

HCS 26
National Assembly for Wales
Communities, Equality and Local Government Committee
Holiday Caravan Sites (Wales) Bill
Response from: Federation of Small Businesses Wales

FSB Wales

Holiday Caravan
Sites (Wales)
Bill

20th May 2014





Holiday Caravan Sites (Wales) Bill

FSB Wales

FSB Wales welcomes the opportunity to present its views to the Communities, Equality and Local Government Committee on the Holiday Caravan Sites (Wales) Bill. FSB Wales is the authoritative voice of businesses in Wales. With 10,000 members, a Welsh Policy Unit, two regional committees and twelve branch committees; FSB Wales is in constant contact with business at a grassroots level. It undertakes regular online surveys of its members as well as a biennial membership survey on a wide range of issues and concerns facing small business.

Introduction

FSB Wales has responded to the previous consultation outlining a number of concerns around the increasing regulatory burden contained in the proposals. A copy of previous correspondence is attached for the benefit of the Committee. While there is undoubtedly welcome additional detail provided by the Bill in current format; FSB Wales feels a number of our original concerns are not addressed in the Bill.

Previous Concerns

In our previous correspondence we outlined the following concerns:

- **That the stated purpose of the Bill was not clear.** The overarching aim expressed previously was to deal with bad practice by giving local authorities an enhanced regulatory role and enforcement powers. FSB Wales was concerned that this would merely overburden those providing good practice without dealing with the very real problems of enforcement against those breaking the law. The Explanatory Memorandum has clarified a number of these issues but does not examine whether legislation is the best means of achieving the stated goals.
- **Enforcement issues can be resolved without the need for recourse to increased regulatory powers.** FSB Wales believes Wales would benefit from a well articulated *Better Regulation* policy that seeks to focus enforcement actions on those that pose the highest risk to the Welsh public while acting in good faith for good performers. For instance, the Netherlands has a well established risk based approach to regulatory enforcement. As part of the legislative process, the Dutch legislators produce '*Practicability and Enforcement Assessments*' that identify the effects of proposed legislation on enforcement authorities. This serves to ensure that any regulation is only introduced if it can be adequately enforced. In the context of the Holiday Caravan Sites (Wales) Bill such a process could have avoided the need for this approach by ensuring any legislation introduced previously was enforceable. The National Assembly should examine whether there are practical measures that could be taken to ensure that adequate enforcement of the current regulatory regime is possible before the passage of a new Bill.

General Principles

In relation to the current Bill, FSB Wales perceives a number of issues around the licensing and enforcement regime. In terms of general principles, FSB Wales feels that a central focus of the Bill should be to not unduly burden businesses that exhibit best practice. In reality, this should mean that any inspection and enforcement regime should be proportionate, risk based and should take into account the needs of commercial operators, in line with the Hampton Principles of better



regulation. FSB Wales feels there is a need to strengthen this within the Bill. The current Explanatory Memorandum states that:

“Under the provisions of this Bill, local authorities must inspect sites at least once every three years to ensure that sites are complying with licence conditions. This approach will allow local authorities to take a risk-based approach to inspections and is intended to ensure compliance with licence conditions. Well run sites that are run professionally should not expect frequent inspections”

While FSB Wales welcomes the sentiments included in the Explanatory Memorandum there does not appear to be any section of the Bill compelling local authorities to regulate in this manner. This would merely ‘allow’ local authorities to operate proportionately but could not guarantee that they would do so. FSB Wales would like to see an amendment to Section 16 of the Bill (dealing with site inspections and licence reviews) to mandate local authorities to operate a proportionate inspection and enforcement regime that does not limit the prospects of sustainable economic growth.

Licensing Regime

The licensing regime proposed by the Bill would provide significant regulatory powers on local authorities via conditions of licence. FSB Wales believes there should be a statement providing the limits of the powers conferred under this section and setting out reasonable expectations in relation to the granting of licences. This should be accompanied by guidance on how the Welsh Ministers reasonably expect local authorities to administer the licensing process and under what circumstances conditions could reasonably be expected to be applied. Again, this should be based on the principle that any licensing regime and additional conditions should not be punitive to good operators.

Impact Assessment

FSB Wales believes a thorough impact assessment should be included with the Bill. This should assess the resource implications for local authorities in terms of managing the licensing regime and its enforcement. There should also be an estimation of impact on the private sector, particularly those who currently comply with existing legislation and would therefore be subject to additional regulatory burden. This should include all aspects of the Bill, including the resource commitment for operators in administering the residence test on behalf of local authorities.

Conclusion

FSB Wales believes that the Holiday Caravan Sites (Wales) Bill should be seen in the context of wider regulatory policy in Wales. Local authorities will be expected to administer and enforce an additional set of regulations as a result of this legislation and FSB Wales believes the Welsh Government needs to assess how it can best achieve its aims without overburdening businesses and the local authorities that are tasked with enforcement. This means examining smarter approaches to regulation under the auspices of a Better Regulation agenda.



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The Federation of Small Businesses Wales

The FSB Wales is non-profit making and non-party political. The Federation of Small Businesses is the UK's largest campaigning pressure group promoting and protecting the interests of the self-employed and owners of small firms. Formed in 1974, it now has 200,000 members across 33 regions and 194 branches. FSB Wales currently has around 10,000 members, a Welsh Policy Unit, two regional committees and twelve branch committees meaning FSB Wales is in constant contact with small businesses at a grassroots level in Wales.

Lobbying

From the Press and Parliamentary Affairs Office in Cardiff, FSB Wales campaigns with AMs, MPs and MEPs in Cardiff Bay, Westminster and Brussels in order to promote our members' interests. FSB Wales also works closely with local, regional and national media outlets to highlight our members' concerns. Development Managers work alongside members in our regions to further FSB Wales influence at a regional level. More widely, the FSB has Press and Parliamentary Offices in Westminster, Glasgow, Belfast and Brussels to lobby the respective Governments.

Member Benefits

In addition, Member Services is committed to delivering a wide range of high quality, good value business services to members of the FSB. These services will be subject to continuing review and will represent a positive enhancement to the benefit of membership of the Leading Business organisation in the UK.

Vision

A community that recognises, values and adequately rewards the endeavours of those who are self employed and small business owners within the UK.

The Federation of Small Businesses is the trading name of the National Federation of Self Employed and Small Businesses Limited. Our registered office is Sir Frank Whittle Way, Blackpool Business Park, Blackpool, Lancashire, FY4 2FE. Our company number is 1263540 and our Data Protection Act registration number is Z7356876. We are a non-profit making organisation and we have registered with the Information Commissioner on a voluntary basis.

Associate Companies

We have three active subsidiary companies, FSB (Member Services) Limited (company number 02875304 and Data Protection Act registration number Z7356601), FSB Publications Limited (company number 01222258 and Data Protection Act registration number Z7315310) and FSB Recruitment Limited. (company number 07836252 and Data Protection Act registration number Z3131666).