



Welsh Government
Consultation Document

Amendments to statutory guidance on
assessments in lieu of test in Approved
Document B (Fire Safety)

Date of issue: 26 July 2019

Action required: Responses by 20 September 2019

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

This consultation seeks views on the proposal to amend the statutory guidance on assessments in lieu of test for establishing the fire performance of materials, components and systems for the purposes of establishing compliance in Approved Document B (Fire Safety).

It is proposed to have an 8 week consultation (rather than the traditional 12 weeks). A shorter period of consultation is considered appropriate due to the nature of the change. The Ministry of Housing, Communities and Local Government consulted upon and made these same changes in 2018. Stakeholders, particularly those who work across administrations are aware of the proposals. The changes are also very specific and therefore of limited in scope and interest

How to respond

You can email your response to the questions in this consultation to: enquiries.brconstruction@gov.wales.

If you are responding in writing, please make it clear which consultation and which questions you are responding to:

Amendments to statutory guidance on assessments in lieu of test in Approved Document B (Fire Safety).

Written responses should be sent to:

Amendments to statutory guidance on assessments in lieu of test in Approved Document B (Fire Safety),
Building Regulations, Welsh Government, Rhydycar,
Merthyr Tydfil, CF48 1UZ

When you reply, it would be useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable),
- the name of organisation (if applicable),
- an address (including post code),
- an email address, and
- a contact telephone number

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For any enquiries about the consultation please contact the Welsh Government Building Regulations team by emailing: enquiries.brconstruction@gov.wales

For further information:

Building Regulations

Welsh Government

Rhydycar

Merthyr Tydfil

CF48 1UZ

Telephone: 0300 062 8144

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

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Introduction

1. Following the Grenfell Tower fire in June 2017 the UK Government commissioned Dame Judith Hackitt to undertake an independent Review of Building Regulations and Fire Safety ('the Hackitt report'). The final report was published on 17 May 2018. It makes recommendations for significant changes in the treatment of high risk residential buildings of 10 storeys or more from their construction through to occupation. The review has looked at the existing regulatory regimes in England, however in the case of fire safety and building regulations, the system in Wales is still largely the same as that of England making the review findings equally relevant to Wales.
2. As an immediate response to the Hackitt report, the then Minister for Housing and Regeneration made a commitment that subject to a consultation, the Welsh Government will move to ban the use of combustible materials in cladding systems on high-rise residential buildings in Wales. The Welsh Government response to the consultation is available here [<https://gov.wales/banning-use-combustible-materials-external-walls-high-rise-residential-buildings>] and the necessary legislation will be progressed in due course.
3. The Welsh Government set up a Building Safety Expert Group to provide a Welsh response to the Hackitt report recommendations and the extent of their application in and to Wales. The group provided their road map on 2 April 2019 which will inform a wider workstream going forward. Prior to the work resulting from the roadmap being progressed, Welsh Government are seeking to make further improvements to the building regulations system on fire safety. This consultation processes that work.

Background

4. The Building Regulations 2010 (as amended) require that external walls on all buildings adequately resist the spread of fire over the walls and from one building to another (Paragraph B4 of Schedule 1). Statutory guidance in Approved Document B sets out two ways that external walls may meet the Building Regulations requirement for resisting fire spread:
 - The first is for each individual component of the wall to meet the required standard for combustibility.
 - The second is to ensure that all the combined elements of a wall, when tested as a whole installed system, adequately resist the spread of fire in accordance with the British Standard BS 8414 test.
5. This guidance should be read in conjunction with Appendix A of the Approved Document which outlines how tests should be carried out for the performance of materials, products and structures, and establishes the principle of assessments in lieu of tests.

6. The principle of carrying out an assessment in lieu of test (also known as a 'desktop study') is a well established part of the system for classifying the fire performance of construction products and systems.
7. In many cases there are standards which provide rules for assessments in relation to specific tests and products (known as 'standards for extended application'). For instance, BS EN 15254-5 provides rules for the extended application of results from fire resistance tests on non-loadbearing walls of sandwich panel construction.
8. The Hackitt report has indicated concerns with the current approach to the use of assessments in lieu of tests for cladding systems. This identifies some assessments in lieu of tests of cladding systems have been criticised for their lack of supporting test data, where an assessment in lieu of test should be an extrapolation or interpolation of relevant, existing test data, not an estimate. Questions have also been raised in the report about the competence of some of the assessment authors.
9. The proposed ban on combustible materials in external wall systems for all new buildings over 18m above ground level containing flats, hospitals, residential care premises, student accommodation and dormitories in boarding schools will mean assessments in lieu of tests cannot be used for these buildings. However, assessments in lieu of tests will remain available in other situations as well as for other products or systems.
10. This consultation complies with the duty on Welsh Ministers in section 14 of the Building Act 1984 to consult the Building Regulations Advisory Committee for Wales and other representative interests on proposed changes to the substantive requirements of the Building Regulations.

Proposed Approach

11. In order to address these concerns, the Welsh Government is proposing to issue amendments to Appendix A which clarify the existing text and create new requirements for assessments in lieu of fire tests. The draft changes will provide guidance on use of all assessments in lieu of tests to meet Part B requirements (which cover fire safety), including cladding and external insulation.
12. An alternative approach would be to go further and prohibit the use of assessments for all fire test classifications. However these assessments may be the only way of classifying in some circumstances and they also provide a practical and proportionate approach where minor changes are made to a construction product or system. Therefore we consider it is appropriate to retain assessments in lieu of tests but to strengthen their application.
13. To address the lack of specific test data for a component or system the proposed requirement for assessments in lieu of tests is that:

- Where a relevant standard for extended application exists this should be followed; and,
 - Where there is no standard for extended application then the principles of BS EN 15725:2010 (A European Standard on how to carry out extended application reports on the fire performance of construction products and building elements) should be followed.
14. Following the relevant standards or BS EN 15725:2010 will mean that the test data used to support an extended application assessment must be referenced in the assessment report. This ensures transparency and allows the report to be scrutinised.
 15. Additionally, we are aware the UK Government has commissioned the British Standards Institution (BSI) to draft a standard for the extended application of BS8414 results. This will provide detailed rules for assessments relating to cladding systems, in support of the above requirements. Once the new British Standard is introduced, following it would be the expectation.
 16. To address the concern over competence of some of the assessment authors the proposed requirement for people undertaking the assessment is:
 - Assessments should be carried out by bodies that have experience of the test in question. The proposed new text of Approved Document B states that organisations listed as “notified bodies” in accordance with the European construction products regulation or laboratories accredited by the United Kingdom Accreditation Service (UKAS) for the relevant test standard can be assumed to have the necessary expertise
 17. The proposed text for inclusion in Approved Document B is in Annex A of this consultation document.
 18. The proposed changes will not be the subject of an independent impact assessment. The Ministry of Housing, Communities and Local Government undertook these changes in 2018 including an impact assessment. We therefore propose not to undertake an independent assessment on the basis the impact on Wales is proportionate to the cost identified in England.

Question 1.

Do you agree with the proposed amendment to the text on how to undertake an assessment in lieu of test as outlined in Annex A?

If no, please provide reasons and suggest alternative text.

Question 2

Do you agree with the proposed amendment to the text on who is permitted to undertake an assessment in lieu of test as outlined in Annex A?

If no, please provide reasons and suggest alternative text.

Question 3

Do you agree with the proposed amendment to the text on the circumstances under which an assessment in lieu of test may be carried out, as outlined in Annex A?

If no, please provide reasons and suggest alternative text.

Question 4

Do you have any other comments on the suggested amendments to the text?

Question 5

We would like to know your views on the effects that amendments to statutory guidance on assessments in lieu of test in Approved Document B (Fire Safety) would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased or negative effects be mitigated?

Question 6

Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 7

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Next Steps

34. Responses to this consultation will be analysed and a Welsh Government Response will follow.

Annex A: proposed text for inclusion in Approved Document B

Appendix A: Performance of materials, products and structures

Paragraphs 1 and 2 will be replaced with the following text.

Introduction

- 1 Much of the guidance in this document is given in terms of performance classifications in relation to British or European Standards. In such cases, it will be necessary to demonstrate that a system or product can meet the relevant performance classification. This will be achieved if the system or product:
 - a. is in accordance with a specification or design that has been shown by specific test(s) to be capable of meeting that performance classification; or
 - b. has been assessed from relevant test evidence, in lieu of a specific test(s), as being capable of meeting that performance classification; or
 - c. has been designed by using relevant design standards that are capable of meeting that performance classification.
- 2 Any test evidence used to demonstrate the fire performance classification of a product or system should be carefully checked to ensure that it is applicable to the intended use. Small differences in detail, such as fixing method, joints, dimensions, the introduction of insulation materials and air gaps (ventilated or not), can significantly affect the performance.
- 3 Assessments should not be regarded as a way to avoid a test where one is necessary. They should only be carried out where sufficient relevant test evidence is available. Relevant test evidence is unlikely to be provided by test standards which have different classification criteria.
- 4 Where it is proposed to assess the classification of a product or system in lieu of carrying out a specific test (as in paragraph 1(b)), this should be done in accordance with the relevant standard for extended application for the test in question and should include details of the test evidence that has been used to support the assessment.

For performance classifications where there is no specific standard for extended application, assessment reports should be produced in accordance with the principles of BS EN 15725:2010 and should include details of the test evidence that has been used to support the assessment. Further information on best practice is provided in the Passive Fire Protection Federation's *Guide to undertaking assessments in lieu of fire tests*.

- 5 Tests and assessments should be carried out by organisations with the necessary expertise. For example, organisations listed as "notified bodies" in accordance with the European Construction Products Regulation or laboratories accredited by UKAS for the relevant test standard can be assumed to have the necessary expertise.

Note: Standard fire tests do not directly measure fire hazard. They measure or assess the response of a material or system to exposure to one or more aspects of fire conditions. Performance in fire tests is only one of a number of factors that should be taken into account