

Appendix 5- Service Eligibility Guidance

1. Electoral Services

A person's name may appear on the electoral register only if they reside at an address within the electoral area. Residence is not defined in law, and those wishing to be added to the electoral roll do not have to provide any evidence to prove their residency. This is true even where someone is registering to vote at a second address. It is permissible under electoral law to have more than one residence, and therefore to register more than once. It's only an offence to vote more than once in an election to the same legislative body.

N.B. In the case of Hipperson v. Newbury (1985)²⁶ the court established that unlawful occupation of grounds or a dwelling does not disqualify a person from registering there if it is determined that this is their permanent residence. Consequently, any issue regarding tenancy, ownership or legal occupation of the property by the applicant must be disregarded in determining whether or not the residence requirement has been met.

As stated previously despite the fact that enrolment on the electoral role is compulsory there are a number of individuals who chose not to register or chose not to be placed on the public register. Consequently, the information provided by electoral role databases may not be fully representative of the true scale of residential occupation of holiday caravans.

2. Council Tax

Information on Council tax liability for caravans can be found in Section 7 of the Local Government Finance Act 1992.

When an individual contacts the Council tax service requesting to start paying Council Tax on their property an officer would search the Academy system to establish whether the requested property is already taxable and has been banded. If the property in question is a caravan, the applicant would also be asked whether they occupy the caravan permanently and if there are any restrictions to their occupancy.

If the caravan is already banded (suggesting permanent residential use is permitted) an account would be created in the occupant's name. If the caravan isn't banded an officer would issue a report to the Valuation Office Agency to advise of the new occupation. A Valuation Officer would be the one to ascertain if the caravan would be taxable and banded for Council tax purposes they would also carry out any checks on Planning Permission to ensure that the property has been approved for permanent residential use.

Class G Exemption

If the occupation of the caravan is restricted to 10 months per year there is an exemption available to award for the other months where the occupation is restricted. This is a Class G Exemption (see Council Tax (Exempt Dwellings) Order 1992) and it is a 100% exemption from paying Council Tax for the period that the occupation is prohibited.

3. Social Services (Adults and Children's)

3.1. Children and Family Services

In terms of child protection matters and potential Section 47 enquiries a service would be provided regardless of status, this would include those children whose parents did not have access to public funds. Domestic Violence is also covered in terms of alternative accommodation and legal aid.

Equally, access to longer term services such as Families First are also not restricted by residency. The service uses vulnerable families indicators as the access criteria. Families must have two or more of those indicators to access Families First services. Residency would not be taken into account due to a duty which requires authorities to respond to children in need in their area. If the service applicant is identified as being normally resident elsewhere then in some circumstances the service will seek to redirect the applicant to their home authority or seek a contribution from the home authority to the services offered (but this would not impact upon the service provided).

3.2. Adult services (Community Care Services)

An individual has to be an 'ordinary resident' which means their usual address is in Denbighshire. As such if an individual is living permanently in a caravan in the County, they would be eligible for social care services. Even if they are a temporary resident, they would be eligible for emergency services to maintain their safety.

4. Education

It is a statutory requirement for local authorities to offer school placements to any of those who request them, regardless of their stated permanent residential address. The only exception to this rule occurs when oversubscription is an issue at which point residency may be brought into question.

Furthermore, local authorities are required to supply free school transport for those pupils within the authority who require it regardless as to whether they are living on a holiday caravan site (as long as they meet the distance and school choice criteria). The Learner Travel (Wales) Measure 2008 states:

“3. Local authority duty to make transport arrangements

(1) This section applies in relation to a child of compulsory school age if—

(a) the child is ordinarily resident in a local authority's area.....

(2) The local authority must make suitable transport arrangements to facilitate the attendance of the child each day at the relevant places where the child receives education or training.”

If a child is identified as living in a holiday caravan in the county then their holiday caravan will be identified as their 'ordinary residence'. The Learner Travel (Wales) Measure 2008 states:

“(1) If a person has no ordinary residence, that person is to be treated for the purposes of this Measure as being ordinarily resident at the place at which he or she is for the time being resident.”

In some cases a child may be living on a holiday caravan site which holds a 10 month licence, as such the child is required to move off site for 2 months of the year. In these cases the child's 'ordinary residence' would change from the caravan site to the address at which they are based for that 2 month period.

If their new 'ordinary residence' is out of County then it is the responsibility of the local authority where the child is an 'ordinarily resident' to arrange transport. Additionally, the child would likely be moved to a school closer to their new 'ordinary residence' during this 2 month period.

If the child's new 'ordinary residence' remains in Denbighshire then the policy states that transport would be provided (if they meet the policy requirements); however this would usually be to the nearest school. Arrangements would be made for them attend the closest school to their new 'ordinary residence' for that 2 month period and then they would be transferred back to their original school when they moved back on site (providing that school had places)

However, in some cases there may need to be a degree of discretion to review whether or not to provide transport within Denbighshire, since there is a requirement to assess the needs of the individual. Therefore there could be children who would benefit from staying in the same school, even if technically another could accommodate their needs and was closer.

5. Passenger Transport

New guidelines were recently implemented in relation to the eligibility for concessionary bus passes in the county. As such, any individual who provides a holiday caravan site address as their permanent residence when applying for a concessionary bus pass will no longer be eligible.

6. Housing Benefits

In order to be eligible for Housing Benefit, a person must be liable for rent for a dwelling they normally occupy as their home. (The primary legislation for this is The

Social Security and Contributions and Benefits Act 1992 - Section 130, paragraph (1) and the secondary legislation is under Regulations 7 (1)(2), 8 (1) and 12 (1) of the Housing Benefit Regulations 2006).

If an individual making an application for Housing Benefit declares that they are living in a caravan on a holiday caravan site, Benefits officers will make further enquiries as to what permanent address the applicant has declared to the site owner (as declaration of a residential address elsewhere is a requirement under the site habitation licence). Officers must be satisfied that, on the balance of probability, which address/property the applicant occupies as their normal home (their caravan or the declared residential address).

If officers are satisfied that the caravan is the dwelling normally occupied as the home, and there is a rent liability (normally ground rent evidenced by an agreement from the site owner) then Housing Benefit is able to be awarded. However, the applicant would be advised that by declaring that they are living on a holiday site on a permanent basis, they may well be in breach of the site licence, and as such enforcement action may be taken to have them removed from the site.

The details of any individuals claiming benefits in this manner are communicated to Planning and Public Protection in order that appropriate action may be taken.

7. Council Housing

The only eligibility criteria in relation to being on the housing list is that applicants must be able to satisfy the housing service that they are a British Citizen, a Citizen of the European Economic Area (EEA), have been granted refugee status or granted exceptional or indefinite leave to remain. Applicants must also pass a habitual residency test (that is they have to live in the UK on a permanent basis rather than for example having retired abroad).

When an application is received it will be assessed and awarded a certain number of points. The number of points allocated depends on things like whether they already live in Denbighshire, social reasons, health reasons, the suitability of their current accommodation and the type and location of accommodation they are looking for.

Generally speaking an applicant currently living in a caravan would not get a higher level of priority for housing than an applicant in a standard residential dwelling, they are treated equally. However, in some cases a difference in circumstances may result in a greater priority to house the caravan resident. For example, an applicant living in a caravan that had medical problems that were exacerbated by living in a damp, difficult to heat caravan may get additional medical points; whereas an applicant with the same medical condition living in a well maintained warm house or bungalow would not get the additional points.

8. Licensing (e.g. taxi licence)

Eligibility criteria relating to residency does not exist for any licences which falls within the remit of the licensing service. Personal Licence Holders are required to live in the County but the legislation does allow for exceptions to be made for out of county applicants.

9. Waste Disposal (Bulky item collection)

Council tax pays for the disposal element of a bulky household items and a £5 charge covers the cost of item collection. However, the disposal element of bulky trade items is not subsidised in this way. A cost for the collection and disposal of bulky trade items would be agreed dependent upon the description and number of items to be collected but would cost a minimum of £20.

For example, a householder requesting disposal of their own mattress from domestic use would be charged £5, but a bed and breakfast establishment looking to have an identical item removed from an address next door would be asked to pay £20.

The law on this says that waste from “a caravan” be considered commercial waste in the following circumstances:

- a) “The caravan” is used in the course of a business for the provision of self-catering accommodation
- or
- b) “The caravan” is not allowed to be used for human habitation throughout the year by virtue of a licence or planning permission

As the caravans on holiday caravan sites in Denbighshire satisfy both of these statements, then bulky items for collection from holiday caravan sites in the county should be completed via bulky trade item collection and as such should be charged at the higher rate.