



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

Wednesday 19 February 2014

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INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE
5th Meeting 2014, Session 4

CONVENER

*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP)

COMMITTEE MEMBERS

*Jim Eadie (Edinburgh Southern) (SNP)

*Mary Fee (West Scotland) (Lab)

*Mark Griffin (Central Scotland) (Lab)

Alex Johnstone (North East Scotland) (Con)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Brian Doick (National Association of Park Home Residents)

Colin Fraser (British Holiday and Home Parks Association)

Barry Plews (Park Home Legislation Action Group)

David Tweddle (Independent Park Home Advisory Service)

Jeanette Wilson (British Holiday and Home Parks Association)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

Committee Room 5

Scottish Parliament

Infrastructure and Capital Investment Committee

Wednesday 19 February 2014

[The Convener *opened the meeting at 10:00*]

Housing (Scotland) Bill: Stage 1

The Convener (Maureen Watt): Good morning, everyone, and welcome to the fifth meeting in 2014 of the Infrastructure and Capital Investment Committee. I remind everybody to switch off their mobile devices, because they affect the broadcasting system. People may see some members consulting tablets because they get their papers in digital format.

The first item on our agenda is the Housing (Scotland) Bill. We will hear evidence from two panels on the provisions that relate to mobile homes. On the first panel, we have witnesses from groups that represent mobile and park home residents. I welcome Brian Doick, who is president of the National Association of Park Home Residents; Barry Plews, chair of the park home legislation action group; and David Tweddle, senior consultant with and membership secretary of the independent park home advisory service.

Adam Ingram will start the questioning.

Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): Good morning, gentlemen. The Scottish Government's vision for housing is

"that all people in Scotland live in high quality, sustainable homes that they can afford and that meet their needs".

To what extent do you think that the bill's provisions support that vision?

Brian Doick (National Association of Park Home Residents): The bill supports that vision by addressing the need for extra security for the people who live in mobile and park homes. One of the main problems that has occurred over the years concerns security of tenure for those people and the unscrupulous nature of the people who own the land and lease it to the residents for them to make their homes on.

As the committee is probably aware, although those residents have purchased a home, they do not own the land. Consequently, a lot of unscrupulous people treat residents badly, and those residents are given no security. There are all sorts of rules and regulations that suit the owners but do not relate to any legislation.

The fit-and-proper-person test in the bill is one of the most important developments that we have

seen for many years. The criteria that someone would have to meet to be considered a fit and proper person cover quite a big area.

The Convener: We will come to that specific issue later on.

Brian Doick: Okay—that is fine. Criteria and security are important factors.

Living in a mobile or park home is a cheaper way of living, apart from the cost of renting the land, which goes up every year and becomes dearer and dearer. People buy a cheap house, but staying on the land can be more expensive.

David Tweddle (Independent Park Home Advisory Service): Our organisation has found that our membership is increasing in Scotland. Living in a park home is a more affordable way of living and is becoming more popular here. The numbers are nowhere near those in England yet, but it is catching on and we anticipate that it will become more prevalent in Scotland. Of course, what we are here for, and what you are trying to do, is to make that way of living secure for the people who choose it.

The work that we have done so far has been okay. We have agreed with park owners the new implied terms, which are better for residents, and we are now discussing site licensing, which is very important.

In England, we have found that local authorities just do not enforce things. That is a massive problem. Some local authorities never visit the parks that they are responsible for and do not do anything about them. People change jobs within the local authorities and do not know what their responsibilities are. The situation is very poor.

The Convener: We will go into enforcement in more detail later.

Barry Plews (Park Home Legislation Action Group): I think that I am probably unique in being the only person in the room who lives in a park home in Scotland. I have been there for the past six or seven years. Strangely enough, many of the issues that we are discussing today do not exist in the park where I live. I got involved because I started to visit other parks to see what was happening in those places—basically, to see whether we were missing out on anything. I found that lots of the problems that we are discussing exist in Scotland in quite a bad way. I have come across some shocking situations concerning elderly residents in parks across Scotland. Many of them contact us looking for advice, and many of them are at the end of their tether.

If, six or seven years ago, I and my colleague Mike Larkman, who cannot be here today because he has health problems, had known that we were going to have a Scottish bill such as this one, we

would have been very happy. We started off with help from Angela Constance, who happens to be Mike's MSP and managed to get us an interview with Keith Brown, who I think was the housing minister at the time. That is where all of this started. Mike and I have been working on the issue, along with other colleagues, for that length of time. It has been a struggle but, if this is the sort of bill that we are going to put in place in Scotland, we will be well satisfied.

David Tweddle: We are constantly told that some of the English problems are not prevalent in Scotland, but I should say that one of the worst park owners in England, who operates 36 parks, is already in Scotland. Some of the rogues and unscrupulous park owners in England will come up here if they can get in. The problem is one for Scotland as well as England.

Adam Ingram: Are you happy with the way in which the bill was consulted on? Are you happy with the degree of input that you had?

Brian Doick: Yes, I think that we are. I first came to the Parliament in 2005, which was when the process of consultation and evidence taking started. It has taken a long time to get where we are today, but I think that the consultation has been good. Nothing has been left out. We have been given all the information that we have asked for, or have been sent it automatically by Government officials. There has been no problem with it at all.

David Tweddle: I echo that.

Barry Plews: The young people who have been taking us through the process have been extraordinarily helpful and clever in what they have done for us. We are all elderly people and we tend to get a little bit anxious about things and a little bit annoyed at times, but they have carefully taken us through every step of the process. I can give them nothing but praise.

The Convener: Before we go on to look at licensing in particular, can you give us an oversight of how many parks there are in Scotland and how many people live in them?

David Tweddle: I think that we are looking at about a couple of hundred parks.

Barry Plews: I think that we have about 450 parks in Scotland, and there are probably now about 4,500 to 5,000 people living on them. I did a survey some years ago, and the numbers will have changed since then. However, the numbers that I have given are about right, and they are increasing.

The Convener: Are the parks all over Scotland or are they concentrated in particular areas?

Barry Plews: They are basically all over Scotland. The tendency has been for owners of holiday parks to suddenly realise that having a residential park, rather than a holiday park, is a better and more secure way to make money.

Brian Doick: Some of the parks are quite small, with five or six—or even fewer—homes on them. In our last survey, we had to search for the parks. If we do not have members on a park, we do not know where it is. Councils have the same problem. Since our survey, Barry Plews has come up with the 450 figure, which is about right.

The Convener: The Scottish Government says that there is evidence, which I think you have backed up, that there are unscrupulous site owners who exploit vulnerable residents and fail to comply with statutory obligations. How widespread is the problem?

Brian Doick: It is quite widespread.

David Tweddle: That is not so much the case in Scotland but it will happen more, because, as I said, one of the worst park owners in England is now up here. He operates 36 parks throughout the UK—that is his total stock.

In England, such behaviour is fairly widespread. Unscrupulous park owners do not really obey the law. The law is there to stop them doing such things but, as in every area, lawbreakers break laws. They just do it—they do not care. The parks are run by a certain type of person and a certain type of community. It is awful for vulnerable people who have sunk their life savings into their home. The houses are not cheap. In the south of England, they are expensive—they can cost £250,000. People are buying into a way of life but suddenly they find that the guy in the office is an absolute tyrant and rides roughshod over them, and that is their life destroyed. It is important for organisations such as ours to keep on top of that, which is what we do. Brian Doick and I belong to two different organisations but we work together and pursue people's problems for them on the parks. We have expertise in site licensing and mobile home legislation. We have been doing it for many years.

The Convener: With respect to the 450 parks in Scotland, are there 450 owners or do some people own quite a number of parks?

David Tweddle: There are owners who have multiple parks.

The Convener: How many?

David Tweddle: I have no idea.

The Convener: Okay. We can ask the second panel.

Would you say that the majority regulate themselves pretty well through associations such as the British Holiday & Home Parks Association?

Brian Doick: Quite a few do. BH&HPA membership is not as strong as it could be but quite a lot of owners are regulated through that organisation. I think that there are more park owners in Scotland who do not belong to an organisation because of the way they are and the way they want to be. They are in a fraternity that is, as we have said, unscrupulous.

I have been doing this now for 26 years—helping people wherever possible, because of the type of rogue that we have in Wales, Scotland and England. Although England has been the worst, I would say that there are quite a number of such owners in Scotland. You have to understand that we do not know about all of them. We know about them only when people come to us with problems—that is how we find out. It travels through the system, as it were. I believe that there are quite a few more unscrupulous people out there whom we do not know about. We do not know about them until something serious happens. Over the years, we have found evidence of very serious cases in which people have basically been put out of their house.

10:15

Barry Plews: There is a natural tendency for elderly people to keep their heads down. One of the biggest problems that we have is getting people to come out and tell us what is going wrong. The only way that I can do that is by travelling round parks and meeting people.

I live on a park where none of these problems exists, but there are other parks where some of the things that happen are seriously criminal. I have recently tried to involve the police in a specific case but, sadly, the couple who are involved—who both suffer from cancer—have decided that they cannot take any more. They do not want any more hassle or problems and have now decamped to a nearby flat. The park owners have taken their home from them—they have made them sign away their home—although it is probably worth £100,000 or £120,000. That is the sort of criminality that exists in Scotland, and there are a number of people who practise that sort of thing. Unfortunately, the couple decided that they could not take any more and would not make a formal complaint, although the police were absolutely certain that they had a case.

I have met that sort of situation as I have wandered around.

Brian Doick: It comes back to scare tactics. These crooked people put fear into people and, as we have said, people are frightened. We can have

as many laws as you like—we are pleased about what you are doing, which is a lot—but until the law is used it is worthless. Unfortunately, because of how these people deal with the elderly, such things happen.

Let me give the example of elderly persons who have had some bricks and mortar to live in but who have realised that their pension is not much good—they are not going to have anything. They think that, if they sell their house and buy a mobile home, they might have £50,000 in change to help them to get through life. Subsequently, an unscrupulous person puts pressure on them and they get frightened because they are threatened with eviction and all sorts of things. They are told by the park owner, “I’m the boss. This is my land. If I say you go, you go.” That frightens them to death. People in their late 70s and 80s who have that fear put into them then look to go somewhere else, but they cannot sell their home because Mr Park Owner stops them in some way or other and the poor souls end up selling their home back to him for about £5,000 or even less. In England, some people have sold their homes for £1, and once someone has taken that £1, it becomes a legal transaction. That is how the park owners work.

There is quite a bit of that going on all over the UK, and it is spreading.

David Tweddle: The fit-and-proper-person test may address some of those problems, one of which is the criminal element. If they were not behaving criminally on mobile home parks, they would be behaving criminally somewhere else. They are criminals and that is how they earn their living. They have decided that they do not need masks and guns because they can strip somebody of £100,000 just through a bit of bullying. It is very lucrative. That is the type of people that we have mostly in the south-east and, as I have said, one of them is already in Scotland.

Barry Plews: They are already emigrating here.

Brian Doick: That is right.

David Tweddle: They are criminals, but the fit-and-proper-person test may address that problem. They will get round it, probably, but there you are.

The Convener: We will come on to that in a minute.

You have addressed the problem of elderly people being placed in fear. What other problems are there that the current legislation does not address? You mentioned that some local authorities do not have a clue about what they should be doing in relation to mobile home parks. What other problems exist beside the one that you mentioned of elderly people being placed in fear?

Brian Doick: There is a particular problem with licensing. Over the years, local authorities put conditions on a site licence, and it becomes a legal requirement to meet those conditions. People should abide by the conditions once they have been put on a licence, but that is never policed because the legislation has never allowed it to be policed—councils have never had a duty to do that.

For example, the minimum spacing distance between homes, as laid down in legislation, is 6m. In local authorities all over the country—I am not just talking about Scotland—the officers who are younger and coming through the ranks work to the secretary of state's model standards, which are guidelines for councils with regard to fulfilling licence requirements. The model standards have come from the secretary of state at various points. A set came out in England in 2008, and the one before that came out in 1989. The guidelines state that the 6m rule applies but in some of the parks that council officers visit the spacing distance between homes is not 6m but 5.5m, 5m or whatever because the rule was never policed in the first place.

The first model standards were brought into being in 1961 under the Caravan Sites and Control of Development Act 1960 and, in that legislation, the minimum spacing distance was 20 feet in the old language of measurement. The minimum spacing distance has become 6m, which is not much of a difference. If councils had policed the provision in the 1960s, the majority of the problems that we currently have would not exist—particularly those involving minimum spacing distance. However, because it has not been policed, rogue park owners have just put homes where they have wanted to, without worrying about the 6m rule.

Over the years—in fact, this is happening now—new council officials have found that the distance between homes is wrong and have told people who have lived in their home for 10 or 20 years, “Well, that's got to be altered because it's a fire risk under the new fire regulations. It should be 6m and it's only 5.” However, if there is no room in the park to move the homes around, some of them will have to go. Mr Park Owner, who is the licence holder, has to abide by what the council says because the council issues him with the licence that he needs to run his business. If a home that is owned by, say, an old couple who live in it breaches the park owner's licence because of the spacing distance, the park owner will tell them, “Your home's in breach. You've got to move out.” That is despite the fact that it is the park owner's problem. Home owners are not allowed to site their own homes and know nothing about the spacing distance. Mr Park Owner, however, does know about these things.

That is happening today in England and I know that it is happening up here because we have received phone calls about it. People are being threatened with the loss of their home. We have always said that the model standards, which are, as I have said, guidelines for councils, were meant to be flexible. In England, we have asked councils not to write licence conditions; instead, we need to look at the reality of a park and think about whether the approach that I have described will simply cause grief and end up with people losing their homes. We need to take a sensible look at the issue. The time to do something about the situation is when a home's life is up, when the people who own it pass away or whatever. Such things are creating major problems for people and giving them something else to fear.

The Convener: In my experience, not all the homes on a site are owned; some are rented by the park owner. Mr Plews, do you have any idea of the split between those who own their homes and those who rent?

Barry Plews: In most residential parks, all the homes are owned by residents. There are many places and parks where you can rent properties, but in all the parks that I have visited, the homes have been owned. The thing about residential parks is that they are open 12 months a year. Certainly all the homes on my park are resident-owned.

David Tweddie: You have touched on what is a serious problem in England. When people decide to choose that way of life, they go and look at the park and say, “Yes, this'll be nice for us. Everybody is about the same age, and they are like-minded people.” People choose a lifestyle. However, many park owners in England—once again, the rogues, mostly—own homes that they have bought from residents for practically nothing. Properties have not sold, so the park owner perhaps could not sell it and therefore rents it out. He will put in people whom the council has probably just thrown out of a council house somewhere. People invest their life savings in a lifestyle and suddenly have a family living next door to them that has been thrown out of four or five other properties. That type of situation exists and is an absolute disgrace; it is destroying people's lives and what they bought into when they bought the mobile home.

We do not believe that people should be renting out. The residents cannot rent out the homes under the Mobile Homes Act 1983, so why should the park owner be able to? He can, and that is it. That is a serious problem at the moment. About 18 months ago, I wrote a paper on it for my colleagues and predicted that it would be the next serious problem in the industry. I get phone calls from people who say, “We moved on to this park

and suddenly there was a family next door with four kids who are up all night shouting." That is not what they bought into; they bought into living among like-minded people. That is the attraction of moving on to the parks. Renting will be a serious problem.

Brian Doick: A particular issue is that many unscrupulous people will rent out because there will be a bigger income. They charge people £100 to £150 a week to live in a mobile home, whereas landowners or park people get £150 a month for rent from people who own their own homes.

The difference is that the park owners think that the rules and regulations for the renters do not apply—that they do not come under the Mobile Homes Act 1983, because they are in rented accommodation, and the legal system for them is different from that for the mobile home residents and owners. There is a difference. That is why families move in with children, dogs and everything else. The park rules might say that no one can live there unless they are over the age of 50, 55 or whatever the park owner has laid down, that no children are to live on the site, and that people cannot have any pets. Families with young children and dogs—you name it—are moved in, and the rules and regulations go out the window. As David Tweddle said, poor souls who have bought into the lifestyle find that it is ruined. That issue needs to be seriously addressed.

David Tweddle: I recently went to a tribunal for a case. The park owner rented to somebody who had a dog, and the park had a strict no dogs policy. When I got through to him, he said, "Aye, but this man doesn't have an agreement under the Mobile Homes Act. I've only given him a rental agreement, so none of that applies." I went to the tribunal and argued, obviously, that the rules had to apply to everybody. I overegged it, of course. I said, "Are you telling me that I have to obey the speed limit in the park and the guy who is renting doesn't?" and "Are you telling me that I can't play loud music after such a time, but he can?" I went through all the things, and they said at the end, "Yeah, we take your point."

It is ridiculous. We have a High Court ruling that the park rules are for everybody, but park owners just ignore them.

The Convener: How prevalent is that in Scotland, Mr Plews? Are some local authorities exemplars in managing mobile homes in their areas?

Barry Plews: To answer your second question first, it is often very difficult for me to get a real feeling of how local authorities are handling things. I have a number of contacts whom I can usually get some help from, but it is fair to say that most of them deal with the parks when they have done

everything else. They get to them when they have sorted out all their other problems.

Fortunately, the park that I live on is extremely good. We very seldom see visits from the local authority. It has probably decided that it does not have to visit any more, because nothing goes wrong. I always feel that we should see somebody wandering around, having a look, talking to people, and ensuring that things are still going well, but that does not happen. To be honest, I think that it is thought, "It's over there. Let's leave it over there until it causes a problem."

10:30

Brian Doick: The licensing is different as well. Residential sites are licensed differently and council sites appear to work differently. We believe that there should not be a mix on a park; there should be either renters or owners. That would be fair to everyone. We are not against people living in rented accommodation, but if we are going to have rules and regulations to protect everyone, they should be for everyone and not split down the middle.

Mary Fee (West Scotland) (Lab): We have touched on the fit-and-proper-person test. The test that the bill will introduce will apply to people who own sites and to people who run sites on behalf of someone else. What benefits will the introduction of the test bring to residents of parks?

Barry Plews: It will take away quite a lot of the criminal element because they will not be allowed to run parks. People who have criminal records are running parks in Scotland at the moment. Their whole attitude is governed by the sort of people they are, and that is half the reason why the people who live on parks have the problems and issues that they tend to have. They are being cheated in many ways, or are being frightened off the parks so that they leave their homes behind. Someone can then buy it cheaply and sell it for twice the price a week later. The threats that are made generally come from people who have criminal records, so we hope that the test will clear them out to start with.

David Tweddle: At the moment, under the Caravan Sites and Control of Development Act 1960, anyone can apply for a licence and it will be granted. Those who apply for licences to run taxis or off-licences undergo background checks, but a person can run a park without any background checks whatever. Under the 1960 act, even if the local authority knows that the licensee is a criminal, it cannot do anything about it because it is not one of the reasons that can be used to refuse a licence. At the moment, an applicant can be refused a licence only if he has lost a licence or if a prosecution has been brought against him

twice in the past X years in that locality, so it is almost impossible to refuse a licence application.

We would welcome a fit-and-proper-person test.

Brian Doick: The National Association of Park Home residents welcomes the test.

David Tweddle: We are not getting a fit-and-proper-person test in England. The Government has decided to wait; it has suggested that if the situation does not work out there could be other things such as heavier fines, and then the secretary of state will revisit the issue and consider the fit-and-proper-person test. We are for such tests. We believe that Scotland should have one, and we believe England should have one, although we are not getting one—not yet, anyway.

Brian Doick: The fit and proper test is excellent; it covers everything. The only thing that I would say is that there appear to be some areas where the “fit and proper person” might not be the right person, so someone else can be brought in from the same family. The bill does not state that the park owner must be the main man. The bill talks about a person or an occupier, and the word “occupier” comes into play with other legislation.

The park owner should be the man who is generally responsible for that park; he is the owner of the land. When the legislation comes in, we have to be careful that he does not turn up with someone else because the bill also mentions a fit and proper person who does not have to be the owner; it could be his grandson or his grandmother. Some people work that way; they would put someone else in the position because they fit the requirements of the words in the bill. The provision has to be clarified in order to make the park owner the responsible person. If he wants someone to manage for him, he must be responsible for that manager. If things go wrong and charges are to be brought for criminality, they could both be charged because they are responsible. That sort of thing has to be in the bill.

Basically, the proposed measures have been well done. The bill covers a big area, and I highlight in particular the clarification of the man at the top. The bill covers the position of companies, and it mentions

“the case where the licence holder is not a natural person”
and where

“the individual who holds the most senior position within the management structure of the relevant partnership, company or body is not, or is no longer, a fit and proper person in relation to a site licence”.

It does not say what should happen to him, however.

The Convener: Are you saying that the owner and the person who manages the site should both be fit and proper persons?

Brian Doick: Exactly—that is what we have been saying. If that was not the case, your Government would have agreed to cover the fit-and-proper-person system, but there would still be people who could move over and let someone else take a position as a manager without being a fit and proper person.

David Tweddle: One of the reasons why that was not pursued in England was that the Government argued that it would be too easy to put somebody else up and to get round the provisions.

The Convener: My understanding is that the bill proposes that both people should be fit and proper persons.

David Tweddle: Yes, and we welcome that.

Brian Doick: That is what we welcome in the bill.

David Tweddle: We did not get that in England.

Brian Doick: We have to ensure that local authorities know that that is what must happen. Elsewhere in the bill, reference is simply made to a person, and we need to ensure that we have got the management bit right, so that the top man is the man who is responsible all round.

Mary Fee: Is the detail around the fit-and-proper-person test comprehensive enough to ensure that the person undergoing the test will meet the residents’ needs, or should there be something else in there?

Brian Doick: Well, we went through—

David Tweddle: On the criteria, we went through—

The Convener: One at a time, folks.

David Tweddle: We think that the criteria are okay.

Brian Doick: There is one thing that needs to be looked at. If somebody is not a fit and proper person, that information needs to be kept in a register. The person who is not a fit and proper person in Aberdeenshire might be deemed to be a fit and proper person if he bought a park in Stirlingshire, or another local authority area. He could go to an interview and say that he is okay, and that he has done this, that and the other, and he could get in. The situation could become as it is in England. I know that you have had this up here, too: a park owner might own 10 parks in different local authority areas and based on the information that it receives about the man, one local authority

might say that he is fine while another might say that he is not.

If the man in question has a criminal record, that information needs to be kept on file by somebody who is responsible to local authorities, or in some place where the information can be made available. If a criminal came to a local authority, the local authority could telephone, email or whatever to ask that central body whether he had a criminal record. Otherwise, the council would only have his word to go on. That needs clarifying, and such measures to provide that extra bit of control would make the bill work perfectly.

Believe me, these rogues will do anything to achieve what they want, and lying is one of the greatest assets that they have; they are very good at it. We believe that such measures would improve the bill. That said, and as I said earlier, what you have in the bill is good.

Mary Fee: Mr Plews, do you have any further comments?

Barry Plews: No—the issues have been more than well covered. There should be relationships between local authorities so that they can do additional checks. These people are all over the country—there is no doubt about it, so such relationships would be worth while.

Mary Fee: You are saying that the sharing of information across local authorities would be worth while.

Barry Plews: Yes.

David Tweddle: The introduction of a licence fee should make the local authority more responsible in checking and policing the parks. The fee will have been paid, and that might help with the behaviour of the local authorities.

Mary Fee: The British Holiday and Home Parks Association has suggested that the bill should contain provisions that would allow ministers to make regulations on the fit-and-proper-person provisions at a later date, should unscrupulous owners not reform their practices. To have a fit-and-proper-person test, there has to be some kind of regulation and then remedy. What are your views on that?

David Tweddle: I am not quite sure what you mean. Are you asking what happens if somebody applies for a licence, is subjected to the fit-and-proper-person test but fails?

Mary Fee: If a person applies and passes the fit-and-proper-person test, but at a later date is not complying in respect of how they are managing the site or dealing with residents, what happens?

David Tweddle: A raft of enforcement procedures is open to the local authority.

Brian Doick: Yes—there are options.

David Tweddle: The local authority can serve a statutory improvement notice on the park owner. That is not very effective, but the local authority can do it. The last resort is to revoke the licence, which we recommend local authorities should have the power to do. There are also management orders, whereby the local authority can put in its own management team to run the park, and there are fixed penalty notices. Many things are open to the local authority should a park owner fail after he has passed the test. I understand what you mean.

Brian Doick: The options allow further investigation—that is the important factor.

Mary Fee: Ultimately, I suppose that that would give residents on sites more security and mean that there is a uniform approach for sites across the country.

David Tweddle: Yes.

Brian Doick: As I said, we do not have the fit-and-proper-person test in England, but we have two or three of the nastiest people around running parks, one of whom has been chased and challenged by the local authority. He has been to court three or four times with the local authority, and at present he is hiding from it. He failed to turn up in court last week. He is up for a breach of the site licence conditions. He is claiming all sorts of things and handing things on to his son. That brings me back to what I said earlier about getting the right fit and proper person. The son is as bad as him, but of course he is not the licence holder. They hide and do those sorts of things. He is one of the most crooked men in the world and will do anything to get away with it. He owes £232,000 in unpaid fines. If it was me, I would have been locked up by now, but such people play games—they hide and run away and whatever. Those concerns apply, but I am sure that you have the structure in the bill to deal with that.

Mary Fee: Thank you.

Jim Eadie (Edinburgh Southern) (SNP): Good morning, gentlemen. You have certainly brought to life the issues surrounding mobile homes—in particular the unscrupulous practices that exist, which may have become more prevalent. I think that Mr Tweddle made the point that you know about issues only if they are brought to you, so there could be a lot of activity under the radar.

I have some questions on site licensing and how it might help to address some of the issues. There are divergent views in the variety of written evidence that we have received, but both the National Association of Park Home Residents and the Independent Park Home Advisory Service appear to be against the suggestion that there should be a licence that is renewed every three

years, on the basis that that might strengthen the hand of unscrupulous site owners. Will you expand on that?

David Tweddle: You should remember that we deal with complaints day in, day out. We do not have a problem with fixed-term licences as such, but they give the park owner another weapon with which to threaten vulnerable people. It might seem strange to well-educated younger people that people can be threatened in this way, but owners will go around saying, "I'm not going to apply for my licence when it comes up. I'm having too many problems with you people." People think that, at the end of three years, they will be out of their homes because the owner tells them that. It is all a lie, and we and you know that that cannot happen, but they do not know it. We are against handing such owners another threat that they can use against residents.

Jim Eadie: I understand that point, but surely a system of licences that are renewed every three to five years would provide a statutory weapon against the unscrupulous site owner.

David Tweddle: I appreciate that, but we feel that the enforcement procedures that you have are adequate. Should a park owner misbehave and the local authority act appropriately, it has enough enforcement powers to get rid of him without having to have a fixed licence.

10:45

Jim Eadie: I will get the alternative view in a second—I know that there is a range of views—but are you not concerned that you are handing a licence in perpetuity to someone who is, as you have eloquently outlined, unscrupulous and criminal in their behaviour?

David Tweddle: We are not handing him a licence in perpetuity if the council enforces it properly. We are saying that he has his licence for an indefinite period but, should he misbehave, a range of enforcement measures can be used against him. If the local authority behaves properly, it will police the licence. That is our view.

Brian Doick: There is another aspect to that. On the front cover of the majority of agreements between people who live on parks and the park owners it says, "The licence holder's interest in the land will cease on" and the unscrupulous put a date in there when they have done something that is not right. The proposal to have a three-yearly or five-yearly licence would increase that problem, because the licence holder would write on the front of such agreements that their interest in the land would cease on a date when the licence runs out and would use that against the people.

We have a similar situation in England at the moment, where a park owner has leased off three parts of his site to other persons—the park owner has the licence, but he has leased it to other people—who have formed a little business in which they make charges to the people for various things outside of the pitch-fee review because they are the new managers of that section. The park owner has altered people's agreements with the date that his interest will cease. There are people living on that park who feel that their agreement will run out in six years' time. What do they do then? They were told—we have had this before—that, because the interest in the land has ceased, they will have to go. Where can they take their homes? Where will they go?

That is another problem that would arise under the system that you are talking about. That is why we believe that, as David Tweddle said, the licence should run in perpetuity and, if the park owner fails to comply with the conditions of the licence, he should be prosecuted by the local authority. The fit-and-proper-person test would prevent the unscrupulous from going into park ownership in the first place. If we get all that into play, the residents will be more protected and the law will work in their favour because, under the new licensing scheme, the local authority will visit and inspect the park anyway, so it will—we hope—find out if there are problems on the park and deal with them. That is far better than anything that we have ever had.

That is the reason that we are not so keen on splitting up the licence. It opens up another loophole for unscrupulous owners. You have the facility in the bill to go for the park owner whenever you wish; you do not have to wait for a fixed-term licence to end.

David Tweddle: If the owner is not behaving correctly, the local authority should use the range of enforcement orders that it has.

Jim Eadie: So enforcement orders implemented by the local authority and the fit-and-proper-person test are the routes to go down rather than site licensing.

Brian Doick: I would say so.

David Tweddle: That is what we feel.

Jim Eadie: That is clear enough.

Mr Plews, your organisation has a different view.

Barry Plews: I certainly agree with the statements that have been made.

Jim Eadie: I understood that the park home legislation action group Scotland took a different view on site licensing.

Barry Plews: Can you say that again?

Jim Eadie: I understood that your organisation—park home legislation action group Scotland—was in favour of site licensing.

Barry Plews: I am in favour of site licensing. I am in favour of what is proposed in the bill.

Jim Eadie: So your organisation takes a different view from the one that Mr Doick and Mr Tweddle have just expressed.

Barry Plews: No, I do not take a different view. You are confusing me a little.

Jim Eadie: I am sorry; perhaps I am confusing myself. The two organisations that Mr Tweddle and Mr Doick represent are not in favour of site licensing. Is that correct?

Brian Doick: We are not.

David Tweddle: Fixed term.

Brian Doick: We want licensing in perpetuity.

David Tweddle: Our two organisations are not in favour of the suggestion—

Jim Eadie: Sorry—I am not being clear. What I am saying is that you are not in favour of the site-licensing proposals in the bill, which are for a three-year renewal period.

Barry Plews: My understanding has always been that the licence applies to the land—so it is in perpetuity, in a sense—and then there is a licence to actually use it. We are talking about two slightly different things, I think.

Jim Eadie: Mr Plews, am I correct that your organisation is in favour of the proposal in the bill to require a renewal of the licence every three years?

Barry Plews: Yes. I believe that it should be checked every three years.

Jim Eadie: So there is a difference of view between your organisations.

Barry Plews: Yes, there is.

Jim Eadie: Can you explain why you are in favour of the proposal?

Barry Plews: It will keep the owners on their toes, if you like. Owners will have to ensure that they achieve certain things every three years. If they are given any longer, they will wait. Anything that puts pressure on people to do the job properly is worth while, so I am in favour of the renewal being required every three years.

Brian Doick: We do not disagree that there should be inspections on a regular basis. It would be fine if the parks were to be inspected lawfully every three years, but we should not let the licence run out—it should continue. If a council visits a park for an inspection every two, three or

four years, that is when it will find the problems. If the licence has to be renewed, the process will have to be similar, but if the licence is there in perpetuity, the council will still be able to inspect a park and serve notices when it wishes to do so, and the park will be controlled. There is no need for the licence to be renewed—it can be the same licence. The only time that it will need to be renewed is if things are so bad on a park that the licence is revoked. When the issues are sorted out, the licence will need renewing, but that is a different bird.

Barry Plews: If we go on the principle that the licence is for the ground rather than for the right to use it, all that we would be doing is checking every three years that the person who currently occupies the land is fulfilling his obligations.

Jim Eadie: The British Holiday and Home Parks Association suggests a change from the proposed three-year period to a system whereby rolling licences are subject to a five-yearly review but with a legal presumption in favour of the renewal of the licence unless there have been problems in the five-year period. Is what you suggest close to that?

Barry Plews: Yes, I think that it is. Our point is that we should have regular inspections by the local authority. However we achieve that—whether it is by having a three-year licence or a three-year renewal period or whatever—we want somebody from the council to have to come at specific times to carry out an examination of whether everything is okay. That does not happen at the moment, which is why we favour the three-year period.

Brian Doick: I will add one final point on that. To have this—

Jim Eadie: Is the specific proposal that the British Holiday and Home Parks Association has made acceptable to your organisation, Mr Doick?

Brian Doick: It appears from what you say that the BH&HPA is asking for a regular relicensing system, which is what we are not in favour of. Another reason why we are not in favour of that is that it cannot be good for the industry itself. We publish advice for people who are considering moving on to a park, which says that they should look into things and check that the licence is in order. We say that people should ensure that the council has licensed the park and think about requirements such as how many homes should be on it and whether the licence is displayed on a noticeboard. If someone who wants to buy a home on a park sees that the licence runs out in 12 months, they will not buy the home, because there will be nobody there to explain to them how the system works. If the licence was there all the time, there would be no such effect on that part of the industry.

The proposal would also hold back people's right to sell their home. People have a right to sell their home to whom they wish. If there were no licence, it could be said that they were wrong to sell a home on a park that was unlicensed. A licence needs to be in place, but there are various other things that need to be looked at.

Barry Plews: Surely there are sufficient safeguards elsewhere to ensure that the licence does not end but just moves on—the council can take it on, or whatever. It is not the case that an axe comes down and then everyone must get off the park. Having licence renewals is a way of ensuring that the local council is carrying out its responsibility to visit the park regularly and ensure that everything is in place.

Brian Doick: As I said earlier, we just need the council to inspect the park on an annual basis. We do not have to alter the licence.

David Tweddle: If you check our response in the consultation document, you will see that we are in favour of inspections. It is just the licence that we are worried about.

Jim Eadie: That is helpful. Thank you.

The Convener: Mark Griffin has some questions on enforcement.

Mark Griffin (Central Scotland) (Lab): How is the current site licensing regime working? Are there any issues or problems with how the current enforcement regime is operating? Are there any issues at local authority level with regard to resources?

Brian Doick: The problem that you have up here is that the local authorities do not really become involved. That is one of the biggest problems. Local authorities do not go and visit the parks very often because they have not had to, even with the way in which the acts have been written. They tell us that they do not have the time and money to go and inspect the parks unless they get a complaint. However, they cannot enforce anything if they are not visiting the parks. That is why we said that, if there were regular inspections, the enforcement would work. If the local authorities went every year, two years, three years or whatever, the parks would be inspected regularly and the local authorities could enforce solutions to problems that they found.

Mark Griffin: Is the issue with the current regime a lack of time and resources rather than a lack of powers?

Brian Doick: It is a bit of both, I suppose.

David Tweddle: I would say that it is a lack of resources. All the policies are there, but local authorities just do not seem to do anything about them.

I am dealing with a park in Straiton in Edinburgh at the moment. The owner is absolutely atrocious. He is absolutely useless, and he is a criminal. I have had him in the sheriff court twice. However, he still has his licence and nothing seems to happen. He trundles along even though the roads in the park are a disgrace and he gets his electricity turned off because he does not pay his bills. The residents pay him for their electricity, but he does not pay the utility company. When the utility company comes to the park and says that it is going to switch off the electric, I get a phone call and I say, "Well, you are domestic customers. They cannot turn off your electric." Of course, however, the owner has a business agreement with the utility company and it says that it can turn off the electric, regardless of who else is involved, until the process is stopped.

The local authority is not pursuing that owner. I do not know why, because, obviously, it has the powers that have been outlined. I can only think that there is a lack of interest or a lack of resources.

Barry Plews: We are back at the same situation. Local authorities do not regularly visit parks to ensure that everything is all right. The parks are not some sort of multimechanised system; they are really quite simple. I have never been able to understand why a local authority cannot just take half a day to visit the park, which is all that is required to understand everything that is going on there. People from the council would only have to speak to people in the park, find out what is happening, tick boxes and wander away. However, that does not happen.

I understand that the suggestion is that there should be some way of enforcing the councils' responsibility to ensure that they visit the parks at certain times. They should be doing that regularly, but they do not do it. If everything is quiet, they stay away. However, the problem is that everything is quiet because we are dealing with a community of elderly people who do not want to rock the boat. That is why these things are happening in the first place. There are people like me and others who rock the boat, and rock it quite firmly, but the majority of people at our age do not. I am 73, and there are people in our parks who are 80, 85 and 90. If you wanted to talk to them about problems, they would say that they would rather not; they would go away, or they would come down and knock on my door if we have any silly little thing going on.

11:00

In other parks it is the same, all the time. There are not enough residents of that age, with experience of what happens out in life before they went into parks, to do things about it. I would

welcome anything that makes the local authority follow its obligations. Local authorities tend to forget that we are all council tax payers. We are not living in their local authority for free; we pay for it.

That service should be carried out regularly. I can see and understand what is happening in the case that Mr Tweddle mentioned. The council should come in. It would not take more than a day—I could do it in half a day. If the council came and talked to me, it could do it in a quarter of a day. The problem is that the council is just not doing it. There has to be enforcement. If that involves saying that local authorities have to come in and check the licence every two or three years, so be it. Something has to be there to force local authorities to meet their obligations. We are all council tax payers.

Mark Griffin: Mr Tweddle, you raised a couple of points on the impact that lack of enforcement has on residents, around disruptions to power supply and quality of roads. Can you pinpoint any other problems that impact directly on residents because of lack of enforcement?

David Tweddle: Yes. The site owner has a set of conditions, which relate to health and safety, roads and fire safety. Those conditions come from, and are dealt with by, the department of environmental health. Those things are very important for parks, but some park owners breach the conditions. I get many calls, constantly.

I will condense what I am saying, to try to get the message home. In all the years that I have been doing this, two things have caused most of our complaints: unscrupulous park owners and local authorities not doing their job. Local authorities not doing their job is equally as bad as unscrupulous park owners. By not enforcing or inspecting, local authorities cause as many problems for residents as unscrupulous park owners do. That is how serious it is.

It is important that local authorities get on board. If they are going to charge a fee from now on, they had better get themselves in gear. In England the situation is a disgrace, because they do not bother.

Brian Doick: The local authorities might well need educating on the matter. We would do anything to help if it was required; we would do the best we could for anybody.

Under the Caravan Sites Act 1968, the council is responsible for harassment, security of tenure and so on. That is in the act, but councils do not do anything. We say to people, "Go to the council. You're being harassed by the park owner in a bad way. The council has offices to deal with it." Nine times out of 10, councils turn people away and say that it is not really their problem and that they do

not have the resources to deal with it. However, the 1968 act says that they should.

The Convener: We will take evidence from the Convention of Scottish Local Authorities and the Association of Local Authority Chief Housing Officers, so we will certainly quiz them on that.

Brian Doick: That is great. Thank you.

Mark Griffin: Is the Scottish Government's proposed range of enforcement tools in the bill wide enough to act as a deterrent to rogue operators and are the tools proportionate? Would you suggest any additional enforcement tools for local authorities?

Brian Doick: We are happy with what is in the bill.

David Tweddle: We agree with the proposals, as long as the enforcement tools are used.

Brian Doick: Yes, that is right—as long as local authorities use the proposed tools, including the heavier fines. No fines have been imposed for three years or, where there has been a fine, it has been only £500 or whatever. However, the bill strengthens all those things, so it will be fine. The bill refers to criminal activity as a jailable offence, so the criminal aspect is covered and the bill refers to the other acts of Parliament that could be used against such people. What is in the bill will cover what is needed.

Barry Plews: I agree. The bill gives local authorities all the ammunition that they need—they will just have to use it.

Mark Griffin: Are you content with the bill's provisions under which residents are protected from charges that are levied against the operator being passed on to them?

Brian Doick: We do not agree that the charges should be passed on. We do not see why a resident who is paying a pitch fee or a rent to live on a park should pay for the park owner's licence to run his business. Without the licence, there would be no business.

Mark Griffin: I agree, but are you content that the bill would protect residents from those charges?

Brian Doick: I am sorry—I misunderstood you.

Barry Plews: So did I, for a moment.

Brian Doick: The bill is fine in that regard. The residents must be protected and the bill does that.

Mark Griffin: To wrap up, I ask whether you have any further comments on the proposed enforcement powers and how those would benefit parks across Scotland.

David Tweddle: To return to your earlier question, did you say that the residents are protected from the cost of the fee being passed on to them?

Mark Griffin: Yes. The Scottish Government's position is that the polluter pays. If the owner or operator is acting unscrupulously and they are fined, they will pay that fine and the residents will be protected from any additional charges being passed on.

David Tweddle: You are talking about the enforcement of fines. We are also against the initial licence fee being passed down to residents. The mobile homes legislation lists what the park owner and the resident can have regard to when reviewing the pitch fee. That includes any change or enactment since the previous review date. Park owners will obviously claim that the introduction of licence fees should be taken into account in the pitch fee review and will pass that cost down to the residents. They have done that in England and got away with it. At the end of the day, the residents in England have ended up somehow paying for the site licence.

At one meeting, a minister said that that fee would be paid only once, but once the licence fee is in the pitch fee it is there forever. Furthermore, the licence fee attracts yearly retail prices index increases. The resident is paying for the owner's licence, but that should be a business cost to him. That is a disgrace, but owners seem to have got away with it in England. We certainly do not agree with that.

Our consultation response said:

"The agreement allows the owner to have regard to any increased costs which are the result of legislation or enactment at the pitch fee review. Park owners will claim that the introduction of a site licence fee is a new cost to the park and something they are entitled to have regard to at the pitch fee review which will have the effect of residents paying the licence fee. A safeguard would have to be introduced in the pitch fee review procedure similar to the safeguard regarding commission on the sale of the home where the owner cannot have regard to the licence fee at the review."

You would need to insert something in the bill to ensure that the licence fee cannot be passed down, but I do not know how you would do that. That is what we asked for in England, but we did not get it.

Barry Plews: I had that same misunderstanding when we were talking earlier. The licence fee should be the last thing that we should have to pay. We should not be charged money to support the owner's licence. There is something not quite kosher about that.

David Tweddle: The UK Government made the argument that, because the residents will have increased input with the local authority, we should

be in some way responsible for the licence fee. We do not accept that, but we did not get what we asked for.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Let us assume that site licensing is introduced and the legislation gives local authorities the ability to charge a fee. It has been suggested that that fee could be around £600 for the three-year licence. What are your views on the possibility of local authorities charging a fee? Should there be a standard licence fee, or should the fee vary according to the size of the park?

David Tweddle: A standard fee would be unfair on very small parks. As Brian Doick said, some parks have only four or five homes, and £600 would be a hefty fee for someone who was running such a small park, whereas it would be nothing for a park with 200 homes on it. We think that the fee should be based on the number of pitches—I think that that is the approach that is being adopted in England.

Gordon MacDonald: Do you know the average fee south of the border?

David Tweddle: No. People are still talking about it. If we talk to individual local authorities, some say that they will not charge and some will charge different amounts.

Brian Doick: The fee is under discussion; a working party is working on what it should be. A lot of suggestions are flying about and various council officers have made recommendations, but no decision has been made on what the fee will be.

Gordon MacDonald: In general, if licensing comes in, do you support a fee being charged, especially if it means increased inspection of sites as a result of the extra funding?

Brian Doick: We do not disagree with that at all.

Barry Plews: As long as the cost is not passed on to residents.

David Tweddle: We think that a licence fee should be a business expense for the owner, rather than being passed down at the pitch fee review.

Gordon MacDonald: I got that point earlier.

The British Holiday and Home Parks Association said that, in general, the bill could create 'unworkable red tape', which could result in park owners being forced to

"sell their parks to the highest bidder."

Are you concerned that the bill might force owners to sell? If so, what impact might that have on residents?

Brian Doick: I would like to start by saying that I do not think that I know of a poor park owner—

Barry Plews: I think that it is scare tactics.

Brian Doick: It is a scare tactic that owners are trying to use. They say that a lot—that they are going to sell their parks or do this or that. It will not happen, even if there is a major charge. When owners sell, we are talking about buyers paying not £50,000 any more but hundreds of thousands. There are parks selling down our way for £2 million or £3 million. No one is going to buy a park if the proposition is that bad.

It is just not going to happen that way. I think that that is just something that owners say. It is a nonsense. To some park owners, a £600 fee is peanuts. It is probably three or four months' rent from one house.

David Tweddle: The costs of the reform that we are talking about and the reform of the implied terms are not going to impact much on park owners. In our opinion, it is just scare tactics.

Brian Doick: Park owners have had no extra charges against them for years. They all say that this goes up and that goes up, but that is the same for everyone else. Pensioners in England have just had an increase on their pension of 2.5 per cent, which gives them about £1.50 extra a week—or something silly like that.

David Tweddle: And let us not forget that there is a built-in RPI rise every year in the agreements.

Brian Doick: That is automatic. As I said, things do not get done on the park, and the council does not enforce things. This business of the cost of a licence to the park owner is minor.

Barry Plews: I agree entirely. The idea of passing on the cost to home owners is a nonsense.

The Convener: We have talked a lot about rogue park owners, and Mr Plews said that he lives on a site that has a good park owner. In between, there are a lot of park owners. On balance, are they good, like Mr Plews's park owner, or are they trying to get away with as much as they can?

David Tweddle: There is obviously a percentage—let us say 10 per cent—who are criminals and will do everything that they can do to extort money. They cause a lot of the problems.

Then there is a big percentage in the middle who do things just through ignorance. The park owner does not know the rules, and he goes round saying, "I'm going to do this, and I'm going to do that. Yes, I can do that." Then he gets through to us and I say, "No, you can't do that." However, that is just ignorance; those owners are not

criminals or bad people. There is a group of people like that.

If you are looking for percentages and I am put in a corner, I would say that 10 per cent are rogues and that the rest are in the other group. At the other end of the scale, as Barry Plews said, a good 10 per cent of park owners are excellent and run good, happy parks.

11:15

Brian Doick: When I moved on to the park where I live, the park owner was Mr Nasty. I knew nothing about him, but I soon learned. He used to do everything in his power to upset people. He would offer people who were selling their homes peanuts for their homes and frighten them to death by saying that, if they did not sell to him, he would get them evicted because their home was not up to standard. He did all sorts of things and was a nasty person.

The park owner came a cropper with another nasty person. The park owner sold a piece of land on the end of the park to a builder, who had to buy that land with a mobile home on it. The builder issued the lady in that home, who was 82, with a notice to quit and get off the land, where she had lived for 20-odd years. It was an isolated little plot—it could not be called a park, because it was part of our park—so she was out of the way.

The lady came to me and I said, "He just can't do this." I wrote about what I knew legally to the builder through his solicitors and so on, so he had to withdraw the notice from the poor old lady. That created a war with our park owner, who had sold the land to the builder for £75,000. This is absolutely true. He had to run away from the builder, so he sold the main park to our current owner, who is a very nice guy, as with Barry Plews's site. We have no problems—there is no doubt that our current owner is a good guy.

When our current owner bought the park 18 years ago, he went to see the old lady and said that he would do what he could for her, although the builder still owned the piece of land. She was paying the rent to the builder and the electricity money to our park owner because of how things were worked out—that was all a bit of a mix-up.

Our park owner said, "I'll do what I can for you, my dear." He got hold of the builder and he bought the land back from him for £25,000, so the builder lost 50,000 quid in two and a half years. The builder is still chasing the former park owner around the country and I know that nasties have been had and all sorts. Our park owner told the lady that she could stay there for ever and she stayed until she passed away when she was about 86. He has now built another home on the land.

That was a sad story. That lady had the life frightened out of her when the former park owner sold the land from under her. She thought that she had had it but, fortunately, we saved her.

I have a very nice park owner and I have met a lot of very nice park owners. I could take members to parks that are absolutely magic and where people are treated in a first-class way, and we cannot knock that. However, I have a list at home of 30 to 35 very bad park owners. Some have moved on, but they are very bad. As I said, however, there are a lot of good park owners, and we praise them.

The Convener: Apart from what is in the bill, does the Scottish Government need to take further action or to make additions to strengthen the protections that people on mobile home sites should enjoy?

Brian Doick: We have covered everything.

David Tweddle: We are happy with the bill.

The Convener: You are happy with what is proposed.

Brian Doick: We are more or less happy with what has been done, although we can always find something. We suggest that the Parliament might want to put in the bill a section to establish a review in two years' time or something, to see whether the provisions work after they have bedded in. If they are not working, they could be reviewed and looked at in a further two or three years' time, instead of keeping going with an unworkable thing.

The Convener: Members have no further questions, so I thank the gentlemen for their helpful evidence. If, when you get out of here, you think of something that you should have said, please put it in writing. I suspend the meeting to allow a switchover of panel members.

Brian Doick: Thank you very much for inviting us.

11:19

Meeting suspended.

11:25

On resuming—

The Convener: Okay folks, we continue our first item of business. I welcome the second panel on mobile home issues in the Housing (Scotland) Bill. The panel members are from owners representative groups. I welcome Colin Fraser, who is the chair of the British Holiday and Home Parks Association, and Jeanette Wilson, who is the policy director, Scotland, of the BH&HPA.

Would Adam Ingram like to start the questioning again?

Adam Ingram: Thank you, convener.

The Scottish Government's vision for housing in Scotland is

"that all people in Scotland live in high quality, sustainable homes that they can afford and that meet their needs".

Can panel members comment on the bill's provisions as they relate to that vision?

Colin Fraser (British Holiday and Home Parks Association): We agree with that statement exactly. Park homes nowadays are very nice and very comfortable—they are the sort of homes that people want to live in. My views differ from what was said during the previous evidence session, in that it is not actually a growing industry. It grew in the past few years because people managed to find site licences and were able to change holiday parks into residential parks, but the current position in the local plans is that most councils are totally against the establishment or extension of mobile home parks.

Adam Ingram: Why do you think that that is the case?

Colin Fraser: It is because councils do not believe that mobile homes—as good as they are—are the sort of housing that they want.

Adam Ingram: Does Jeannette Wilson have any comment?

Jeanette Wilson (British Holiday and Home Parks Association): Councils essentially do not recognise that mobile homes meet a gap in provision. There are people who want to live in a gated community—I hesitate to say that, because it sounds very American, but they want the comfort of living with people who are of a similar age. A stipulation for residency in the majority of parks is that residents have to be over 50 or 55—no children live there although grandchildren and so on can visit. A lot of people pursue such a lifestyle. They feel comfortable and do not have big responsibilities for maintenance or gardens, or anything like that.

To be honest, it is probably just the result of a pretty historical view that councils have held. Many of them do not realise how well appointed the homes are nowadays. They have greatly improved on what they were 20 or 30 years ago. It is unfortunate that councils do not recognise that mobile homes meet a housing need for certain people.

Adam Ingram: How would you characterise the bill's provisions as they affect park homes?

Jeanette Wilson: I think that the majority of the bill's provisions are very welcome, with the

obvious caveats in relation to the concerns that we commented on in our submission.

There needs to be a two-pronged public relations exercise. Local authorities throughout Scotland need to take a common approach to mobile home parks and to understand exactly what they are and what they provide. On the other side of the coin, it is obvious from a lot that was said during the previous evidence session that a big education exercise needs to be carried out for consumers, too. It is very worrying that so many of them do not appear to know their rights and exactly where they stand when they buy a mobile home. Our members give out information to people when they make a purchase, but I am aware that many parks are not in our membership and probably do not do that.

When the changes came in on 1 September in relation to implied terms and so on, we encouraged the civil servants who were to deal with the changes here to put something together to alert consumers to exactly what the changes were, what protections they had and so on. Although a little leaflet was produced, a whole lot more could and perhaps should have been said. A big education exercise needs to be done so that consumers do not find themselves in the unfortunate situations that some seem to have found themselves in.

Adam Ingram: Does Mr Fraser want to add anything?

Colin Fraser: No—that is fine, thank you.

11:30

Adam Ingram: Were you happy with the Scottish Government's consultation process for the bill? You obviously engaged in it. Do you have any comments on it?

Colin Fraser: Yes. The consultation process has been very good. The only thing that I would say is that the economic effects were not outlined very well. For example, the effect on a park owner of not being able to get finance for a mobile home was not looked at. There were a lot of things that the consultation did not look into. That could be why only certain circumstances are covered in the bill.

The Convener: You were in the public gallery for the first evidence session. The witnesses in that session said that there are about 450 parks, with about 4,000 to 5,000 residents. However, the policy memorandum states:

"Research by Consumer Focus identified 92 mobile home sites in Scotland, with around 3,314 mobile homes."

What is your assessment of how many home parks there are and how many residents they might have?

Colin Fraser: I recognise those figures, but we are not very sure how many there are. If someone lives in a mobile home or a caravan all year round to look after the park, the local authority issues a licence for a residential caravan or a residential mobile home, which is classed as being in a park. As a result of that, if Barry Plews asked the local authorities how many licences they issued, he could get a totally wrong number. I have a wee park in Buckie and I have a warden, and I have to apply for a residential site licence for that one home. That happens all over the country—most reasonably sized parks have somebody living in the park. That may be where the previous witnesses got the figure of 400 or so from.

The Convener: How many members do you have in Scotland?

Jeanette Wilson: We have 52 members who have residential parks, covering just under 2,000 residential pitches. I think that when the Scottish Government first got involved in the park home reform process, which was quite a few years ago, somebody—it might have been Mark Bevan from the University of Stirling—did some research for the civil servants to identify the number of residential homes. I am not sure whether that research based its figure on applications to local authorities—as Colin Fraser said, holiday parks with one residential caravan or mobile home may have been listed. I think that that research was carried out in 2007 or thereabouts. I am not aware of a complete study having been done since then.

Colin Fraser: We have 52 mobile home parks—or licensed parks—within the BH&HPA, but of those only 17 are exclusively mobile home parks. The rest are mixed parks, with mobile homes in a holiday park.

The Convener: Yes. I got that impression because what the gentlemen from England said does not really represent the situation up here. We have mixed parks—parks where there are rented homes as well as owned homes. What is the mix here?

Colin Fraser: Between rented homes and owned homes?

The Convener: Yes.

Colin Fraser: I have rented homes in my parks—they are nearly all rented—but the majority of parks do not really go in for renting. In the past few years, homes have not been selling very well. Park owners buy back a home and rent it out until such time as things pick up, when they can sell new homes. They will still rent homes, but they can slip on a new home and sell it because that is far more profitable than renting. That is why parks have quite a number of rented homes dotted around, but there are very few totally rented parks.

The Convener: To what extent would you agree with the Scottish Government that there is evidence that there are—as we heard from the previous witnesses—unscrupulous site owners who exploit vulnerable residents and fail to comply with their statutory obligations?

Colin Fraser: There are very few unscrupulous owners in Scotland. I have been director of the BH&HPA Scotland for 25 years and I have been on the park homes committee for as many years, and I know who most of the rogue park operators in England are. I think that the previous witnesses said that there are 35 very bad park owners. I would say that there is only one in Scotland—the park owner whom they were speaking about is not the best person in the world. The rest are doing okay, although some of them need a wee bit of educating. We have been working with one of them in particular, and he is getting a lot better. There is nothing like the number of rogue park operators in Scotland that there is south of the border.

The previous witnesses also said that rogue operators will come up to Scotland to buy parks, but they will not, because the vast majority of parks are far too small for them. All the bigger ones have been in the hands of the same families for 20 or 30 years. There are 13 parks in Scotland that have more than 50 pitches—I am talking about our membership. Only two of the owners of those parks have been in the business for less than 20 years.

I do not believe that the rogue element comes into it to nearly the same extent in Scotland as it does in England. Most of the rogue operators in England have multiple parks—they have 20 or 30 parks, and the parks that they own are larger than the ones here, so I do not think that we will get them up here. I do not think that it will be a problem.

The Convener: However, you would have to agree that not all site owners are as brilliant as the one whose site Mr Plews lived on. Improvements could definitely be made to many parks.

Colin Fraser: There is no doubt that, as the previous witnesses said, many park owners need to be educated on what they should be doing. People who have been in the business for 20 or 30 years are settled in the way that they do things. In addition, there might be a lot of older homes in their parks. When people have the right to sell on for ever, homes that are really past their sell-by date still sell. That means that it is not possible to have a beautiful-looking park like some of the newly developed parks, which look great. The older parks will never look great, because the old homes pass on from person to person.

The Convener: In your submission, you said:

“Decent park owners with businesses where there are no ‘wrongs’ to be ‘righted’ are finding the burden of legislation ... difficult to manage.”

What current legislation is a burden?

Colin Fraser: The latest implied terms came out recently, but they did not come out in the best of ways. For example, they do not say who pays the commission.

The Convener: What are you talking about when you say that “they” do not say who pays the commission?

Colin Fraser: The implied terms. You asked what the problems are at the moment. The park owner does not know from whom he is supposed to get the commission. He has to decide that for himself.

The Convener: Do you mean that a park owner does not know whether he is supposed to get the commission from the seller or the buyer when a home changes hands?

Colin Fraser: Yes. He can get the money from the seller or the buyer. One of the good things is that the commission has to be paid before the deal is completed, so one of the parties has to pay, but there is nothing in the legislation that says which one.

Jeanette Wilson: The lack of clarity has caused confusion. The implied terms changes that were made in September removed the role of the park owner from the sale process—previously, they knew who was coming to live in the park. That has caused a lot of concern.

As we mentioned, people move to a park because they are looking to live in a particular style of community. Now people will not know who is coming to live in the park because the park owner has not met them and cannot say whether they fit the criteria as to how the community lives. The park owners have been getting a lot of hassle from people who currently live in the parks because they are unhappy that they do not have the security of knowing that the person who has bought a home has been not exactly vetted but met and that assurances have been given that they are the sort of person that people were expecting to live with in that community.

The Convener: We heard from the first panel of witnesses that residents have no control because the park owner can sell the homes to whoever he wants.

Jeanette Wilson: The park owner would sell only to people who were going to fit in. Park owners are not looking for hassle—in the main, they want a nice, cohesive community. Nobody sets out to make their business life difficult. They are not going to encourage somebody to come

along just to take their money for the home with no thought given to the potential ramifications.

The Convener: You are saying that the park owner should have the last say in who a person sells their home to, but that could affect the price that they might get.

Jeanette Wilson: Yes, I can see that, but you asked what the concerns are. I am not saying that it is a massive thing, but it is something that has made park owners and residents uncomfortable. That is an unintended consequence; I know exactly what the legislation was intended to do—it was intended to prevent bad people from stopping people selling their homes and sneaking in to buy them. I appreciate that. The difficulty has arisen because of the potential for upset in what was previously a very happy community, which may not be so happy if somebody sells their home second hand to someone who does not really fit in. I was just using that as an example of what park owners are finding difficult, as that has become a bit of a difficulty.

The Convener: We also heard from the first panel that local authorities are failing to understand their roles, responsibilities and duties in terms of park standards. Is that true? Is your organisation finding differences in attitude between local authorities in different areas?

Jeanette Wilson: Local authorities have not been near quite a lot of parks for a very long time. In most cases, that is for the good reason that there has been no problem for them to get involved with. However, there is not a level playing field in Scotland regarding the attitudes to parks. It comes back to the need for an overall education exercise.

Colin Fraser: Local authorities always react if something goes wrong. If a local authority gets a letter of complaint about something, the park will get a visit from the local authority. The fact that local authorities are not attending parks indicates that they are not getting complaints—it is as simple as that.

The Convener: I have to disagree with that. Often, the people on the sites do not know who to complain to and do not know their rights in relation to the park owners. As a constituency member, I find that, rather than there being no complaints at all, the residents do not know their rights or who to complain to.

Jeanette Wilson: That highlights the need that I mentioned for a big public relations exercise to ensure that consumers know that information. They ought to be in possession of the facts, particularly given the amount of money that they hand over for a home. You would not dream of not knowing the details if you were buying a car—you would not hand over lots of money without all the

necessary bits and pieces. There is a big gap to be filled.

Colin Fraser: The problem could be that there are so few mobile home parks in Scotland that a lot of councils have only two or three and they do not want to have somebody geared up to look after those two or three parks. I do not know whether there are people in councils to whom park residents can go to discuss their park.

The Convener: Jim Eadie will continue with questions on the theme of licensing.

Jim Eadie: I want to ask about the duration of site licences. You say in your written evidence that a three-yearly renewal system

“would create uncertainty and destroy confidence in the sector.”

Given that a three-year period is common to the licensing system for homes in multiple occupancy and there does not appear to be any evidence to suggest that it has destroyed confidence in that sector, what underpins your assertion?

Colin Fraser: On what?

Jim Eadie: You state in your written evidence, which I have just quoted, that the move to a three-yearly renewal system

“would create uncertainty and destroy confidence in the sector.”

That has not happened with homes in multiple occupancy, for which a similar system has been introduced. Why do you think that that would happen in your sector?

Colin Fraser: Because it is a different thing altogether. A house in multiple occupation is just one house that is sitting there, and one person owns it. The folk can move on tomorrow—they do not have a problem. Nobody has a problem with that.

11:45

However, the average caravan park in Scotland has 35 pitches, and the people on those pitches would not know what was going to happen. Just as the three fellows who were here earlier said that they did not feel secure, we feel that about a three-year licence. Wales has decided on five-yearly renewals of licences. That does not come in until October, but the finance companies, the banks and all the people who finance mobile homes and parks have withdrawn funding. They are not going to fund things that have a finite time. A rolling licence or a licence in perpetuity, which is the same thing, is what we need. As was said earlier, the licence is not for the person but for the land that the mobile homes sit on. There could be a review of the licence every three or five years,

although we would prefer five years. It would be a review rather than a renewal.

Jim Eadie: You are concerned that a three-year licence would put consumers off purchasing a mobile home.

Colin Fraser: Yes. Those who want funds to purchase cannot get them. The banks, lawyers, estate agents and such are putting people off buying. They say "Oh. You've only got five years. We don't know what's happening then."

Jim Eadie: Okay. I understand that. You suggested in your written evidence the alternative of a rolling licence.

Colin Fraser: A rolling licence is the same as a licence in perpetuity, as it goes on for ever. Both the British Holiday and Home Parks Association and the people who represent the residents do not want temporary licences.

Jim Eadie: So you would agree with the evidence that we heard earlier this morning from the Independent Park Home Advisory Service and the National Association of Park Home Residents that having a fixed licence period could be used as a weapon against mobile home residents.

Colin Fraser: Of course it can.

Jim Eadie: Can you tell us a bit more about that?

Colin Fraser: If you get rogue operators, they say "Right. The licence finishes on such and such a date, and I don't know what will happen then." That is all they say, but it is enough—it is too much.

Jim Eadie: You have said that you are concerned that having the three-year licence period would put consumers off purchasing the homes—or, rather, that banks and other financial institutions would be unwilling to lend to people if they only had a three-year licence period. Do you have any other specific concerns?

Colin Fraser: We do not need any more concerns, because that is really bad enough. There is nothing worse than not being able to buy park homes because you cannot get funding.

The Convener: But that is happening now. Are you saying that even the threat of the legislation is stopping the buying? Banks are not lending to housing associations, for example. They are not lending to a lot of organisations and a lot of people. It is not just because of the proposed legislation.

Colin Fraser: Banks are not lending. They are being far more difficult about lending to people who want to buy a park. If you have a park already and you can put it up for collateral, you will get lending, but if you are buying for the first time, the

banks will not be interested. However, people seldom get a bank loan to buy park homes. Banks do not usually finance park homes; it is finance companies that do it. There are only two main finance companies that finance park homes.

In Wales, the Welsh Government has already seen what is happening, and it is making the licensing for holiday homes into licences in perpetuity. It is not going to do three-yearly licences or whatever for holiday homes. It has decided that, because of what has happened on the residential side, that is not a good idea.

Jim Eadie: I would still like to understand the justification for your proposal for rolling licences instead of what is proposed in the legislation.

Jeanette Wilson: It would give more security to consumers—in other words, the people who are purchasing homes. It is quite obvious that people would feel less secure putting their savings or whatever into buying a home if they could not be sure that that was it for however long it is at the moment.

Jim Eadie: What advantage does your proposal have over the status quo, in which site licences run in perpetuity? Are you saying that they would continue to run in perpetuity?

Jeanette Wilson: It would be fine if they continued to run in perpetuity, because that would give everyone the security that they need. At the end of the day, the Scottish Government's avowed intention is to protect consumers and give them more security. Introducing a three-yearly renewal system would have the opposite effect. In addition, the park owner is constantly investing in and improving the park's infrastructure.

Jim Eadie: I am sorry, but I am not an expert in this area. It is helpful for the committee to have your expertise because it allows us to better understand the system and how it might operate. At the moment, I am trying to understand the difference between what we have at the moment and your proposal for rolling licences subject to a five-yearly review.

Jeanette Wilson: My proposal was in response to what you were saying. It is obvious from the consultation document that that was the way you were thinking and going, and we presumed from that that you did not want the status quo. We thought, "If that is the direction of travel, how about this suggestion? It might be a bit more workable."

Colin Fraser: As we understand it, a rolling licence is the same as a licence in perpetuity. It is just another term for it.

Jeanette Wilson: We accept, of course, that people will want to visit parks and check what is happening there, and a review would allow that to happen.

Jim Eadie: And it would not have the kind of disadvantages that you think would arise from the three-yearly renewal system.

Jeanette Wilson: No. A five-yearly review with a legal presumption that all is well unless there has been some incident in the intervening period gives everyone—the park owner and the park home owner—security.

Jim Eadie: And it could not be used as a weapon as has been suggested in respect of the three-yearly renewal.

Jeanette Wilson: No, not if there is a five-yearly review with a legal presumption that all is well unless there has been an incident of some sort.

The Convener: But if you have a licence in perpetuity or a rolling licence, there is no reason why there should not be a three-yearly review.

Jeanette Wilson: That is fine as long as we are talking about a review rather than a renewal process and as long as there is a legal presumption that all is well unless there has been some sort of infringement.

Colin Fraser: I am sure that some of you will recall that many years ago—actually, not that many years ago—pub licences lasted three years. However, people forgot to renew their licence, lost it for a while until the next licensing meeting and so on and the Scottish Parliament in its wisdom then gave personal licences to the owner and those in charge of the bar and a pub licence in perpetuity.

The Convener: Mary Fee has some questions about the fit-and-proper-person test.

Mary Fee: In introducing a fit-and-proper-person test, the bill sets out the factors that local authorities should take into account when determining whether someone is a fit and proper person. Your submission makes a slightly different recommendation, suggesting that

“a standard procedure be set up to establish fit and proper status for applicants so that it can be used across all local authorities in Scotland to ensure consistency”.

What are the differences between “a standard procedure” and the factors that local authorities already use to make this determination? What would be the benefit?

Colin Fraser: The benefit would be that every park would be working under the same conditions and the same criteria. Having different areas with different fit-and-proper-person criteria is not going to work because a person might be a fit and proper person in one area but not in another. We would like one application form with questions that had to be filled in, and it would be given out by the Scottish Parliament or whoever and apply to everyone in every area in Scotland. Such an

approach would keep things simple. After all, a council will perhaps have only two or three parks in its area. No council has a lot of parks and instead of setting up a system to deal with two or three parks, review them every three years and so on it will be a lot simpler to take a national approach.

Mary Fee: So you do not think that a system in which local authorities get information about the factors that they should take into account in determining fit-and-proper-person status is strong enough. You would like something more formalised.

Jeanette Wilson: If there was a prescribed procedure across the whole of Scotland, it would be beneficial for people who have more than one park, with the parks being in different local authority areas. Such people would have to go through the process only once and then they would be on some sort of central register, however that might be set up. It would be much more beneficial if there was one overall register for all areas in Scotland. We were talking about rogue operators earlier. If somebody is not a fit and proper person in one council area, at the moment there is nothing to stop such a rogue operator from popping up in another area where perhaps they will not be identified as not being fit and proper.

Mary Fee: So if an owner has sites in more than one local authority area, are you suggesting that they go through only one application?

Jeanette Wilson: It seems to make sense—

Mary Fee: Who would deal with the application? At the moment, a local authority would determine the application. Under your proposal, who would determine that application?

Jeanette Wilson: I would have thought that the place where an owner put in their first application would deal with it—the owner would have to detail other parks that they have an interest in at that point.

Mary Fee: Would it then be the responsibility of the initial local authority to inform another local authority? How would that be enforced?

Jeanette Wilson: I would have thought that there could be a central register that they could input the information into. That would seem to be the sensible approach.

Mary Fee: Okay. I am just not sure how that would work in practice.

Jeanette Wilson: There is that tell-us-once system for when members of the public need to register certain information with local authorities—the information shoots off in all sorts of different directions. I imagine that something along those lines could be set up.

Mary Fee: Okay.

Colin Fraser: We would not be averse to the idea that wherever a park is, if the owner puts a warden on it, they apply to the area that the park is in. The owner would just have one application for all his parks, but if there were wardens on the parks, they would apply to each separate local authority area that those parks were in. If that was the case, all the more reason that local authorities should all have the same questionnaire so that everybody is on the same footing.

Mary Fee: I am just not convinced that such a system would not overcomplicate things, but I accept your point.

Colin Fraser: It would be far simpler than every council having a different questionnaire—and they would have.

Jeanette Wilson: It would also be beneficial for each council to have access to information from other areas. If there was a central register and somebody popped up who was going to buy a particular park, it would be quite useful to be able to tap in and say, "Oh, okay, he passed the test in this area in this month."

Mary Fee: Okay. To move on to another point about the fit-and-proper-person criteria, the BH&HPA submission indicates:

"The likely success in achieving the goal of ridding the industry of rogue operators ... through the application of fit and proper person criteria ... is unknown."

The submission also suggests that the Scottish Government should adopt measures similar to those in England to allow ministers to make regulations regarding the fit-and-proper-person test in due course. The licensing regime is similar to other licensing regimes so why is it so difficult in your industry to get rid of rogue operators?

Jeanette Wilson: The most delicate way to put it is to say that rogue operators have very complex business arrangements. [*Laughter.*] Sorry—I could not think of a better way to put it than that.

The Convener: We get the message.

Jeanette Wilson: We have heard about this kind of smoke-and-mirrors situation before. It is one person who owns it; no, it is their cousin; it is their nephew; or it is their son. It is very difficult. Those people do not abide by regulations now so we have concerns, given that that is their mode of operation. What will make them suddenly do everything in an up-front, appropriate manner?

I am not saying that we should not try—of course we should. I have discussed the issue with civil servants, and their view was that if the process caught out a few rogue operators—if a few of them were rumbled—that was good enough. I am not saying that we ought not to be

trying to catch them; it is just that we have concerns about the complexity of those business arrangements that would undoubtedly come to the fore.

Colin Fraser: We also have a concern about when people first apply to be made a fit and proper person. There is usually only one person in a mobile home park because of the average size of the parks. What if a long-serving person at a park is found not to be fit and proper? What do you do with them? You cannot sack them; you cannot make them redundant. What do you do?

12:00

Mary Fee: What do you suggest we do?

Colin Fraser: I do not know.

Mary Fee: If someone was assessed and found not to be a fit and proper person, should there then be some steps that they can go through that would allow them to become a fit and proper person?

Jeanette Wilson: I guess that it would depend on why they were deemed not to be fit and proper. If it was because they had a criminal record that was not known about, you could not really scrub the record.

Colin Fraser: They could have a criminal record from the past that the world does not know about.

Mary Fee: Okay, so what is the solution?

Colin Fraser: That is what I am asking you.

Mary Fee: I am keen to hear your thoughts on how we would resolve the situation.

Colin Fraser: We have to have a solution. Employment law is very difficult. We certainly cannot pay someone off or sack them because they have been found not to be fit and proper. You cannot make them redundant because they are not fit and proper, because you would be up for unfair dismissal.

Jeanette Wilson: We found that this is a complex area when we thought about how it would work.

Colin Fraser: We have tried to get advice, but we are always told that nothing can be done.

Mary Fee: But do you support the fit-and-proper-person test?

Colin Fraser: If the criteria are right and we get answers to all the questions.

Jeanette Wilson: We also feel that a consistent approach throughout Scotland is very important.

Mary Fee: So if the test criteria were right and were applied consistently, you would be able to deal with someone not being a fit a proper person.

Colin Fraser: No you would not.

Jeanette Wilson: We do not know how we would be able to overcome the problems with employment law.

Colin Fraser: If there is something in the bill that would allow such a person to be sacked or made redundant, that would be fine, but I cannot see how that would come about.

Mary Fee: You have raised a point that we have not previously pondered.

The Convener: If you knew the criteria, presumably you could make sure that the person could be trained to meet them. Also, under employment law, you can deal with a person who has a criminal record.

Mary Fee: If the person does need some sort of training or to go through some sort of programme, and if clear criteria are laid down within employment law and regulations, if the person does not meet those standards and is in breach of what is expected of them, and if they knew what the expected standards were, you would be able to dismiss them.

Jeanette Wilson: It is just the complexity that we had not considered until we got to the stage of putting our ideas together.

The Convener: Mark Griffin wants to ask some questions about enforcement.

Mark Griffin: Can you describe how the existing powers on enforcement and how they have been applied have impacted on residents and site owners?

Colin Fraser: Under the 1960 act, local authorities have the power to take action if a park owner is not complying with the site licence. They have always had the power to move into the park and do the repairs. They have always had the power to take the park owner to court, and to withdraw someone's licence. They have all those powers at present and they always have had.

Mark Griffin: The Scottish Government feels that giving local authorities a range of robust enforcement tools is crucial to making sure that sites are managed well. What are your views on the new range of tools that are being proposed? Are they wide enough to tackle rogue site operators and act as a deterrent? Do you think that they have a proportionate impact on site owners at present?

Colin Fraser: What has been proposed is all to do with the park owner and the people who work for him. It has nothing to do with a site licence. At the moment, the site licence is all about the structure of the park. It covers site boundaries, spacing, hard standing for caravans, carriageways and footpaths, drainage, water supplies,

sanitation, litter and refuse disposal, fire precautions although they have now been taken over by the fire authority, lighting, storage space, and recreational and open space. The site licence is entirely different. We are looking at the person who holds the site licence, not really at the site licence. Most people comply with their site licence—everything that I mentioned—because they have to do that to keep somebody provided with electricity, drainage and water.

Mark Griffin: Is the new range of powers proportionate? Will it have a negative impact on the operators who are exemplars—who are doing a good job?

Jeanette Wilson: Well, they will not end up in court or infringing their licences. The vast majority of park owners are astute, sensible businesspeople and will not end up in that situation.

Mark Griffin: Do you have any issues with the new enforcement powers that are being introduced?

Jeanette Wilson: The power to appoint an interim manager is of concern because it is not clear at the minute exactly what powers interim managers will have. For example, will they be able to undertake sales?

Also, what will happen about utility bills? The bill says that the individuals on the park will not have to pay their pitch fees or electricity bills if various things have happened. We detailed our concerns about that in our submission. If the park owner does not receive any income because people do not have to pay, how will he pay for utilities? We do not want utilities to be cut off because the money has not been paid.

A lot of detail and clarity is needed on how the appointment of an interim manager would work. No revenue would come in if the interim manager was unable to undertake sales on the park—although it is questionable who would want to come along and buy a home if an interim manager from the council was in place—so what would happen about the day-to-day maintenance on the park, for example?

At the moment, it is not clear how that power would work, so that is a concern.

Colin Fraser: Also, if a park owner does not comply with an improvement notice within 28 days, or however many days the set-up says, the local authority has to let the people in the park know and they are supposed to withdraw their pitch fees, their electric money and their gas money—all the payments that they make to the park owner. He gets no profit from sales, commission or anything. If the local authority and the people in the park know as soon as the

improvement notice has been breached, that is before any appeal has been made. How can the local authority take someone's income away from them before there is an appeal or a court case? How can a park owner run the park—it will not be under management at the time—without any funding?

Mark Griffin: I noted the points that you made in your submission. You make further points about the polluter pays principle. How do you feel about the proposals to prevent rogue operators passing on to residents any charges that they incur? How does that balance with the example that you give in your submission of a situation in which a resident might have caused the problem in the first place? Do you have any comments on that?

Colin Fraser: If a park owner does things wrong and the local authority writes to him and charges him fines, the residents should not pay. It is as simple as that. It is the park owner who owes the money.

Mark Griffin: Do you have any other general comments to make about the detail of the proposed enforcement powers? Could there be any further adverse impacts on site owners that we have not touched on so far?

Colin Fraser: One of the main things is that the bill says that, if a person does not carry out the steps on an improvement notice, they can be fined up to £50,000. In Wales, the figure is £500. We worry about £50,000, but we are told that the Scottish Government has set that as the figure for all sorts of things.

We do not believe that, just because that is the figure for all sorts of things, it should be the figure in the bill, because in court, the judge will say, "Oh—£50,000. If I give 25 per cent of that, that'll be £12,500." Really big fines will be imposed because the top fine is so high. I do not think that anyone will be fined the top fine. We do not believe that, just because the Scottish Parliament has a set figure of £50,000 for certain things, the figure in the bill should be £50,000.

Gordon MacDonald: What is your view about the proposal that local authorities can introduce a fee of a suggested £600 for a three-year site licence? Should the licence fee be standard for all parks or should it vary according to park size?

Colin Fraser: The figure should definitely vary according to the park size. I did a wee bit of research last night into our smallest parks. There is one park with five pitches, one with six, one with seven, two with 10, one with 12, one with 19, three with 20, one with 21, one with 22, two with 25, one with 28 and three with 30. Of the parks that are members of BH&HPA, 33 per cent have fewer than 30 pitches, and £600 would be a lot of money

for wee businesses such as that, so the fee must be set per pitch.

Gordon MacDonald: Do you have a suggestion for the level of fee per pitch?

Colin Fraser: Yes—it should be nothing. *[Laughter.]*

Gordon MacDonald: We all live in a world in which we wish that our bills were nothing.

The first panel suggested that fees should be considered a business expense. What is your opinion? Should park owners be able to recoup the cost through pitch fees?

Colin Fraser: Park owners have very few ways of increasing pitch fees, which go up only by inflation every year, whatever the inflation rate is. If extraordinary things come in—that could be licensing now but something else that is far more expensive afterwards—the costs should be passed on to residents. A park of 30 pitches should not incur a cost of £600. If the cost was not a lot of money and was set by the number of pitches, I would not expect smaller parks to pass it on, because it would be minimal.

Gordon MacDonald: Most of the other questions that I was going to ask have been covered. You mentioned the possibility that banks and finance companies are unwilling to finance the purchase of parks and park homes in Wales as a result of the requirement to renew licences after five years. Can you point us to where we can obtain more formal evidence on that?

Colin Fraser: We got the information from parks—from BH&HPA. I do not know the name of the relevant person to write to about finance companies.

Jeanette Wilson: Shall I try to get information from BH&HPA head office? It might have something more substantial.

Gordon MacDonald: If you could send us a briefing, that would be helpful.

Colin Fraser: We might be able to get something from the finance companies. All companies that loan money are very much looking into everything at the moment. If the least little thing arises, they say no. That is what has happened.

Jeanette Wilson: It is perhaps pertinent to add that one BH&HPA member who has a residential park in Fife approached a big firm of estate agents and lawyers there to see how knowledgeable it is about park homes and how well placed it would be to advise someone who came in off the street and wanted to buy a park home. It is worrying that that company, which has branches all over Scotland, said that it would show such a person the door

and say, "Don't do it." We did not feel that that was particularly positive.

12:15

Colin Fraser: On the renewal of a site licence, when a park owner is selling a site, there is always something to state that the purchaser must get agreement on the transfer of the site licence. The bill states that the local authority can have up to 12 months to decide whether to give a site licence, which is absolutely ridiculous. On a sale, the transfer of the licence should be more or less automatic because, if local authorities are doing their job properly, all sites out there should be ready for transfer—it is as simple as that. If the local authorities are looking at sites and keeping them up to date and up to scratch, the transfer should be more or less automatic. Planning departments in Scotland get eight weeks to pass massive plans for office blocks and other such things, so surely a local authority can do a wee thing like a site licence in eight weeks.

A licence is also transferred when someone dies. Under the bill, as soon as a person who has a park in his name dies, the park will not have a licence. The last thing that someone who has just lost her husband, say, will think is, "Oh, I need to renew my licence." It will be months down the line before they think about transferring the licence. The 1960 act, in its wisdom—there are a lot of good things in it—says that they immediately become the owner of the licence and then have to apply to have that endorsed by the local authority. I cannot see any other way of dealing with the situation when somebody dies and the licence has to be transferred. People cannot go through the whole procedure because, during that time, they will not have a licence. So there has to be something in the legislation that says that they still have the licence during that period or that it transfers automatically. In our submission, we set out the wording from the 1960 act, which allows the transfer to happen automatically, after which the licence has to be endorsed.

Gordon MacDonald: If the proposed timescale was reduced to eight weeks, as in planning, would that give enough time for a fit-and-proper-person check to be carried out? Obviously, we want to ensure that the park is sold to somebody who is a fit and proper person. We heard about rogue owners down south. If we reduced the period to eight weeks, would that timescale give the authorities the opportunity to check people's background fully?

Colin Fraser: If there is a proper form that goes to all the councils, it will ask questions and that will give the answer. Somebody will need to be looked into only if the form shows that there is something that needs to be looked into. If all the answers on

the form are yes or whatever, there should not be a problem.

We have spoken about houses in multiple occupation and landlord registration, and some councils are months behind on that. We cannot have that with the fit-and-proper-person check for somebody who is coming to work on a park. We have the same problem there. In one park, I went through four managers—I call them wardens—in one year because, unfortunately, three of them were no good. They might all have been fit and proper persons, although I do not know. However, when somebody leaves—people often fall out with the park owner and go—you need someone quickly. You cannot wait for weeks and weeks to get someone who is a fit and proper person. However, owners will not be able to employ someone until they get the permission back from the council. Something should be laid down in the legislation about how long the council will have to do the fit-and-proper-person procedure under normal circumstances where there are no inquiries.

The Convener: Your written submission states:

"Close attention should be given to the transitional and commencement arrangements"

for the bill. I take it that you were consulted on the bill's provisions at the outset, so will you expand on what you mean by that?

Colin Fraser: On site licensing, there are a lot of things to be filled in and we do not know what they are. That is what we are speaking about. Until we know what they are, we cannot really answer your question.

The Convener: You will be consulted on what goes into what we call subordinate legislation under the bill.

Jeanette Wilson: One point that we make is that we are concerned as to why existing licence holders will have to reapply for new licences within 24 months of the legislation coming into force. If there has been no problem whatsoever on a park for as long as local authority records go back, why is it necessary to go through the administrative burden of reapplying for the licence? I can understand that entirely if there has been an infringement along the way, but otherwise that seems to be an admin burden for no real reason. If there has been no problem, why would a park have to reapply for its licence within 24 months?

The Convener: To go back to Adam Ingram's initial question, the bill is trying to improve the standard of homes that people live in. The initial licence might impose fewer burdens than we would want to ensure that the park is of a better standard now. Surely we want to ensure that standards are improving all the time.

Jeanette Wilson: Would that not follow automatically if there was a review every five years of a licence and regular local authority visits? Apart from anything else, if all the parks have to apply for a new licence within 24 months, the workload for councils will probably be substantial if they have not visited the parks for many years. It would probably be better for local authorities to visit or whatever to discuss and negotiate the site licence changes, rather than say that everybody in Scotland has to do it en masse within 24 months. Obviously, the priority would need to be the parks that have had problems.

Colin Fraser: I am aware that Highland Council is reviewing its site licences, and many other councils are looking at them, because it suddenly dawned on councils that they have nothing to do with fire precautions and all that stuff, so it has to come out of the licences. Highland Council is to introduce its new licences imminently. It does not seem very good for the council to put out new licences now and then to have to redo them in two years.

The Convener: As we have no further questions, I thank our witnesses for their evidence, which has been most helpful. If there is anything that you think that you should have said but have not, please put it in writing.

I suspend the meeting briefly to allow the witnesses to leave.

Colin Fraser: Thank you very much for the invitation—the meeting has been useful.

12:22

Meeting suspended.

12:23

On resuming—

High Speed Rail (London – West Midlands) Bill

The Convener: We move swiftly on to agenda item 2, which is consideration of a legislative consent memorandum on the High Speed Rail (London-West Midlands) Bill, which is United Kingdom Parliament legislation. Because the bill alters the executive competence of the Scottish ministers, a legislative consent motion is required. Paper 3 includes the LCM and provides details of the LCM procedure.

The committee is invited to consider whether to report that the committee is content with the LCM and the Scottish Government's view that it is in the best interests of the Scottish people and good governance that the relevant provisions of the bill should be considered by the UK Parliament, or to report that the committee notes the LCM. As there are no comments, do members agree that we go for the first option, which is to report that the committee is content with the LCM?

Members indicated agreement.

The Convener: I remind members that, next week, the committee will meet on Monday, which is 24 February, in the burgh hall in Dumbarton, as part of Parliament day. The meeting will be from 6 pm to 8 pm, but we will also have events during the day, such as evidence taking and going out to see folk. If members have any questions about that, the clerks will be pleased to answer them.

Meeting closed at 12:25.

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