors the licensing regime for residential parks to the industry. Yet, there is no justification for the application of, for example, £500 fixed penalty notices, fit and proper person licensing and interim managers to a microbusiness - say a husband-and-wife team - receiving holidaymakers on a touring park for short breaks. It is the market rather than regulation which ensures standards as their business survival depends on their park infrastructure and customer service. However, regulation could increase their prices making them less competitive, or uncompetitive.
11. To address some aspects of the licensing regime proposed:
 - 11.1. **11 Duration of site licences** - We are greatly relieved that the Bill does *not* propose time-limited site licences as this would severely undermine lenders' confidence and therefore jeopardise industry investment, as well as remove customers' access to credit.
 - 11.2. **21 Fixed Penalty Notices** - Both the Mobile Homes (Wales) Act 2013 and the Bill refer to Local Authorities' use of fixed penalty notices where a breach of site licence condition is identified. For residential parks, the maximum penalty is set at £200, for holiday and touring parks, the Bill proposes £500. This is a disproportionate penalty for a minor breach of a site licence. The rationale for Fixed Penalties is to provide the putative offender the opportunity to avoid prosecution by payment of the penalty. However, this principle falls down when the level of penalty is set at up to £500. Natural justice dictates this level of fine should only be levied following independent judicial scrutiny (a fair hearing) and that there should be an appeal mechanism. A £500 fee is open to abuse as it creates too much of an incentive for councils to maximise revenue, whilst being sufficient to cripple a small business. In addition, setting the penalty at such a high level means that many businesses would opt for prosecution, thereby defeating the object.
 - 11.3. **33 Fit and Proper Person Licensing** – There is neither evidence of the efficacy of a fit and proper person regime for tourism businesses, nor of the need for one. The same regime must be applied to micro-businesses, say managing a tiny family touring park with pitches for six touring units and a corporate business running many parks across the UK with thousands of pitches. For a husband-and-wife team managing a micro-business, there is no evidence to justify a fit and proper person regime. Equally staff changes within corporate business would necessitate frequent re-testing of the fitness of park managers,

creating cost, unnecessary work for local authorities and reducing the flexibility of corporate groups to deploy their management staff across parks within their group.

12. Without evidence in justification and whilst parks in Wales compete with those across the border and with all other tourism businesses in Wales, we fear the proposals can only place Wales' parks industry at a competitive disadvantage. For example, there is no suggestion there should be similar licensing requirements on the providers of bed and breakfast accommodation or holiday villages, whilst self-catering holiday properties are specifically to be exempted from the licensing requirements of the Housing (Wales) Bill.

Residence test (Part 3)

13. The Bill's primary objective is to 'address unlawful occupation of caravans'. However, there is **no** authoritative research as to the extent of residential misuse of holiday parks across Wales. The only research study of the issue was conducted by Sheffield Hallam University relating to the East Lindsey local authority area in Lincolnshire⁴. The report makes clear that the circumstances in East Lindsey are unique and so its findings cannot be extrapolated to the whole of Wales.
14. Anecdotal reports indicate that there may be a problem away from tourism 'honeypots' in Wales, and particularly in areas of both over-supply of caravan pitches and the presence of multiple deprivations (see appendix). In these circumstances, economic and social factors may drive individuals to seek the cheapest forms of residential accommodation. However, in the absence of a clear evidence base, we question both the regulatory burden the Bill proposes and the enforcement approach which may raise issues with regard to homelessness/rehousing for the consumers it targets.
15. The Residence Test outlined in Part 3 reflects industry best practice in that park owners check and maintain an up-to-date register of their customers' home addresses. However:
- a good park would **not** seek proof of residence every 12 months from all customers as is proposed by the Bill (46.). For example where the customer is evidently absent and responds to correspondence at their home address, an annual demand for paperwork is clearly superfluous and contrary to the principles of good customer service.
 - equally, a good park owner would **not** 'whistle blow' a good customer to the local authority in the case of a short term 'failure' of the Residence Test, particularly if there were extenuating circumstances such as a family bereavement.
16. Further, both consumers and park owners could 'pass' the Residence Test proposed, despite residential mis-use of the park. For example, the consumer could simply register with a financial institution and on the electoral roll at a relative's address in order to provide the evidence required, despite residing in their holiday caravan. This could be with, or without, the collusion of the park owner.
17. The Residence Test proposed by the Bill would not therefore achieve its objective, but its repeat every year would create considerable cost and would generate bad feeling between Welsh holiday parks and their customers (customers who would have the option to take their business elsewhere).
18. Instead of a requirement on the park owner to serve as '*gatekeeper of public services*⁵', where Local Authorities identify breaches of planning/site licence holiday-use requirements, they should employ the enforcement tools already available to them, on a case by case basis.

Holiday caravan agreements (Part 4)

⁴ 'THE CARAVAN COMMUNITIES OF THE LINCOLNSHIRE COAST', Centre for Regional Economic and Social Research, Sheffield Hallam University with East Lindsey District Council <http://www.shu.ac.uk/research/crest/sites/shu.ac.uk/files/caravan-communities-lincolnshire-coast.pdf>

⁵ Jocelyn Davies AM, National Assembly for Wales, 19 March 2014

19. The requirements of the Bill reflect industry best practice in providing customers written Agreements setting out the important terms agreed between consumer and park business.

20. However, the terms the Bill proposes to imply into all such agreements are wrong:

20.1. 56 (3)(d) proposes that the park should provide copies of the most recent utility bills to the consumer, **whether or not** the consumer has any interest in those bills. Whilst the law already requires the provision of such evidence where utilities are recharged to the consumer, the Bill goes further in requiring the business to divulge commercially-sensitive information **whether or not** those utilities are recharged to consumers. This is wrong.

20.2. Industry members are also concerned that the requirement of 56(3)(e) for statutory consultation on operational matters would create unnecessary cost, bureaucracy and an incentive for litigation and so impact on their flexibility in developing their business. It could also drive down standards and act as a barrier to investment. Without the necessary flexibility, the industry in Wales would be trading at a disadvantage to their English competition as well as other holiday providers in Wales.

Protection from harassment (Part 5)

21. Whilst the industry wholeheartedly embraces protections against harassment for park customers, we do not understand why the Bill seeks to duplicate the protections against harassment which are already in place for park customers under the Eviction Act 1977.

Barriers to implementation

22. Perhaps the greatest barrier to implementation of the Bill would be a shortage of local authority human resources to implement the complex licensing regime. It seems the new law could be introduced during the early days of commencement of the Mobile Homes (Wales) Act 2013, as well as the licensing of private rented sector landlords under the proposals of the Housing (Wales) Bill.

23. Scarcity of resources to implement licensing (based on a housing model) to 1,322 tourism businesses would create a considerable barrier. Are there sufficient competent enforcement officers available in Wales?

Unintended consequences

24. Only with hindsight can a clear picture of unintended consequence be established. However, the following may be envisaged:

24.1. **Competitive disadvantage** - The single most important unintended consequence would be the competitive disadvantage created by the Bill's requirements for holiday and touring parks in Wales. The costs and red tape of the proposals are both sufficient to drive customers and investment to competition in England.

24.2. **Unfair competition** – Like the 1960 Act, parks operated by local authorities and the recreational parks operated by the Exempted Organisations (such as the Caravan Club and Camping & Caravanning Club) are excluded from the Bill's requirements. Given the unknown costs and impact of the regime proposed, this creates potential issues of unfair competition between the public and private sector and between commercial and consumer-operated recreational parks. An expensive licensing regime applied to parks would also create unfair competition with other tourism businesses, e.g. chalet parks, holiday villages, self-catering, B&B, hotels etc.

24.3. **Disadvantage for small business** - Further, the costs of the licensing regime would create a disproportionate burden on small parks businesses. For example, the costs to evaluate whether a park manager was 'fit and proper' would be the same, whether that manager was responsible for six or 600 pitches.

24.4. **Homelessness** - In the absence of an evidence base, the impact of the Bill's proposals on any consumers unlawfully occupying their caravans is impossible to assess but any made homeless should nevertheless be a consideration for the Assembly.

24.5. **Market/Reputational damage** – There are also concerns that caught in the cut-and-thrust of Welsh politics, the publicity surrounding the passage of the Bill may damage the reputation of Welsh holiday parks. There is a responsibility on the Assembly and its Members to protect Welsh jobs and businesses.

Financial implications

25. The Bill proposes complex requirements to be applied to over 1,300 park businesses, providing over 70% of Wales tourist beds. We consider the figures outlined in the Explanatory Memorandum considerably underestimate these costs.

26. For example, Para 203 of the Explanatory Memorandum suggests the cost for the fit and proper person checks can be based on the costs of Criminal Record Checks. However, the Fit and Proper Person test is a more subtle assessment, requiring the exercise of discretion, rather than a search of a criminal conviction database. The Criminal Record Check would be the first step before the local authority should identify and assess '*all matters which it considers appropriate*' and any trading standards and housing (including caravans) '*contraventions*' (which are not stored on a single database). It would require liaison with each local authority in Wales (and perhaps across the UK) in order to establish whether any relevant enforcement had been undertaken against each applicant. To suggest that such work could be achieved for between £25 and £44 is either to propose that the test is meaningless, or that local authorities would not follow the requirements laid out in the Bill. (See also 24.3 above which describes the disadvantage to small businesses from the fixed costs of the licensing regime.)

27. Para 204 of the Explanatory Memorandum suggests the average cost of conducting the first residence test would be £100 per park. This £100 would need to cover staff time and costs in contacting all customers to request two 'proof of residence' documents, explain the need for these documents, chase where no response is received, then copy these documents to establish the register. £150,000 is the estimate for the cost of this work across the industry in contacting, chasing, and then following up with some 70,000 caravan owners. The figures simply don't add up!

28. Further, in the absence of an evidence base, the Explanatory Memorandum cannot evaluate costs to Local Authorities in enforcement against caravan owners, nor of supporting any made homeless through the application of the Bill's requirements.

Subordinate legislation

29. 21(3)(b) states Ministers '*may*' regulate to restrict the application of fixed penalty notices. Given the proposed maximum penalty of £500, we consider it essential Ministers *must* regulate to prevent abuse (see 11.2 above).

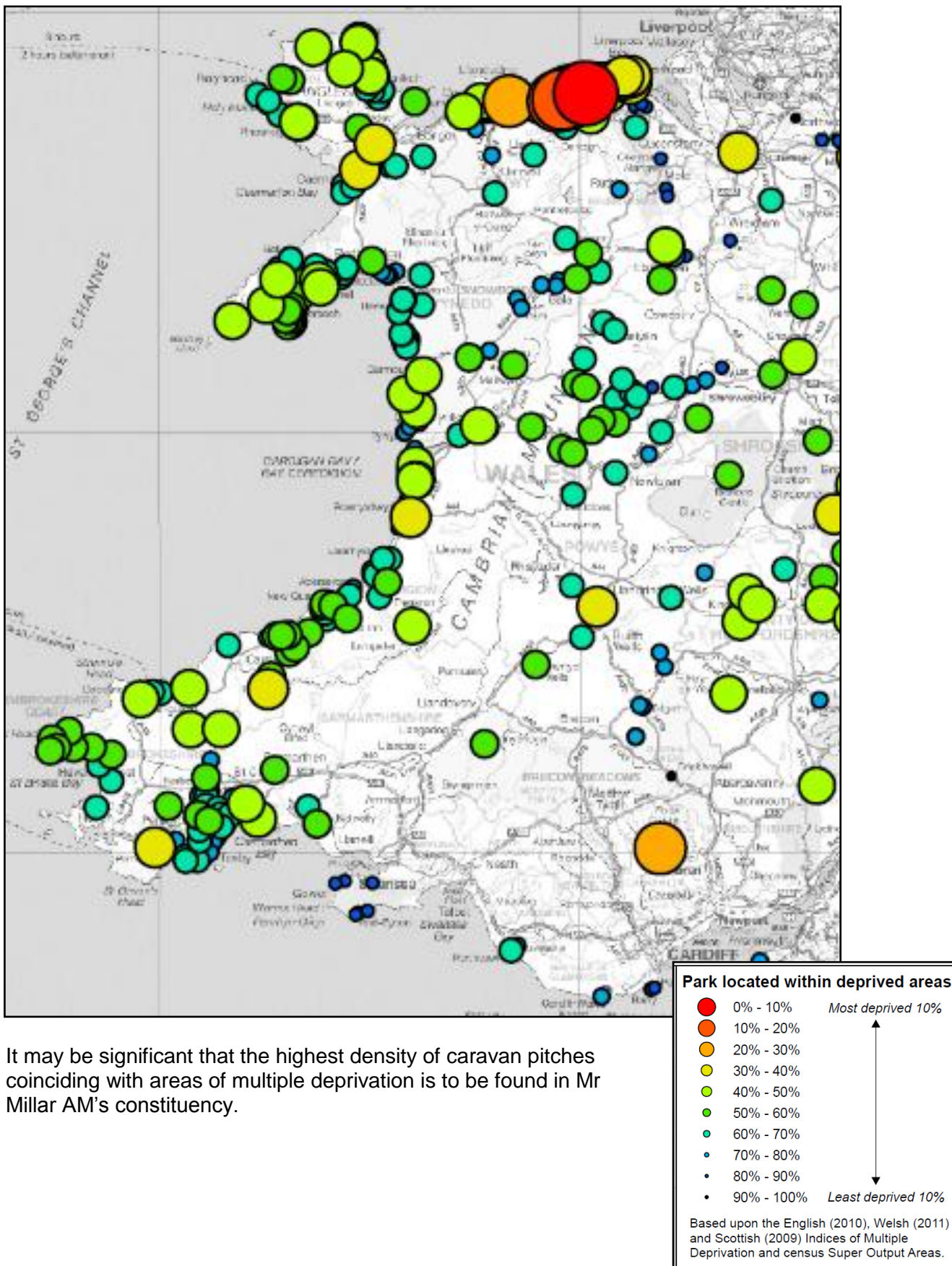
Conclusion

30. As indicated above, the industry has given qualified support to the objectives of the Bill and appreciates that it contains many elements of industry best practice. However the Bill also seeks to tailor a regime designed to provide protections to vulnerable residents in their homes, to a tourism business and does so in the absence of an evidence base.

31. Whilst modernisation of the current regulatory regime would be likely to give benefit and receive industry support, the Bill's proposals to introduce a complex and inappropriate regulatory burden would place Wales's holiday and touring parks at competitive disadvantage, risking the jobs they sustain. Therefore, we underline our grave concerns at the un-costed regulatory burden the Bill proposes. The principles of better regulation should apply.

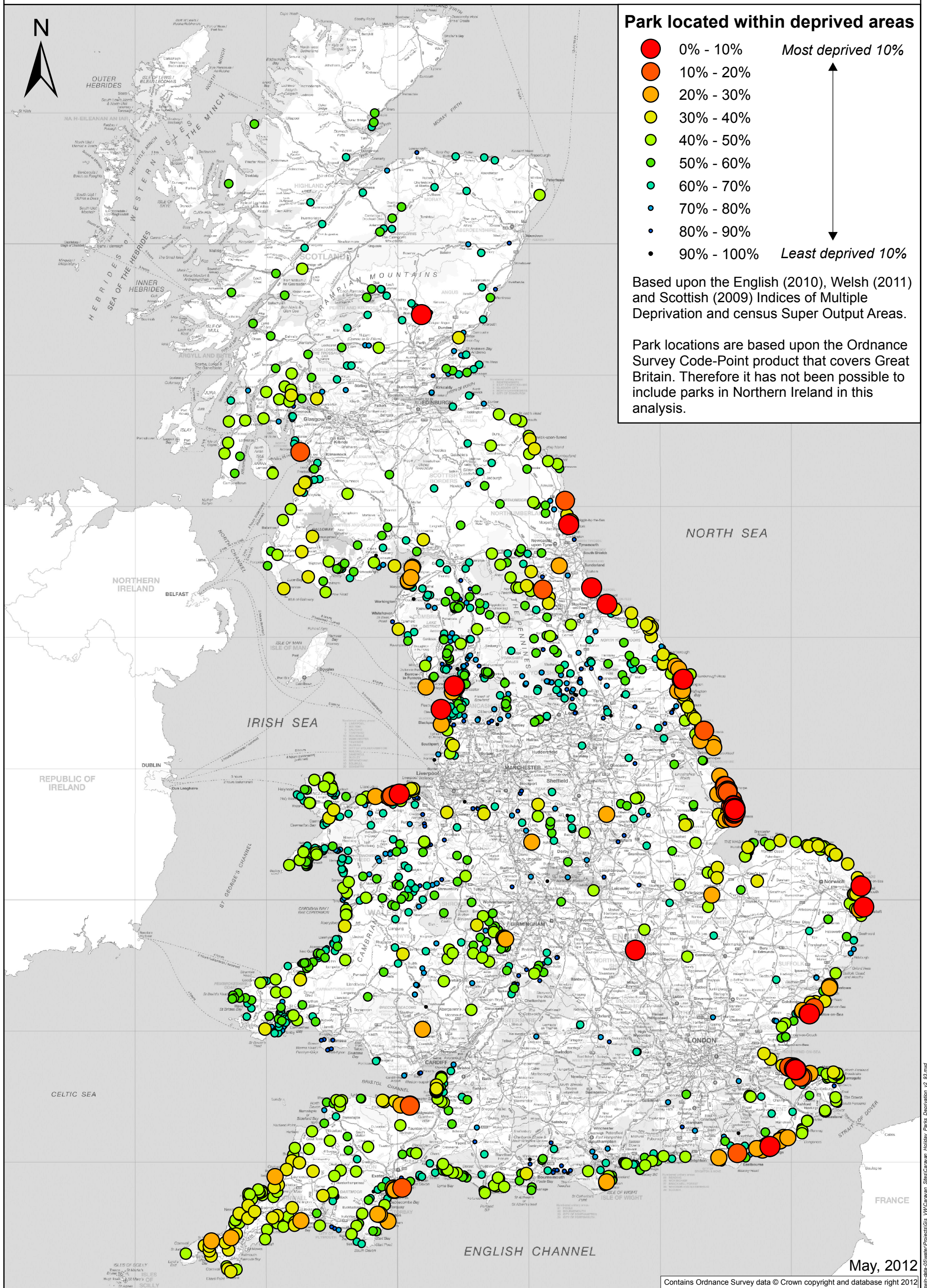
APPENDIX

Holiday parks with static caravan pitches in BH&HPA membership, mapped against areas of multiple deprivation (2012)



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

BH&HPA Member Caravan Holiday Parks related to areas of multiple deprivation



Communities, Equality and Local Government Committee
CELG(4)-18-14 Paper 4



Holiday Caravan Sites (Wales) Bill: consultation

**Response from the National Caravan Council (The NCC) to the Communities, Equality and Local Government Committee inquiry
23 May 2014**

Introduction:

1. The NCC (National Caravan Council) is the UK trade body for the touring, motorhome, holiday caravan and residential park home industries. Formed in 1939, the NCC represents a membership in excess of 550 companies engaged in the industry throughout the entire supply chain; manufacturers, retailers, suppliers and service providers, and operators of both holiday and residential parks.
2. The industry employs in excess of 90,000 people and services 1 million caravanners and over 330,000 holiday caravan owners across the UK. According to the Welsh Government Bedstock data, as at March 2013, in excess of 70 percent of tourism bedstock in Wales is provided by camping/caravanning (touring and static caravan) establishments; 399,124 tourist beds in 1,322 establishments.
3. According to a research study carried out by VisitWales on the holiday park industry in Wales in 2011, the economic impact of the holiday caravan and touring park industry in Wales has been calculated as a GVA contribution of £317m per annum, supporting 10,645 direct and indirect jobs in Wales and further employment sustained in other areas in the UK.

This response focuses on the six terms of reference outlined by the Committee:

General Principles and the need for legislation to modernize the regulatory framework for holiday caravan sites in Wales:

4. The NCC recognises and supports measures to modernise and streamline the holiday caravan sector which are relevant, proportionate and achievable. We have worked closely with Mr Millar and his team on the development of this Bill since May 2013 and welcome recent amendments, particularly in acknowledging our representations to present the proposed reforms in this Bill in

a sector-specific 'stand-alone' Bill.

5. Whilst there have been significant, pragmatic changes to the original Bill since its introduction, many serious concerns remain. We maintain it is essential that any regulation of the holiday caravan park sector that may follow:
 - does not attempt to apply to a vibrant and dynamic tourism business sector an inappropriate regulatory burden which has at its core a regime written specifically to address significant concerns in the residential mobile home sector
 - addresses proven evidence of abuse in the sector
 - allows the holiday parks industry to compete effectively and fairly
 - does not create a competitive disadvantage for holiday caravan parks in Wales
6. The NCC recognises the need for modernisation in the licensing regime and the application of existing industry best practice through clear and unambiguous written agreements and standards. The latter reflects the NCC's approach to raising standards and levels of customer satisfaction through its independently assessed *NCC Approved Holiday Park Holiday Home Ownership Scheme*, which has at its core a Code of Practice and clear, concise written agreements.

The parts of the Bill –

Licensing (Part 2)

7. It is recognized that the licensing regime in place for the sector would benefit from some modernization and streamlining to align it with a modern, dynamic tourism proposition. However, some of the measures proposed would, in the absence of an evidence base to justify the stringency of the measures, simply add a level of cost and bureaucracy and uncertainty to those investing and operating in the sector. In particular, the proposed level of fixed penalty notice (£500) for a breach – however minor – of site licence conditions is grossly disproportionate and has the potential to damage the important relationship between operators and local authorities.

Fit and Proper Person Test

8. The NCC strives to raise standards of professionalism and customer care within the industry, and many business operating in the holiday park sector are already subjected to a number of 'tests' imposed by regulatory bodies (FSA) and others to enable them to conduct business. Whilst there is no evidence of the abuses recorded in the residential sector to justify the imposition of a 'fit and proper person' test regime in the holiday sector, recognition of existing mandatory 'tests' together with the NCC Approved Holiday Park Holiday Home Ownership Regime (designed to set standards amongst holiday caravan parks) should be accepted by local authorities without the need for additional testing. This would remove the extra punitive cost to businesses (fees and management time which would far exceed the suggested cost of £100 per park) of applying for approval and re-testing of multiple park managers (particularly in the larger park group businesses), as they are deployed across parks, and as they move and progress within the individual business and group structures.

Residence Test (Part 3)

9. The proposed Residence Test reflects existing best practice in requesting, checking and recording holiday home owners' permanent home addresses. However, as drafted, it also presents a number of additional issues which in the round would not achieve the stated objective of '*addressing unlawful occupation of caravans*'. Insisting that it is performed every year adds unnecessary cost and administrative burden to park operations; requiring parks to report changes in use immediately without the flexibility to take account of extenuating circumstances (divorce or family bereavement) and to act sensitively and effectively through prescribed internal processes risks damaging the relationship between owner occupiers and the business.
10. Crucially the application of the Test to essential specialist and creative team-staff members employed on short-term fixed contracts will impact significantly on a park's ability to compete with other leisure/tourism businesses who already offer accommodation without such restrictions (hotels, cruise ships), and place holiday parks at a serious commercial disadvantage.
11. Such staff teams (comprised of up to 150 seasonal employees at any point in the year) are recruited nationally, and to retain their services and to accommodate the necessary shift patterns required by the business, accommodation on park is key. Employment contracts and HR files invariably carry personal details, including home addresses, so carrying out additional test appears duplicitous and invasive. Furthermore, to expect such staff to find accommodation locally, even if were available, would impose a drain on accommodation resources available to the local community which is both unnecessary and unacceptable.
12. Frequent and invasive testing would also challenge the relationship between holiday park business and their existing holiday home owners and may, in turn, prompt prospective holiday caravan owners to reconsider their options for investing their new-found leisure pound in tourism businesses outside the holiday caravan sector in Wales.

Holiday Caravan Agreements (Part 4)

13. The introduction of written agreements within the sector reflects industry best practice and is a core element of the NCC 'Approved Holiday Park' code regime.
14. Whilst we recognize that potential purchasers should have sufficient time to consider their potential investment and the rights and responsibilities of holiday home ownership, the requirement in section 55(3) which denies both the potential 'occupier' and the park owner the opportunity to shorten the period of time before the sale can take place (a mandatory 28 days) will have a devastating impact on holiday parks and their ability to compete effectively.
15. The industry model purchase agreement already provides for a minimum cooling off period (which already exceeds regulatory requirements and is often extended by park operators), and whilst some customers may require a longer period to finalise their decision, many want to complete the purchase at the earliest opportunity having made an informed decision with the benefit of all the paperwork in advance. Imposing a mandatory 28 day period without the opportunity to shorten the period with the agreement of both parties removes the consumer's freedom of choice, and will serve to frustrate and risk the failure of the transaction completely.

16. We do not believe it is Mr Millar's intention to restrict consumer choice, or holiday parks to compete effectively in the tourism/leisure accommodation market. Such a draconian measure will cause irreparable damage to the sector, fails to recognize the distinction between the holiday park sector and the residential sector and imposes a more onerous and prescriptive requirement than the relevant provision enacted in the Mobile Home Act (Wales) 2013.
17. Park businesses remain deeply concerned about the requirement for consultation under Section 56(3) (e) on all 'significant' operational matters, where 'significant' remains undefined. In addition to adding further costs and administrative burden to the operation, lengthy and complex consultations would impact on their ability to evolve and develop their businesses at the speed required by modern business.

Protection from harassment (part 5)

18. Appropriate measures to afford protections against harassment for 'occupiers' are applauded and supported. They should be clear, unequivocal and proportionate, and not duplicate or contradict existing provisions in earlier legislation (Protection from Eviction Act 1977).

Potential barriers to the implementation of the Bill

19. Effective and efficient implementation of the provisions will be determined by the level and availability of resource at local authorities who will be required to both implement and enforce a challenging and comprehensive licensing regime within a relatively short period of time alongside other equally challenging legislative changes in both the mobile home sector and the housing sector.

Any unintended consequences arising from the Bill

20. If the proposals were to be enacted caravan holiday and touring parks in Wales would be the first in the UK to trade under such a complex regulatory regime. As drafted there is considerable potential for unintended consequences in applying the basis of an as yet untested legislative regime to a tourism sector which is key to the tourism economy in Wales. In addition we believe the following could follow:

21. Competitive disadvantage

Regulation and added bureaucracy could increase the price of holiday caravan ownership in Wales making it less competitive, risk reducing valuable local employment, and effectively signpost consumers towards the rest of the UK and beyond to seek alternative holiday home options. These burdens of regulation, punitive constraints (including restrictions on consumer choice), and escalating costs of implementation are specific to businesses in this sector; they are not extended to other tourism/leisure businesses across Wales (including hotels, holiday villages, B&Bs etc) which all offer similar accommodation provisions. This places holiday parks at a significant and real competitive disadvantage.

22. Potential risk of Homelessness

We have concerns that in the absence of evidence to support the proposals in relation to residential mis-use of holiday caravans, the proposed enforcement regime may raise issues with

regard to homelessness/rehousing for the consumers it targets. The potential for inadvertent mis-selling of holiday caravans through either poor staff training or consumer stealth, and which in turn may contribute to residential mis-use, appears to have been overlooked. The remedies for victims in such instances are unclear.

23. Anti-business, anti-consumer and unfair competition

The measures highlighted above are not only competitively unfair, and place holiday park businesses at a competitive disadvantage, but are also anti-business and anti-consumer. We have stressed the unintended consequence of potentially restricting a consumer's choice to secure an agreement to purchase when they are ready. Further, the creation of a prescriptive and expensive regime applied exclusively on privately owned and operated holiday parks to the exclusion of parks owned and operated by local authorities, or those listed as exempted (exempted organisations) also creates the potential for an uneven playing field with similar tourism businesses such as B&Bs, small hotels and other self-catering establishments.

Financial implications of the Bill (Part 2 of Explanatory Memorandum)

24. Residence Test

Costs related to the administration of an annual residence test for a holiday park operator will be significant. Contrary to the suggested £75 per park per year after year two of implementation, figures closer to in excess of £17,500 per year for a medium sized operator and up to £150,000 for the cost to the industry across Wales has been advised.

25. Fit and Proper Person Test

Assuming the figures for an enhanced check based on the Scottish model cited in the Explanatory Memorandum to be broadly representative, the figure of around £100 per park, which is adding to costs already incurred in meeting existing regulatory requirements (FSA) are severely underestimated, duplicitous and unnecessary.

Powers for Welsh Ministers to made subordinate legislation

26. Such powers should be retained to ensure that an appropriate level of flexibility and redress to remedy or reform unintended consequences can be applied.

Summary

In summary we reiterate our qualified support for proportionate measures that will help deliver the key objectives outlines in this proposed legislation, but stress that this can only be achieved by ensuring:

- That the key drivers to address issues of residential misuse of holiday caravans are correctly researched, evidenced and properly costed
- Appropriate levels of resource are made available to local authorities to enable them to work positively with the sector to deliver an effective and efficient licensing regime
- There is recognition of existing mandatory tests including the NCC independently assessed and monitored Approved Holiday Park Holiday Home Ownership Scheme to determine whether an owner/licence holder is fit and proper to hold a licence; and that there is a greater

understanding that if required such a test should be workable without undue burden on park operators

- There is a re-evaluation of the appropriate legislative vehicle to help secure these measures and meet stated objectives, and which does not draw on a regime with protections designed purely for housing vulnerable elderly residents rather than a vibrant, dynamic tourism business sector.

Eitem 5

2014 - Papurau i'w nodi

Papur rhif:	Mater	Oddi wrth	Cam Gweithredu
5	Lefelau cyfranogiad mewn chwaraeon	Chwaraeon Cymru	Mae Prif Weithredwr Chwaraeon Cymru wedi ysgrifennu at y Cadeirydd yn dilyn cyhoeddiad adroddiad y Pwyllgor ar lefelau cyfranogiad mewn chwaraeon.

17 Mai 2014

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Annwyl Christine

Roeddem yn dymuno ysgrifennu er mwyn rhoi i chi ac i weddill y pwyllgor y wybodaeth ddiweddaraf am y datblygiadau ers i chi gyhoeddi eich adroddiad *Lefelau cymryd rhan mewn chwaraeon*. Rydym yn croesawu'r adroddiad a'r cyfle mae'n ei roi i ymestyn y drafodaeth ar y rôl y mae chwaraeon yn ei chwarae ym mywyd cenedlaethol Cymru a sut gallwn ni wella'r ffordd rydym yn cydweithio er mwyn creu Cymru iachach a mwy egniol.

Arolwg 2012 ar Oedolion Egniol

Yn ddiweddar, cyhoeddwyd canlyniadau Arolwg 2012 ar Oedolion Egniol gennym. Canfuwyd bod 262,000 yn rhagor o oedolion (15+ oed) yn cymryd rhan yn rheolaidd mewn gweithgareddau chwaraeon, sy'n golygu deirgwaith neu fwy yr wythnos. Mae hyn yn golygu bod 39% o'r boblogaeth yn 2012 yn cymryd rhan mewn chwaraeon yn fwy rheolaidd, o gymharu â 29% yn 2008/09. Canfuwyd hefyd bod y cymryd rhan yn gyffredinol mewn chwaraeon wedi cynyddu, gan gynnwys y ffigurau ar gyfer yr holl brif chwaraeon, yn groes i'r duedd tymor hir, a oedd wedi parhau'n statig i raddau am oddeutu deng mlynedd. Mae'r gwirfoddoli mewn chwaraeon wedi dyblu hefyd, o 4.6% yn 2008 i 10.4% yn 2012. Mae'r aelodaeth o glybiau chwaraeon wedi cynyddu o 16% yn 2008/09, o 16% i 27% o'r boblogaeth yn 2012, ond mae mwy o ddynion yn aelodau o hyd. Gellir llwytho papur llawn ar gyflwr y genedl i lawr yn:

www.sportwales.org.uk/activeadults

Er bod y rhain yn ffigurau cadarnhaol sy'n dangos tuedd o gynnydd, nid ydym am orffwys ar ein rhwyfau o ran yr angen am barhau i fuddsoddi a datblygu ein darpariaeth, fel bod pob plentyn, person ifanc ac oedolyn yn gallu elwa o gymryd rhan am oes mewn chwaraeon.

Rhaglen Galw Am Weithredu Chwaraeon Cymru

Canfu'r Arolwg ar Chwaraeon Ysgol a'r Arolwg ar Oedolion Egniol bod bylchau yn y cymryd rhan o hyd, er gwaetha'r cynnydd cyffredinol. Fel y dywedwyd gennym yn ein tystiolaeth i'r pwyllgor, nid ydym yn credu bod y rhwystrau sy'n atal cymryd rhan mewn chwaraeon yn anochel na chwaith yn amhosib eu goresgyn.

Er mwyn mynd i'r afael â hyn, ym mis Ebrill, lanswyd rownd nesaf rhaglen gyllido Galw Am Weithredu gennym, gyda £3 miliwn o gyllid y loteri genedlaethol yn dod ar gael i fynd i'r afael â'r bwlch yn y cymryd rhan, ac i greu amgylchedd chwaraeon lle mae gan bawb gyfle cyfartal i gymryd rhan. Byddwn eisiau buddsoddi mewn prosiectau a sefydliadau sy'n gallu cyflwyno mwy o gymryd rhan ymhlith merched ifanc, cymunedau o bobl dduon a lleiafrifoedd ethnig (DLLE), pobl ag anableddau neu blant a phobl ifanc sy'n byw mewn tlogdi. Rydym wedi mynd ati'n fwriadol i beidio â gosod llawer o amodau, rhag mygu creadigrwydd sefydliadau, ac rydym yn hapus gyda'r ymateb rhagorol gan amrywiaeth eang o bartneriaid, hen a newydd. Rydym wedi trefnu cyfres o sioeau teithiol hefyd, fel bod y sefydliadau'n gallu trafod eu syniadau. Mae cam cyntaf y broses ymgeisio'n cau ar 20^{fed} Mehefin a byddem yn croesawu unrhyw gefnogaeth y gall aelodau'r pwyllgor ei rhoi er mwyn annog sefydliadau i ystyried ymgeisio. Mae rhagor o wybodaeth ar gael drwy ddilyn y ddolen hon:

<http://www.sportwales.org.uk/calls4action>

Methodoleg Arolygu Chwaraeon Cymru

Rydym yn cydnabod yr argymhelliad perthnasol i'r ffordd rydym yn cynnal ein dau arolwg ar raddfa fawr. Mae'n rhan o'n harfer safonol i adolygu'n rheolaidd fethodoleg a chynnwys ein harolygon, er mwyn sicrhau eu bod yn cadw at arferion da ac yn diwallu anghenion Chwaraeon Cymru a Llywodraeth Cymru.

Fel cyflenwr Ystadegau Swyddogol, mae gennym ddyletswydd i gydymffurfio â'r Cod Ymarfer ar gyfer Ystadegau Swyddogol. Mae'r Cod hwn yn datgan bod gennym ddyletswydd i ddefnyddio "*dulliau gwyddonol o gasglu ystadegau a seilio cyngor ystadegol ar ddadansoddiadau manwl iawn o'r dystiolaeth*". Pe na bai gennym hyder ym methodoleg neu yng nghanlyniadau'r Arolwg, ni fyddem yn cyhoeddi'r data. Gyda'r holl ddata rydym yn eu cyhoeddi, rydym yn cyflwyno canllawiau ynghylch pa mor fanwl gywir yw'r data hynny. Mae'r dull hwn o adrodd yn ôl yn arfer safonol ar draws y Llywodraeth. Byddwn yn dibynnu ar y mesur ac ar lefel y gwahanu i benderfynu a yw'r data'n ddigon cadarn i'w cyhoeddi.

Ar gyfer rhai o'n mesurau allweddol o Arolwg 2012 ar Oedolion Egnïol - *wedi gwirioni ar chwaraeon ac aelodaeth o glybiau chwaraeon* - nid yw'r data'n ddigon cadarn (oherwydd bod y samplau'n fach) i'w cyhoeddi ar gyfer grwpiau DLIE. Er hynny, gyda'n mesur tymor hir o gymryd rhan mewn chwaraeon (unrhyw gyfranogiad mewn chwaraeon yn ystod y 4 wythnos diwethaf), roeddem yn gallu adrodd yn ôl ar rai grwpiau DLIE. I'r gwrthwyneb, mae ein holl fesurau allweddol yn gadarn wrth i ni wahanu yn ôl lefel incwm teulu. Mae'r tablau data sydd wedi'u cyhoeddi a'r cyfarwyddyd cysylltiedig i'w gweld yn: www.sportwales.org.uk/activeadults.

O ran *Arolwg 2013 ar Chwaraeon Ysgol*, ac oherwydd maint y sampl, roedd posib i ni ddarparu data cadarn ar wahân am ystod o grwpiau poblogaeth, gan gynnwys DLIE.

Rydym yn cynnal cyfarfodydd dwyochrog rheolaidd gyda Phrif Ystadegydd Llywodraeth Cymru. Yn y cyfarfodydd hyn, mae'r Prif Ystadegydd a'i dîm ystadegol yn gweithio gyda ni ac yn ein cynghori ynghylch ein cydymffurfiaeth â'r Cod. Pan ryddhawyd canlyniadau Arolwg 2013 ar Chwaraeon Ysgol gennym, cawsom adborth cadarnhaol gan y Prif Ystadegydd ar ein dull o gyflwyno'r arolwg.

Er ein bod yn cydnabod bod natur anstatudol yr Arolwg ar Chwaraeon Ysgol yn golygu bod y cymryd rhan yn wirfoddol, ac yn dibynnu i raddau helaeth ar ewyllys da ysgolion a phartneriaid tuag at yr arolwg, drwy gynhyrchu cyfres o bwysoli samplau, rydym yn cywiro'r amherffeithrwydd yn y sampl o ymatebion a gasglwyd, ac a allai arwain at ragfarn a gwyro fel arall rhwng y sampl a'r boblogaeth. Mae'r pwysoli samplau'n gwneud iawn am yr amherffeithrwydd hwn a gellir ei ddefnyddio i lunio amcangyfrifon manwl gywir o nodweddion poblogaeth sydd o ddiddordeb, a'r camgymeriadau samplu cysylltiedig.

Yn ychwanegol at addasu ar gyfer diffyg ymateb, mae dosbarthiad y rhywiau, grwpiau blwyddyn a hawl i brydau ysgol am ddim yn cael eu hystyried yn y pwysoli hefyd. Mae data pwysoli'n arfer safonol mewn arolygon poblogaeth.

O ran yr Arolwg ar Oedolion Egniol, mae ein methodoleg yn gadarn iawn. Newidiwyd y ffrâm samplu gennym yn 2008/09, yn unol â chynghor ystadegwyr Llywodraeth Cymru, o sampl cwota i sampl tebygolrwydd ar hap. Yn ei hanfod, yr hyn a olyga'r newid hwn yw ein bod nawr yn defnyddio'r fethodoleg y mae'r rhan fwyaf o arolygon y Llywodraeth yn ei defnyddio. Mae'r dull hwn yn galluogi i ni fesur manwl gywirdeb y data. Unwaith eto, mae hyn i'w ddisgwyl mewn arolygon gan y Llywodraeth, yn enwedig y rhai sydd â'r label Ystadegau Swyddogol. Yn ddiweddar hefyd rydym wedi bod yn trafod gyda Llywodraeth Cymru sut gallwn gael yr arolygon rydym yn eu cynnal yn nes at ei gilydd, er mwyn gallu gofyn cymaint o gwestiynau â phosib a chael maint sampl sydd mor fawr â phosib.

Mae'n bwysig nodi yma hefyd ein bod yn pwysleisio na ddylai ein partneriaid, gan gynnwys y cyrff rheoli, ddibynnu'n llwyr ar y data rydym yn eu darparu, a dim arall, wrth ddatblygu eu cynlluniau. Mae'n rhaid iddynt ofyn yr un cwestiynau am eu haelodaeth eu hunain, fel bod ganddynt ddarlun o bwy sy'n cymryd rhan yn eu campau. I'r diben hwn, aethom ati i gyllido swyddi ymchwil/data penodol mewn nifer o gyrff rheoli, er mwyn meithrin eu gallu i ddeall eu haelodaeth eu hunain. Rydym wedi trefnu hefyd i gyfarfod Cymdeithas Bêl Droed Cymru i drafod y pwyntiau penodol a godwyd ganddynt hwy yn eu tystiolaeth ysgrifenedig a llafar.

Rydym yn teimlo bod yr argymhelliad yn cael ei gyflawni eisoes drwy'r prosesau ffurfiol sydd gennym yn eu lle.

Cymunedau DLIE

Roeddem yn falch bod sampl ein Harolwg ar Chwaraeon Ysgol yn un digon mawr ac amrywiol er mwyn i ni allu darparu data DLIE am y tro cyntaf. Nid yw'n syndod o gwbl bod y data'n datgelu bod y cymryd rhan yn y cymunedau hyn ar lefel is, gyda merched Asiaidd / Asiaidd Prydeinig ymhlith y rhai sydd â'r lefelau cymryd rhan isaf.

Gwaetha'r modd, oherwydd bod y sampl yn llai, dim ond data cyfyngedig iawn rydym yn gallu eu darparu am gyfranogiad DLIE o'r Arolwg ar Oedolion Egnïol. O ganlyniad i hyn, ac fel ymateb i argymhelliad y pwyllgor, rydym wedi ymrwmo i gynnal gwaith ymchwil penodol sy'n edrych ar y rhwystrau sy'n atal cymunedau DLIE yng Nghymru rhag cymryd rhan mewn chwaraeon. Dylai hyn adeiladu ar y gwaith sy'n cael ei wneud eisoes yng Nghymru ac mewn mannau eraill, gan roi i ni ddarlun o'r hyn sydd raid i ni fel sector fod yn ei wneud yn ychwanegol i sicrhau bod chwaraeon yn fwy hygyrch i bawb.

Mae hyn yn ychwanegol at unrhyw fuddsoddiad mewn prosiectau DLIE penodol drwy Galw Am Weithredu a ffrydiau cyllido eraill Chwaraeon Cymru. Rydym yn parhau i weithio gyda'r Rhwydwaith Chwaraeon DLIE i ddatgan cyfleoedd i weithio mewn partneriaeth ac i fuddsoddi mewn prosiectau addas i sbarduno cyfranogiad.

Byddwn yn parhau i ddatblygu ein gwaith yn y maes hwn drwy ein Cynllun Gweithredu Cydraddoldeb a'n Strategaeth Chwaraeon Cymunedol.

Strategaeth Tlodi Plant

Rydym ym mlwyddyn derfynol ein strategaeth tlodi plant gyntaf a byddwn yn llunio adroddiad ar gynnydd i Lywodraeth Cymru maes o law. Rydym yn cydnabod bod ein strategaeth gyntaf yn canolbwyntio llawer ar sicrhau bod y sylfeini yn eu lle er mwyn i'r sector fynd i'r afael â'r rhwystrau sy'n atal cymryd rhan y mae plant a'u teuluoedd sy'n byw mewn tlodi yn eu hwynebu. Er ein bod yn falch bod ein Harolwg ar Chwaraeon Ysgol a'r Arolwg ar Oedolion Egnïol wedi dangos cynnydd ill dau yn nifer y plant a'r bobl ifanc o'r cymunedau hyn sy'n cymryd rhan mewn chwaraeon, rydym yn cydnabod yr angen am gau'r bwlch yn y cymryd rhan rhyngddynt hwy â'u cyfoedion yn gynt. Byddwn yn datgan canlyniadau a mesurau priodol fel rhan o'r broses o ddatblygu ein strategaeth newydd, gan sicrhau bod y rhain yn cysylltu hefyd â'n Strategaeth Chwaraeon Cymunedol gyffredinol.

Chwaraeon a'r Iaith Gymraeg

Er nad oedd unrhyw argymhelliad ynghylch y mater hwn, rydym yn cydnabod ei fod yn faes a godwyd ac a drafodwyd yn y pwyllgor. Canfu'r Arolwg ar Oedolion Egnïol bod 46% o'r rhai dros 15 oed sy'n siarad y Gymraeg *wedi gwirioni ar chwaraeon*, o gymharu â 37% nad ydynt yn siarad Cymraeg. Maent hefyd yn fwy tebygol o fod yn aelodau o glybiau chwaraeon. Er bod y rhain yn ystadegau addawol fel rhan o'n gwaith parhaus, byddwn yn cynnal dadansoddiad pellach yn y maes hwn, er mwyn deall yn well y rhyngberthynas sydd rhwng chwaraeon a'r iaith Gymraeg.

Er hynny, rydym ni a'r sector chwaraeon yn cydnabod bod mwy y gallwn ei wneud. Cynhaliwyd seminar ar y cyd gennym yn ddiweddar gyda Chomisiynydd y Gymraeg, ar gyfer cyrff rheoli chwaraeon cenedlaethol, gan edrych ar enghreifftiau o arferion da mewn chwaraeon ac i hybu'r defnydd o'r Gymraeg mewn chwaraeon. Rydym yn bwriadu symud ymlaen gyda'r gwaith hwn mewn partneriaeth â Swyddfa'r Comisiynydd a'n partneriaid, gyda'r bwriad o ddatblygu rhai canlyniadau fel rhan o'r broses o adnewyddu ein Cynllun Iaith Gymraeg ar ôl cyflwyno'r Safonau.

Rydym yn parhau â'n trafodaethau â chydweithwyr ym maes iechyd ac addysg ac yn croesawu ymrwymiad diweddar Llywodraeth Cymru i ddarparu £1.78 miliwn tuag at y Rhaglen Llythrennedd Corfforol ar gyfer Ysgolion. Byddwn yn cydweithio â hwy ar ei chyflawni. Rydym yn gwneud cynnydd cadarnhaol yn ein trafodaethau â sefydliadau iechyd, gan gynnwys Iechyd Cyhoeddus Cymru, ac rydym yn gobeithio gallu cyflwyno nifer o ddatblygiadau yn ystod y misoedd sydd i ddod.

Rydym yn cytuno gyda'r pwyllgor bod y cynnydd yn gadarnhaol yn gyffredinol, ond bod rhaid i'r cynnydd hwnnw ddigwydd ar raddfa llawer cynt. Rydym yn credu'n gryf bod y sylfeini ar gyfer cynyddu'r cymryd rhan mewn chwaraeon yng Nghymru yn rhai cadarn, ond er mwyn symud ymlaen i'r lefel nesaf, mae'n rhaid i ni sicrhau cefnogaeth pob rhan o'r sector cyhoeddus er mwyn cyflawni cyfres o ganlyniadau y cytunwyd arnynt. Dyma nod yr ydym yn gweithio tuag ato er mwyn sicrhau bod pob plentyn, o ba gefndir bynnag, yn cael cyfle i elwa o gymryd rhan mewn chwaraeon gydol ei oes.

Yn gywir



Sarah Powell
Prif Weithredwr