



Welsh Government  
Consultation Document

The future of Welsh law:  
classification, consolidation, codification

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

<b>Overview</b>	Proposals for the future classification, consolidation and codification of Welsh law.
<b>How to respond</b>	Please complete the online form, or complete and return the questionnaire at the back of this document. The questionnaire should be returned to <a href="mailto:LegislativeCounsel@gov.wales">LegislativeCounsel@gov.wales</a>
<b>Further information and related documents</b>	<b>Large print, Braille and alternative language versions of this document are available on request.</b>
<b>Contact details</b>	<p>For further information:</p> <p>Office of the Legislative Counsel Welsh Government Cathays Park Cardiff CF10 3NQ</p> <p>email: <a href="mailto:LegislativeCounsel@gov.wales">LegislativeCounsel@gov.wales</a></p> <p>telephone: 0300 025 0375</p>

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# **The future of Welsh law: classification, consolidation, codification**

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## **Foreword by the Counsel General**

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We in the Welsh Government take our responsibilities as custodians of Welsh law very seriously. The United Kingdom's 'statute book' is vast and inaccessible, and our intention, having been able to develop our own laws for some years now, is to do things differently. This will not, however, be easy – nor will it happen quickly. Our task will take a generation and more to fully achieve; but we must make start, and start as we mean to go on.

This document is, firstly, a vision for the future. A future in which all laws that fall within the legislative competence of the Senedd are in order, easy to navigate, available in up-to-date form and as understandable as the complexity of the content allows. Achieving this requires a revamp of the statute book through consolidation of existing law and, once in order, a process of codification intended to keep the law in order. It also means improving the way we publish legislation and provide explanatory material about legislation.

The purpose of the document is also to describe how we intend to get there. So we set out what we mean by consolidation, what we mean by codification and outline other projects that will contribute to our goal.

But I should stress also that although we have been giving these issues much thought over many years, and have worked in collaboration with the Law Commission and the Senedd on numerous aspects of what is proposed, we do not have a monopoly on good ideas. This is being done for the benefit of users of legislation – most importantly the citizens of Wales – and we welcome any suggestions that would help us fulfil our vision.

**JEREMY MILES AC/AM**  
**Cwmsler Cyffredinol Cymru**  
**Counsel General for Wales**

## Overview

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1. The inaccessibility of the law across the United Kingdom, and in particular in Wales, has been subject of much discussion and analysis in recent years. The Welsh Government has been conscious of the problem for many years and has been taking action (albeit limited) to improve the accessibility to Welsh law since 2011.
2. The Senedd has recently enacted legislation that commits the Government to take action. The purpose of the **Legislation (Wales) Act 2019** is to make Welsh law more accessible, clear and straightforward to use. It makes provision about the interpretation and operation of Welsh legislation, and requires the Counsel General and the Welsh Ministers to take steps to improve the accessibility of Welsh law.
3. We explain the **context** – the issues that need to be addressed and actions taken to date – in more detail in **Chapter 1**.
4. We have already published a Draft Taxonomy for Codes of Welsh Law – this sets out a proposed structure for a codified system of legislation. This structure will involve **classification** of legislation by subject matter that will lay the foundation for additional work to make the law more accessible. The outline structure is revisited in this paper and sets out a proposed system for classifying the law. This can be found at **Chapter 2** and **Annexes A and B**.
5. **Consolidation** of existing law will make the most significant contribution to making the law accessible, however this is a time consuming and often complex process that will take decades to complete. We look at consolidation in more detail in **Chapter 3**, in particular looking at what can be included in a consolidation Bill.
6. But if consolidation is an exercise in bringing order to the statute book, then once order has been achieved it must be maintained. This is the reason the Welsh Government's proposal for a system of **codification** of legislation is important. Codification is essentially a process of discipline designed to retain the structure (but not, of course, the content) of a newly rationalised statute book. This is considered further at **Chapter 4**.
7. To maximise the benefits of consolidation and codification, and indeed to improve accessibility more generally, legislation needs to be supplemented by better **communication** about its effect and where necessary further **clarification** of its meaning. Legislation must, therefore, be published more effectively and be accompanied as appropriate with further explanatory material. As consolidating the law is a very lengthy and resource intensive process better communication is something that needs to start now and continue to be refined as order is brought to

the statute book. Our mechanisms for doing this will be the Cyfraith Cymru / Law Wales website and the legislation.gov.uk website. This is examined in more detail at **Chapter 5**.

8. We are keen to hear your views and at various points in the paper we ask specific questions. This **consultation** is summarised in **Annex C**. We intend to use the views obtained to refine our approach to codification and improving the accessibility of Welsh law.



## Chapter 1: Context

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### *Inaccessibility of the law*

9. Concerns have been raised for many years about the complexity of the law in the United Kingdom and the disorganised state of our vast and sprawling statute book. It is a problem caused not only by the sheer volume of primary, secondary and quasi-legislation, but also because that legislation is amended, re-amended and re-made in inconsistent ways over time. This practice creates layers of legislation which may be related or interconnected in a number of different ways, making the legislative landscape very difficult for lawyers to navigate let alone the affected citizen.
10. The nature of the UK constitution, coupled with the process by which powers have been devolved, further complicates the statute book. The problems are particularly acute in Wales. Although the position is changing rapidly, and there is a growing body of law made by the Senedd and the Welsh Ministers<sup>1</sup>, the majority of the laws that apply to Wales still apply also to England or to Great Britain or the UK as a whole. Our laws have in most part been inherited from the UK Parliament and do not, therefore, generally reflect the nation's political and constitutional position as it is today.
11. In addition determining where the line is drawn between a matter that is devolved and a matter that is not, is considerably more difficult in Wales than is the case in Scotland and Northern Ireland due to our more narrow and complex arrangements. The incremental and piecemeal approach to devolution of power, has led to confusion over where responsibilities lie. As an obvious example, many powers conferred upon the Secretary of State by Acts of Parliament have now been transferred to the Welsh Ministers, but this is generally not apparent from the wording of the Acts themselves making it appear that power continues to lie with the Secretary of State.
12. The UK's withdrawal from the European Union is likely to compound this problem. The exercise of incorporating law designed as international law, and based primarily on the creation of the single market, into domestic law will further exacerbate the problem of inaccessible law. The European Union (Withdrawal) Act 2018 will convert a large body of EU law into domestic law at the point of withdrawal, and enables subordinate legislation to amend that law that so that it can operate correctly outside the EU. Other legislation will also be required in connection with withdrawal from the EU, and the final position remains unclear, not

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<sup>1</sup> Despite their only comparatively brief existence as a legislature and government, the Senedd has passed 63 Measures or Acts since 2007 and the Welsh Ministers have made over 6,000 statutory instruments since 1999 – though this represents only a small fraction of the UK statute book.

least because much depends on the nature of the UK's future relationship with the EU. Further action will need to be taken to rationalise the law, but how that is done will depend on the extent to which European standards are retained.

### ***Detrimental effects of inaccessible law***

13. Although the exact monetary costs associated with inaccessible law are unknown, it is more or less self-evident from the nature of examples of the issues caused by inaccessible law that there are costs to the economy as a whole. Inaccessible law pushes up the costs of accessing the law by increasing the time and resource needed to research and apply law; not only for lawyers in practice or working in-house in the public and private sectors but also for businesses and citizens who may find it impossible – or at least disproportionately expensive – to access the law directly. Furthermore, because of the time and resource constraints within which lawyers and other people accessing the law must operate, inaccessible law can lead to limited or inaccurate legal analysis and advice. This in turn can adversely impact not only the businesses relying on their own analysis or receiving legal advice but also, ultimately, the court system; to which it inevitably falls to resolve disputes arising from these errors. Improving the accessibility of the law would reduce the costs associated with these issues and benefit the people of Wales.
14. Probably more significant, however, is the social cost of the current situation. Being able to find and understand the law with reasonable ease is essential for citizens to be able to enjoy the benefits, and respect the obligations, that the law confers or imposes on them. Given that access to justice more generally, notably through state funded legal advice, is under such threat, ensuring that people have a fighting chance of understanding the law is vital. It goes to the heart of a nation governed by the rule of law.

### ***Steps taken so far to improve Welsh law***

#### *Reforming Welsh law*

15. Because much of the complexity of the law derives from legislation that applies to the four constituent parts of the UK being intertwined, one of our goals when legislating is to develop law that for Wales that stands apart. This, however, is not as straightforward as it may appear. The length of many enactments, and the often high number of enactments that exist relating to a particular subject, can make it impractical. This is because policy proposals for legislative reform often involve relatively small and self-contained changes to the law. In such a case it is almost always much easier simply to amend existing law rather than to embark on creating wholly new law for Wales that stands apart.

16. The Welsh Government has, however, been able to combine a number of proposals for legislative reform with the goal of making the law more accessible. This can generally be done in two circumstances: firstly, where the number of changes to the law proposed and the breadth of their content mean that starting with a clean sheet of paper is simpler than changing the existing law; and, secondly, where the subject matter of the law that is being changed is itself relatively narrow (and therefore has less content).
17. An example of legislation which was long and wide-ranging in its effect is the Renting Homes (Wales) Act 2016. This implemented a Law Commission Report first published in 2006<sup>2</sup>. The Act departs from the original Law Commission Bill in a number of ways, but retained the main innovations such as prescribing core provisions relating to the relationship between landlords and occupiers that must be contained in contracts. Overall the purpose of the Act is to make it simpler and easier to rent a home, replacing the various and complex pieces of existing tenancy legislation with one clear legal framework. That framework is, therefore, specific to Wales meaning that it is bespoke and bilingual.
18. A similar example can be seen in the field of social care. Between them, the Social Services & Well-being (Wales) Act 2014 (again based in part on a Law Commission Report) and the Regulation and Inspection of Social Care (Wales) Act 2016 contain nearly all of the law on social care in Wales. Not all of this law was reformed but the extent of the change in the law meant that the sensible approach was to restate those areas of the law that were unaffected. This again had the advantage of setting out the law more clearly, bilingually and within a coherent context.

#### *Restatement of Welsh law*

19. As referred to above, “restating” the law is an important concept. In our context this means that legislative provisions which are connected to other legislative provisions that are being reformed are remade within a new Welsh context. Doing this involves disapplying the original provisions (either by repealing them or providing that they no longer apply to Wales), redrafting them (bilingually) in a modern style and re-enacting them alongside law that has been changed.
20. Perhaps the best and most obvious example of this practice was our approach to changing the law on consent for organ donation. Prior to the Welsh reform the law on use of organs was all contained in the Human Tissue Act 2004, which regulates the law on use of human body parts for 15 different purposes. This Act applies to

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<sup>2</sup> After the Welsh Government announced its intention to implement the Law Commission Bill, the Law Commission published the report “Renting Homes in Wales” (Law Com No 337) in 2013, which updated the original report and addressed additional issues specific to Wales.

England, Wales and Northern Ireland. From the perspective of those legislative counsel tasked with drafting the change in the law, amending this existing legislation would have been the more straightforward proposition. However this would have also involved making modified provisions for Wales within a framework that also applied outside Wales. The result would have been that the Bill promoting the change, and the eventual amended legislation, would have been more difficult for others to understand. In consequence the decision was taken to remake (for Wales only and in bilingual form) all of the law on consenting for use of organs for the sole purpose of transplantation. This involved enacting 4 new sections (setting out the change in the law) and 26 restated sections (which contained the context within which the law had been changed) in the Human Transplantation (Wales) Act 2013.

21. Another notable example, which is perhaps an amalgam of the two methods referred to above, was the Mobile Homes (Wales) Act 2013. This Member-proposed Bill started as a proposal to make six significant changes to the existing law, which applied to England and Wales. Although those changes would not of themselves have ordinarily justified re-enacting all of the law (i.e. the legal change proposed was not wide-reaching in effect), the existing law had been amended so many times (including several provisions which applied to England only) it was already complex. A decision was taken, therefore by the Government to amend the Bill so that it would reform and restate all of the legislation on mobile homes in Wales. This was a challenging and more resource intensive process but it left the law considerably clearer than would otherwise have the case.

#### *Law Commission projects*

22. The Law Commissions Act 1965 created two Law Commissions, one tasked with keeping the law of England and Wales under review and one tasked with the same responsibility for Scotland. The aims of the Law Commission of England and Wales are:
  - to ensure that the law is as fair, modern, simple and as cost-effective as possible,
  - to conduct research and consultations in order to make systematic recommendations for consideration by Parliament, and
  - to codify the law, eliminate anomalies, repeal obsolete and unnecessary enactments and reduce the number of separate statutes.
23. The 1965 Act was recently amended to provide (among other matters) a new mechanism for the Welsh Ministers to refer issues to the Commission (something that had previously been controlled by the Lord Chancellor).

24. At the Welsh Government's request the Law Commission of England and Wales included a project in their Twelfth Programme of Law Reform considering the *"Form and Accessibility of the Law Applicable in Wales"*. At the heart of the Commission's report (published in June 2016), and central to the task of making Welsh law more accessible, is the need to consolidate and subsequently codify Welsh law. The Law Commission made 32 recommendations, nearly all of which have been accepted or accepted in principle by the Welsh Government, including the need to institute regular programmes of consolidation and codification. The report influenced the development of the Legislation (Wales) Act 2019 which is considered in further detail below.
25. The Welsh Government's ambition for the future statute book was already clear, but the assistance of the Law Commission was particularly helpful in order to expose what was proposed to scrutiny. This was done both using the technical knowledge of the Commissioners and their officials, and by consulting with the wider legal profession and other users of legislation.
26. In addition the Law Commission can provide, or call upon, subject specific expertise to assist the Welsh Government. A major project is underway to modernise and consolidate the law on planning in Wales<sup>3</sup>. This brings together policy and legal expertise from the Welsh Government and the Commission, working closely with the Office of the Legislative Counsel.
27. We expect later this year the Law Commission will also begin a project to review the law governing the operation of the devolved Welsh tribunals. The existing rules and procedures for the various devolved Welsh tribunals are complicated and inconsistent, having developed piecemeal from different legislative provisions concerning the different subject matter of the tribunals. Much of this legislation was developed before devolution, and also before tribunals were recognised as involving exercise of the judicial function of the state, rather than the executive function. Further, the legislation does not take into account the role of the President of Welsh Tribunals, introduced by the Wales Act 2017. Subject to Ministerial approval, the project is intended to lead to the development a new Tribunals Bill for Wales, designed to regulate the operation of a single system for tribunals in Wales.

### *Legislation (Wales) Act 2019*

28. The purpose of the Legislation (Wales) Act 2019 is to make Welsh law more accessible, clear and straightforward to use. It makes provision about the interpretation and operation of Welsh legislation, and requires the Counsel General and the Welsh Ministers to take steps to improve the accessibility of Welsh law.

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<sup>3</sup> We are also working on consolidating the law on the historic environment, though this does not involve the Law Commission.

29. The policy objective is to improve the accessibility of Welsh law. Although resolving the issues will require collective effort within the Senedd, the Welsh Government and beyond, the Counsel General has the responsibility of overseeing the accessibility of Welsh law as a whole. It is intended that this be achieved by requiring the Counsel General to keep the accessibility of Welsh law under review, and for the Welsh Ministers and the Counsel General to bring forward a programme of projects designed to make the law more accessible. This enables a long term focus to be brought to what will need to be a sustained effort to create a modern, well-ordered and bilingual statute book for Wales.
30. The Counsel General's obligation is also relevant when the Welsh Ministers are considering whether to propose new legislation. In such situations regard should be had to how the approach taken to legislating could impact upon the accessibility of the law. This does not, however, mean that the Welsh Ministers would have to legislate in a particular way in any individual case.
31. For each Senedd term (starting with the term which begins in 2021) the Welsh Ministers and the Counsel General must develop and implement a programme of activity designed to improve the accessibility of Welsh law. The specific content of each programme will be a matter for the Welsh Ministers and the Counsel General of the time, but each programme must make provision to consolidate and codify Welsh law, maintain codified law, promote awareness and understanding of Welsh law, and facilitate use of the Welsh language.
32. Crucial to the success of consolidating and codifying the law is that both continue over the long term and become an accepted part of the culture of law making in Wales. This means accepting that the law is constantly evolving and must, even after it has first been consolidated, be revisited periodically to ensure that it remains well ordered and accessible. It also means maintaining the overall structure – not the content, which will always change in accordance with policy and political wishes – of the statute book.
33. In preparing a programme it will be important to take the views of the public. The main purpose of such an exercise will be to ensure focus on those areas of law most in need of consolidation and which have most impact on users of legislation (be they public bodies, business or the citizen). It is anticipated that the first programme will be prepared in draft and consulted upon during the summer of 2021, before being agreed by the Welsh Ministers and Counsel General and laid before the Senedd.
34. In developing the Welsh Government's proposals for the first programme, views are being sought now on specific areas of the law which users find particularly inaccessible – see Chapter 4 for more on this.

*Beginning the process of consolidation and codifying the law*

35. The Welsh Government proposes to approach the process of making the law more accessible through four main initiatives, each of which is examined in further detail in the following chapters:

- setting a framework for bringing order to legislation by reference to a scheme of **classification** (or taxonomy) of its subject matter (see Chapter 3);
- remaking Welsh law in accordance with that classification primarily by **consolidation** existing legislation (see Chapter 4);
- putting in place a process of **codification** of the law once it has been consolidated so that it remains within the scheme of classification without proliferation (see Chapter 5); and
- improving our **communication** about the law and providing more non-legislative **clarification** of its meaning (see Chapter 6).

## Chapter 2: Classification of Welsh law

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36. The next step on the journey to an ordered statute book for Wales is to set out how we would like the statute book to be organised. This is to be done by developing a system of classification of the law – in other words a taxonomy of its subject matter, by reference to which we will organise the various Acts, Statutory Instruments and other forms of subordinate legislation which make up the law.
37. As well as setting out a high level taxonomy, detailed work is needed to map the content of the existing statute book in devolved areas to establish what enactments should fall under each subject heading of the taxonomy. This in turn would enable us to expand the taxonomy to a more specific tier of subjects by reference to which the law would be organised.
38. To assist our understanding of how the law could be organised the Office of the Legislative Counsel has already developed an indicative taxonomy of possible Codes (see Annex A). This was first published in December 2018 for information, and although it was not designed to cover all areas of devolved law, it suggested how legislation in most key areas could be organised. This indicative division of legislation needs further consideration, including more detailed scoping and analysis of the existing law. This will be an ongoing process over the next 18 months or so, and we are seeking stakeholders' views on the initial proposals.
39. The goal is to organise the statute book by reference to commonly understood subject categories, and therefore the Welsh Government would like to know whether users of the statute book consider the proposed subjects and sub-topics to be organised in a way which is logical and sensible to them. We recognise there are fine judgements about where boundaries should lie.
40. Establishing a logical and clear classification will enable the Welsh Government to develop a new method of publishing the law as it stands, by subject matter. This will serve a dual purpose of (firstly) being a relatively fast means of improving the way the law is published and (secondly) establishing a clear starting point for the further initiatives necessary to make the legislation truly accessible.
41. Working in conjunction with The National Archives, the Welsh Government intends, therefore to develop a new database of legislation within devolved areas. This will be similar to a service currently provided on the [legislation.gov.uk](http://www.legislation.gov.uk) website called "Defralex"<sup>4</sup> which has been developed by the UK Government's Department for Environment, Food and Rural Affairs.

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<sup>4</sup> Available at: <http://www.legislation.gov.uk/defralex>



42. Defralex adds an additional step to the normal process of publishing legislation on legislation.gov.uk, enabling additional information fields to be captured and displayed that are of interest to the Department and its stakeholders. These include the subject 'category' (e.g. animal health and welfare, environment), the 'source' of the legislation (to distinguish legislation that is of EU, international or domestic origin), and the type of legislative features introduced (e.g. permits, offences, fees or charges). Associated documents that may be of interest to the public and which improve transparency can also be added to specific legislation, such as Impact Assessments and consultation responses.
43. The Welsh Government will develop a similar system (with "Cymrulex" currently adopted as a working title) which will initially organise all *new* legislation by reference to our evolving subject taxonomy and a wider system of classification similar to "Defralex". Once that is in place we will work back to retrospectively organise all existing legislation using the same classification criteria.
44. This process of organising legislation by subject classification will also inform the next step in the process – consolidation of that existing law and publishing it as Codes.

***Question 1: With reference to the draft taxonomy in Annex 1, do you agree with the suggested structure of subjects and sub-topics?***

***Question 2: Do you have any suggestions for improving this draft taxonomy?***

## Chapter 3: Consolidation of Welsh law

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### *What is consolidation?*

45. The purpose of consolidating legislation is to improve access to the law. This is done both by bringing together all or most of the (generally primary) legislation on a specific subject so that it can easily be found, and by modernising the form and drafting of the law to make it easier to understand and apply. Dictionary definitions refer to consolidation as the action or process of “combining a number of things into a single more effective or coherent whole” or of “making something stronger”. The Welsh Government’s aim is to do both.
46. Consolidating the law generally involves bringing all legislation on a particular topic together, better incorporating amendments made to legislation after it has been enacted and modernising the language, drafting style and structure. It is similar to the notion of “restatement” referred to in the previous Chapter in the sense that it involves remaking existing law, but consolidation normally involves a whole Act and often many Acts – updating provisions and bringing them together. This again involves no or only minor amendments to the substance of the law consolidated. In Wales consolidation of the law will involve for the most part re-enacting laws previously made by the UK Parliament, and doing so bilingually.
47. Although the benefits of consolidation are clear, and consolidation exercises are undertaken routinely in many Commonwealth jurisdictions, very little consolidation has been undertaken in the UK in recent years. This is despite consolidation being part of the remit of the Law Commission, a body which has held a long standing ambition to bring order to the statute book. It is important to understanding why so little has been done to consolidate the law in the UK given its obvious benefits to improve accessibility.
48. Perhaps most obviously priority has traditionally been given to changing the law, to reflect new policy and legislative initiatives and to tackle the issues that most affect the citizen. This is done on a case by case basis, and as a result the accessibility of the statute book as a whole is not the primary consideration.
49. Additionally there are other more practical problems. Consolidating the law is time-consuming and relies heavily on scarce specialist legislative drafting resource. The law that is being consolidated must also be relatively static, in other words it must stand still long enough for it to be consolidated. There is a risk, therefore, of embarking on large scale process of consolidation only to find that political priorities change and a new focus emerges on reforming the law before the consolidation can be completed.

50. It was partly for these reasons that the Welsh Government sought to impose a statutory obligation on itself to keep the accessibility of the law under review and to bring forward programme of activities designed to improve it. The Welsh Government and the Senedd are conscious of these problems and appreciate that it is particularly acute in Wales. Developing a statute book that is fit for purpose is part of our broader vision for improving the way Wales is governed.

### ***Scrutiny of the consolidation process***

51. The process for developing programmes of activities designed to make the law more accessible – and for producing consolidation Bills – will need to strike an appropriate balance between expedience on the one hand and the requirement for scrutiny on the other. It must be borne in mind that the process of consolidation is a technical one and is one that does not allow for any significant change to the substance of the law. Its purpose is not to bring about policy reform and in consequence developing, scrutinising and passing a consolidation Bill is intended to be primarily a legal process.
52. However, the Welsh Government is very conscious also that we must concentrate our efforts on activity that is wanted by stakeholders and which will make the most difference. In addition, consolidation does of course mean legislating and it goes without saying therefore that what is done must be subject to appropriate scrutiny from our Senedd. So the programmes envisaged by the Legislation (Wales) Act 2019 must be subject to consultation and the consolidation Bills that subsequently emerge must be scrutinised.
53. The Senedd does not currently<sup>5</sup> have a dedicated procedure under its standing orders for the consideration of a consolidation Bill. Both the Senedd's Business Committee and the Constitutional and Legislative Affairs Committee of the last Senedd recommended the introduction of such a procedure. In December 2016 the (then) Counsel General wrote to Business Committee suggesting that officials from both the Government and the Senedd Commission worked together to develop a procedure, as part of the response to the Law Commission's 2016 report.
54. In July this year, the Business Committee agreed the broad outline of such a procedure, and has recently started consideration of a draft Standing Order and accompanying Llywydd's guidance. The Business Committee is currently consulting with the Constitutional and Legislative Affairs Committee on those.
55. Having been closely involved in the process of drawing up the draft procedure, our vision for consolidation of the law is entirely consistent with the proposals that are being considered by Business Committee. What follows below reflects that. We will

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<sup>5</sup> As at the time of publication of this position statement

continue to work with the Llywydd and Business Committee in bringing proposals forward for Members of the Senedd to consider in the near future. But as a starting point we should be clear that the rules about what a consolidation Bill may do are not a matter for the executive but rather for the legislature.

56. As this will be a programme pursued by the Government, and as the Government is ultimately responsible for the coherence of the statute book, the intention is that a consolidation bill will be introduced into the Senedd by a member of the Government (rather than as a Member Bill, or a Committee or Commission Bill). This is consistent with practice elsewhere, and in our context would, most likely, be introduced by the Counsel General. The purpose of such a Bill would be to consolidate existing primary legislation and consolidation may also incorporate existing secondary legislation or rules of common law.

***The type of matters which can be dealt with in a consolidation exercise***

57. Although a consolidation Bill should not bring about policy reform that does not preclude a consolidation Bill from making any substantive changes to the law. Consolidating the law – particularly in the Welsh context – is a complex matter and is likely to reveal inconsistencies and anomalies in existing legislation. Producing a modern and accessible version of existing law may also demand, or benefit from, making minor amendments. By necessity, however, such amendments may only be minor and non-controversial – any other change that the Government might wish to pursue as necessary or desirable would have to be dealt with by way of a reform Bill (and considered by the Senedd under Standing Order 26).
58. In developing its position on the nature and extent of consolidation we have considered examples of such Bills within the UK, as well as looking to other Commonwealth countries (including New Zealand and Australia). There are several common features of consolidation, and these are considered further below, taking into account the Welsh context.

### *Organisation, language and format*

59. Consolidation Bills can restate existing legislation with any changes of order, language or format appropriate for the purpose of improving the presentation of the law and ensuring consistency with current drafting practice<sup>6</sup>.
60. Preparing a consolidation Bill can result in legislation which looks very different to the original text. Significant presentational changes designed to modernise the language and make its structure more accessible can be achieved without making changes to the effect of the law.
61. In practice this could include:
  - a. renumbering and rearranging provisions and expressing provisions in a way that reflects their actual legal effect<sup>7</sup>.
  - b. changing the language of legislation that exists only in English to facilitate the production of a coherent bilingual Bill. A consolidation exercise would also adopt gender neutral language and modernise the language in any other way (including by omitting redundant wording).
  - c. adopting other changes of format such as labels and headings; new tables, formulae or other ways of presenting information; and including navigational aids such as overviews and signposting provisions<sup>8</sup>.
  - d. potentially setting out in full provisions of other legislation that are incorporated into the consolidated legislation.

### *Clarifying application or effect*

62. The application or effect of existing provisions may be unclear because their drafting creates doubt or ambiguity (for example, uncertainty about when a period of time ends or about which bodies are subject to a duty). A consolidation Bill should be able to clarify the intended meaning, for example by spelling out more clearly when a particular provision or definition applies. For existing legislation which is bilingual, clarification may include reconciling any ambiguities in either language or both.

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<sup>6</sup> Current drafting practice is set out in *Writing Laws for Wales: A guide to legislative drafting* published by the Welsh Government (October 2019)

<sup>7</sup> for example adopting terminology that reflects devolution and other transfers of functions that have taken place since the existing legislation was passed

<sup>8</sup> including signposts to legislation not included in the consolidation but relevant to it

63. Clarification may involve filling in gaps in the legislation, for example by including definitions of terms that the existing legislation does not define, or by spelling out that the application of a provision is limited to the particular cases in which it is relevant. In the Welsh context this could include clarifying the effect of transfers of functions “in relation to Wales” by providing a clearer territorial limit in a consolidation Bill (and a corresponding territorial limit in any enactment which forms part of the consolidation but which will continue to apply to England after the consolidation Bill is passed).
64. There are examples of consolidation Bills produced elsewhere<sup>9</sup> where clarification of intent has also involved rectifying the position where the wording of existing provisions does not reflect the meaning they are understood to have in practice, or where different enactments make provision about the same matter which is or may be contradictory.
65. The Government is clear that where a consolidation Bill seeks to clarify the meaning of existing provisions in any of these ways, it should do so in the way that best reflects the meaning that the provisions are understood to have, or that the legislature is believed to have intended.
66. During the passage of the Legislation (Wales) Act 2019, the Counsel General explained that there is no intention to use consolidation Bills to undertake wholesale codification of the common law. However a consolidation bill could (and generally should) incorporate the effect of case law on the meaning of the existing legislation where relevant. In certain circumstances it may also be sensible to incorporate rules of common law that are closely related to the statutory provisions, in order to provide a more complete restatement of the existing law.

*Removing or omitting provisions which are obsolete, spent or no longer of practical utility or effect*

67. Consolidation Bills may need to remove or omit provisions which are obsolete, spent or no longer of practical utility or effect. Although these terms are often used interchangeably, in this context they tend to cover slightly different issues. An obsolete provision would include a provision which is out-of-date, for example because it is about bodies, persons or things which are no longer in existence or use. A spent provision is one which applies to a situation which can no longer exist, such as a provision conferring a function which cannot be used again (for example, because the original legislation provided for one action to be taken and this has been done, or the conditions for use can no longer be met).

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<sup>9</sup> See for example the Co-operative and Community Benefit Societies Act 2014 (a consolidation Act of the UK Parliament) which removed a requirement for there to be “special reasons” for registering a society, to reflect how the provisions were applied in practice and were originally intended to be applied. This was not about inconsistency in the legislation itself

68. Something which is no longer of practical utility or practical effect could include provisions which are no longer necessary as legal provision is available elsewhere (either within the consolidation Bill or in other legislation applicable in Wales) which has an equivalent legal effect.
69. Removing provisions of all three types would benefit the accessibility of the consolidated legislation, as well as any legislation which needs to be amended as a result of the consolidation exercise (see also below).

*Minor changes to the law for the purposes of achieving a satisfactory consolidation of existing law*

70. Changes may be required to achieve a satisfactory consolidation of the law. Again constrained by not making substantive policy change, such minor changes could include resolving inconsistencies in the application of the law in different cases, where the reasons for a difference are no longer applicable or cannot be identified. By way of example, this could include:
  - a. removing or reconciling inconsistencies in regulation making powers across different provisions;
  - b. ensuring that where a matter is dealt with on the face of one Act, but by subordinate legislation in another Act, both can be dealt with in primary or secondary legislation (as may be appropriate);
  - c. ensuring like cases are treated in the same way in the consolidation Bill, for example by reconciling any inconsistencies between provisions which have come from different enactments or by extending general provisions or definitions in one of the existing Acts to cover all of the enactments being consolidated;
  - d. in cases where notice must be given in writing, and some existing legislation states the requirement for writing expressly but some does not, the requirement to give notice in writing can be set out in all of the provisions (or none of them if it is so obvious as to not need stating).

A satisfactory consolidation could also result in minor changes to correct mistakes or anomalies in the existing legislation being consolidated.

71. In addition it will be important to ensure that the consolidated legislation would be compatible with the Convention rights. This could include incorporating the effect of case law which has rendered the existing provision(s) compatible with Convention rights; it also may include amending or omitting an existing provision or making

new provision where it is clear such a change is necessary to ensure that the law is compatible with the Convention.

72. In the Welsh context it will be necessary to provide that the consolidated legislation will operate correctly in relation to Wales, taking account of any cross-border issues between Wales and England. Minor changes may also be necessary to ensure consistency in and between the Welsh language and English language texts of the Bill.
73. Over time legislatures have established positions on which matters should be dealt with in subordinate legislation and which in primary legislation. The consolidation Bill should reflect current drafting practice (based on the Senedd's approach on the balance between primary and subordinate legislation). It may therefore be necessary to move provisions from subordinate legislation to primary legislation (and occasionally from primary to subordinate legislation) or changing the form of subordinate legislation or the procedure that applies to it, to improve the consistency or coherence of the relevant body of legislation. For example, where provisions about a particular issue are contained partly in primary legislation and partly in subordinate legislation, it may be appropriate to move provisions from one level to the other, so that everything about that issue is in the same place. Similarly, if regulations or orders deal with an important issue affecting how the legislation works, material in the regulations or orders might be more appropriately restated in the Bill.
74. Another example, of a minor change could arise from when there is a power to use subordinate legislation to modify the operation of primary legislation, and all the necessary modifications have already been made, it may be appropriate to get rid of the power and incorporate the modifications into the restatement of the primary legislation.
75. In line with current drafting practice, powers for Ministers to legislate by order will generally be restated as powers to make regulations<sup>10</sup>. It may also be appropriate to replace powers to make directions of general application (as opposed to directions addressed to specific individuals) with powers to make regulations. Similarly where an existing power to make subordinate legislation is not subject to any Senedd procedure, but such a power would nowadays be expected to attract Senedd procedure, a consolidation Bill may restate the power with an appropriate procedure. A consolidation Bill may also remove other inconsistencies and anomalies in procedural provisions.

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<sup>10</sup> Notwithstanding section 39 of the Legislation (Wales) Act 2019 which applies where the Welsh Ministers have a power to make regulations, rules or an order by statutory instrument. It enables them to make the subordinate legislation in any of those forms. See the Explanatory Notes to the Act for a fuller account.



### *Law Commission recommendations for a consolidation Bill*

76. It may be desirable for a consolidation Bill to make other changes to the law which the Law Commission of England and Wales recommends are appropriate for inclusion within a consolidation Bill. This would not mean that consolidation Bills can be used to give effect to all law reform proposals made by the Law Commission, but it could cover changes to the law which it would be convenient to make at the same time as consolidating the existing law, and which do not involve significant new policy or give rise to significant controversy. Examples of this type of change could include amending a set of procedural requirements to ensure that they work better in practice, or simplifying them to remove redundant steps from the procedure.

### *Transitional provisions, savings, consequential amendments and repeals*

77. It will also be necessary to ensure a consolidation exercise makes appropriate transitional and saving provisions, and makes consequential amendments and repeals of existing legislation (including amendments to ensure that existing legislation continue to operate correctly in relation to England).
78. Such provision could be made in a Schedule to the consolidation Bill, or potentially as a second consolidation Bill, which would ensure the main consolidation Bill would stand as the substantive statement on the law once enacted (and so leave the main Act uncluttered with consequential provisions which are unlikely to be of significant relevance to most readers). A similar approach was taken when NHS legislation was consolidated separately for England and Wales in 2006, and when water and planning legislation were consolidated into new sets of Acts in the early 1990s.

### ***Proposed consolidation projects***

79. As noted earlier, a major project to consolidate planning law on the back of the Law Commission's report is underway. We are also working to consolidate the law on the historic environment. The Welsh Government will publish more information about these projects in due course.
80. Further consolidation projects, and other activities aimed at improving the accessibility of Welsh law, will be included in the programmes to be brought forward under the Legislation (Wales) Act 2019. The first formal programme will begin in 2021, and the Government is required to publish a draft programme for consultation during the summer of that year.
81. As set out above, the Welsh Government is very conscious that we should concentrate our efforts on activity that is a priority for stakeholders and which will

make the most difference. Therefore to help shape the programme which will be consulted upon in 2021 it would be helpful to understand now if there are particular areas of the law which you consider would benefit from consolidation.

***Question 3: What specific area or areas of devolved law do you think are most in need of consolidation, and why?***

## Chapter 4: Codification of Welsh law

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82. Having categorised Welsh law through the classification process outlined above, and having committed time and effort to consolidating the law, a mechanism is needed to preserve the order that will have been achieved. A problem experienced in the past when consolidating the law is that political change can unravel the accessible structure and order put in place by the consolidation process. Here it is vital to distinguish between the *content* of the law which will always be subject to change in the normal way, and its overarching *structure* which (depending on the extent to which the content has changed) may be able to be retained.
83. The process designed to preserve the structure of the statute book once it has been brought into order is codification. The Legislation (Wales) Act 2019 requires each Welsh Government programme to improve the accessibility of Welsh law to include proposed activities intended to contribute to an ongoing process of consolidating and codifying Welsh law, and maintain the form of Welsh law (once codified)<sup>11</sup>. The Act explains that ‘codifying Welsh law’ includes–
- a. adopting a structure for Welsh law that improves its accessibility;
  - b. organising and publishing consolidated Welsh law according to that structure.
84. As the Explanatory Notes to the Act set out<sup>12</sup>:

*The definition makes clear that codifying the law is intended to bring order to the statute book. This involves organising and publishing the law by reference to its content (and not merely when it was made), and maintaining a system under which that law retains its structure rather than proliferating. A “Code” of Welsh law would generally be published once some or all of the primary legislation on a particular subject (taking account of the legislative competence of the National Assembly) has been consolidated, or has been created afresh following wholesale reform. This should usually be accompanied by a process of rationalisation of subordinate legislation made under the primary legislation. The existing hierarchy within, and delineation between, legislative instruments (primary and secondary legislation, and guidance or other similar documents made under the Acts or subordinate legislation) would remain. All the legislation within a Code will be made in both English and in Welsh.*

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<sup>11</sup> Each programme must also include activities intended to promote awareness and understanding of Welsh law, and facilitate use of the Welsh language. Programmes may also include proposed activities that may be undertaken in collaboration with the Law Commission, or activities of any other kind the Welsh Ministers and the Counsel General consider appropriate. See sections 2(3) and (4) of the 2019 Act.

<sup>12</sup> See paragraphs 23 and 24.

*Therefore a Code would not (generally) be one legislative instrument but rather a collection of enactments under a unifying overarching title. Those enactments which make up the Code on any particular subject would be made available together. Similarly these enactments will remain the means by which the law is formally articulated. The Code is not intended to be a legal instrument in its own right but rather a means of collating and publishing the law more effectively.*

85. This Chapter is intended to provide further information on the Government's intentions for the codification of Welsh law.

### ***Purpose of codification***

86. Codification is a process intended to bring order to the statute book. It begins by classifying existing legislation so that it is organised by reference to its subject matter; this is in part why the proposed taxonomy discussed above is important. However this will not in itself tackle the issues of inaccessibility caused by the sheer volume of legislation and the way that legislation has been amended, re-amended and re-made over time.
87. Consolidation (and projects that involve legislating to bring about wholesale reform) would bring order based on that classification. As discussed above, this involves rationalising all existing legislation on a topic into a new Act and accompanying subordinate legislation.
88. Against this background of classification and consolidation of the law in Wales, we will employ two connected but separate concepts:
- a. a **"Code"** is the label we will use to describe legislation that has been classified under a particular topic, for example for a "Housing Code" or a "Public Health Code". In this guise it is essentially a publication tool and we should stress that a Code will not be a formal legal instrument in its own right. We use the term 'Code' as the term for a collection of enactments on a particular subject – it is not intended to have a separate legal status to those enactments;
  - b. but **codification** does involve formality in the sense that it also refers to the process of maintaining the structure of the law. As part of the process of enacting comprehensive legislation on a topic (be that by consolidation or wholesale reform), an Act may be designated as the "principal" primary legislation on a particular topic. Our intention is that the structure of this principal legislation should be retained in so far as is practical. The Government proposes (in line with recommendations of the Law Commission) that designation in this way should be recognised within the Senedd's Standing Orders such that any proposal to change the legislation which

departs from the structure (in other words, retaining the “principal” legislation as the main or core piece of legislation on a subject) would need to be justified and agreed (see below).

### ***Maintaining the structure of Codes***

89. The law is constantly evolving and must, even after it has been first consolidated, be revisited periodically to ensure that it remains well ordered and accessible. We therefore need to find ways to ensure that the benefits of having the law on a topic in one place are maintained when, inevitably, legislative changes are needed or required.
90. Protections can, with the agreement of the Senedd, be attached to the core or main pieces of legislation on a subject matter. Codification would involve an Act of the Senedd comprehensively setting out the law, or at least the fundamental elements of the law, in a specific subject area – either through consolidation or wholesale reform (potentially with elements of restatement) – and that Act being designated as a ‘principal Act’<sup>13</sup>.
91. We propose that the designation of legislation as a ‘principal Act’ brings with it a certain degree of procedural protection in Standing Orders. This would relate not to the content of the Act (which must be open to change in the normal way) but to the place of that Act within the overarching structure of the statute book. Our intention is that amending the law in any subject area for which there is a principal Act should have to be done by amending the principal Act itself, or by replacing the principal Act with another principal Act so that the structure of the statute book as a whole is maintained. Having consolidated or reformed the law, under an agreed subject classification, into a principal Act, any subsequent departure from the use of one Act as the main repository of the legislation on the subject would have to be justified by the Member in Charge and subject to scrutiny by the Senedd.
92. As a general rule, therefore, codification means that changes to primary legislation on a particular subject must be made by amending the principal Act on that subject. Where, over time, a principal Act has been amended extensively on a number of occasions, there will be a need to consolidate (or re-consolidate) and in so doing create a new principal Act. Similarly a more fundamental reform of the law on that topic would normally be done by replacing the principal Act on the topic with another, different, principal Act.
93. Maintaining primary legislation in this way would also help reduce proliferation of subordinate legislation (which of course is made under the primary legislation).

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<sup>13</sup> This term is adopted for the purposes of this paper; the final term will be a matter for the Senedd if the approach of using Standing Orders to bring a level of protection to the codified law is adopted.

However, there remains a need to prevent the creation of multiple statutory instruments being made under the same power. In theory the notion of “principal” legislation could also be used in some circumstances, however there are other, probably more straightforward, means of achieving the goal. One option under consideration is that instead of changing the law by amending a statutory instrument using another statutory instrument (thus creating two, and then more each time amendments are made), the change is achieved by remaking the original statutory instrument in its entirety but with amendments made to it. Although, this would require a change to the procedures in standing orders, only the amendments to the statutory instrument should be subject to scrutiny.

94. We propose also that standard practice should be for only one set of regulations to be in force at any time under any one power to make regulations, or similarly only one set of regulations in force under a combination of powers to make regulations where this is possible. This would require a long term initiative to rationalise existing subordinate legislation to accompany consolidation of primarily legislation. However, powers to make subordinate legislation can often be used for different purposes, and there may be circumstances in which using different regulations using the same power would be more accessible.
95. Codification is an issue that requires further collaboration with the Senedd and a more detailed assessment of any complications that may arise.
96. However, we hope the general approach is clear – a “Code” is shorthand, used for publication purposes, for the collection of legislation that is a comprehensive expression of the law on a particular topic; while “codification” refers primarily to publishing the law in accordance with an ordered structure as well as a process for maintaining that structure, once order has been achieved.

### ***Designation of legislation***

97. The process referred to above is based on the designation of legislation as the “principal” enactment on a particular subject – that subject having been established by reference to the classification exercise that would precede it. This would be done by the proposer of the legislation including a provision within it specifying that the legislation is to be a ‘principal Act’. For Bills this would be the Member in Charge of the Bill including, probably within the section setting out the short title of the Bill, a provision stating that the Bill is to be the ‘principal Act’ on the subject matter of the Bill. This is also something that we may wish to do retrospectively by promoting a bill to amend an Act that already exists in order to designate it as the principal Act on a subject.

98. Since it is for the Senedd to pass a Bill that is proposed to become a principal Act, the final decision on whether or not legislation forms part of a Code will always a matter for the Senedd rather than the Government.
99. The process envisaged means that the designation as a principal Act will exist within individual enactments, rather than as a list on a formal register or in a legal instrument.
100. It should be borne in mind that Bills will continue to be proposed by the Government which are *not* designed to be ‘principal’ legislation of a Code. This situation may arise for a number of reasons – most likely this would happen when the subject being dealt with in the proposed legislation has not yet been comprehensively consolidated, or it is legislation amending UK Government Acts.

***Legislation on a codified subject which is not part of the Code***

101. The value of a Code is its comprehensive nature, as it will be the main source of law on a subject for most users. Ideally all legislation on the statute book would form part of a Code.
102. But we recognise that even after Codes have been created across devolved subject areas, there will be Welsh legislation that will fall outside the Codes. This will include legislation making amendments to law applicable in England that are consequential upon the creation of Codes in Wales (which we intend to make separately) and legislation on cross-cutting subjects.
103. It should also be recognised that the process of codification can only apply to matters that fall within the legislative competence of the Senedd. This will be a very significant constraint. This is first of all because the complexity and narrowness of the Welsh system will slow the process down due to the need to analyse competence and deal with cross-border issues. And secondly the devolution boundary will often cut across the natural subject demarcation of legislation – in other words a Code will at times not be as comprehensive an expression of the law as we would wish because of the competence constraints.
104. Finally we also intend to take action (as part of the regular programmes to improve the accessibility of Welsh law) to address legislation that no longer needs to be on the statute book and to make use of the new power in section 38 of the Legislation (Wales) Act 2019 which provides as follows:

*Where a provision in any legislation to which this section applies describes a date or time by reference to the coming into force of an enactment or the occurrence of any other event, the Welsh Ministers may by regulations amend the provision so that it refers to the actual date or time (once known).*

***Question 4: Do you agree with the Welsh Government's vision and proposed approach for codification of Welsh law?***



## Chapter 5: Communication and clarification of Welsh law

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105. The processes described so far in this paper are legal ones. This isn't surprising given that we are talking about the way in which we organise the law. However, modern communication techniques and the expectations of users of legislation mean that the law itself is now routinely supplemented by additional information that helps to clarify the impact and meaning of the law. This is particularly so in respect of legislation (rather than the common law), which is the focus of our work.
106. The additional communication is either provided by the state, by third sector organisations such as advice clinics or by the private sector (mainly lawyers and commercial publishers).
107. It has been a regular practice of government for some time to issue guidance on the practical effect of legislation. In doing so the focus, generally, is on ensuring that the policy implemented by the legislation is fully met. Although the guidance may also provide helpful explanation, this is not its primary purpose. The Explanatory Notes to an Act or a Statutory Instrument, as the name suggests, do seek to explain the content of legislation. However, these Notes tend to be technical rather than practical in focus and their quality and usefulness varies. They are also a relatively recent phenomenon.
108. In practice, therefore, explanation, clarification and more general information about changes in the law has historically been something done by advice agencies, by lawyers or by commercial publishers. It is clear that there is a demand for services that help citizens and lawyers to better understand the law, but the Welsh Government is aware that the demand is not always being met. There are different reasons for this, including cuts in funding for advice agencies and the increasing unavailability of legal aid. It also appears that commercial publishers think that the market for books, encyclopaedias and journals on Welsh law is insufficiently large to be commercially viable.
109. Historically, commercial publishers have had a surprisingly important role in providing information about the law in the UK. 'Halsbury's Laws' for example was first published in 1907 and 'Halsbury's Statutes' in 1929. Lawyers have long relied on such services to ensure that they acquire and maintain sufficient understanding of the law. This perhaps explains why developing a free to access, comprehensive and up-to-date database of legislation that is available online in the UK has not been fully achieved. While many (if not most) Commonwealth jurisdictions achieved this 20 years or more ago, progress in developing the UK's 'Statute Law Database' stalled and the only free to use database in the UK ([legislation.gov.uk](http://legislation.gov.uk)) is still not fully up to date.

110. The Welsh Government is conscious, therefore, of the need to step in and provide more information about Welsh law. It is partly for this reason that the Legislation (Wales) Act 2019 requires that programmes to improve the accessibility of Welsh law include activities to “*promote awareness and understanding of Welsh law*”.
111. The Welsh Government has developed a website called [Cyfraith Cymru / Law Wales](#) to provide commentary and explanatory narrative about Welsh law. It is, however, a work in progress and much more needs to be done to make it comprehensive. Further developing the explanatory content of the website is one of the Government’s priorities and the website will also play an important role in the process of codifying legislation outlined above. We envisage that the site will be used to bring together all “principal” legislation that forms part of a Code. In this way the “Code” would be an easy to navigate “gateway” to the underlying legislation that would continue to be formally published by The National Archives on [legislation.gov.uk](#).
112. Explanatory content would then sit alongside the Codes, providing clarification and commentary on the effect of the legislation. Developing such explanatory content is, however, an enormous task and the Government believes that this should be a collaborative exercise. We hope, therefore, that lawyers, legal academics and other members of civic society in Wales will be willing to contribute.
113. To supplement this, we have also begun to investigate how emerging technologies such as machine reading techniques and artificial intelligence could assist. In the long run there is potential for legislation to be developed not only in Welsh and English but also in computer code, which in turn would allow for relatively easy development of tools to assist users of legislation. Although this is an exciting area, we should, however, stress that work in this area is in the very early stages across the Commonwealth and is not expected to be a realistic part of the solution for some time.
114. In developing material to help people understand the law we are, naturally, keen to understand what users of legislation and those in need of advice would like to have.

**Question 5: What activities could the Welsh Government undertake or support that would help you or others to better understand Welsh law?**

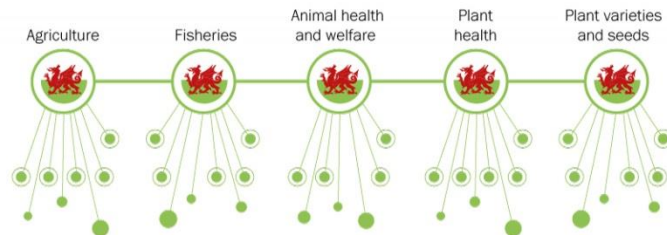
## Annex A

### Food

Food hygiene  
and safety

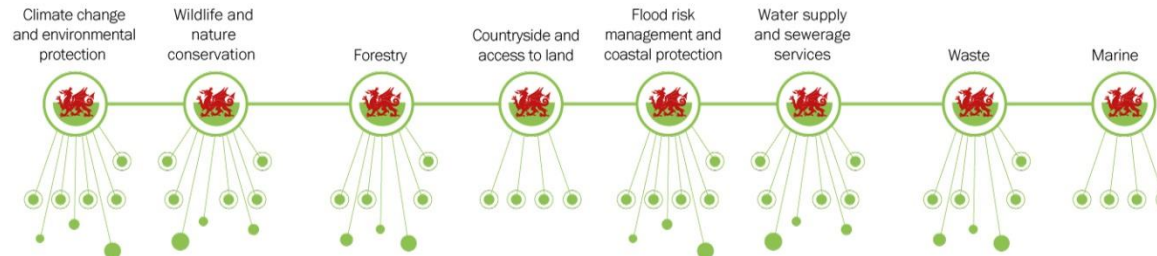


### Agriculture, animals and plants



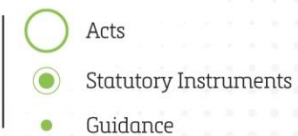
Llywodraeth Cymru  
Welsh Government

### Environment and natural resources

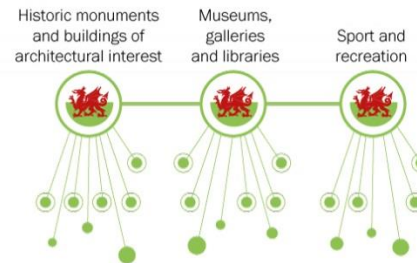


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National Assembly for Wales

### Codes of Welsh law

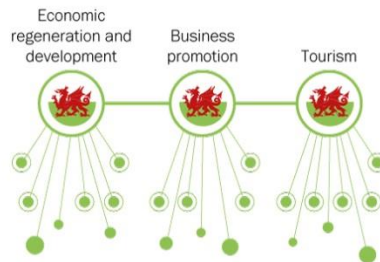


## Culture, sport and historic environment

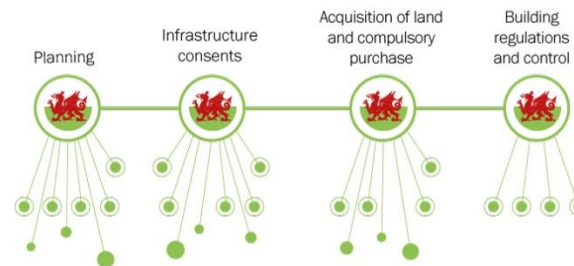


Llywodraeth Cymru  
Welsh Government

## Economic development and tourism

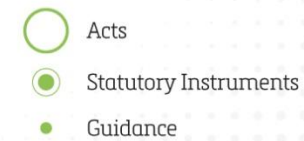


## Planning, building and land

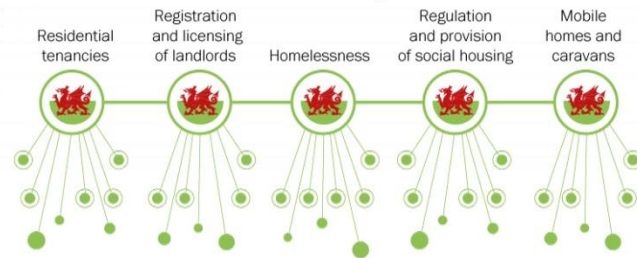


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National Assembly for Wales

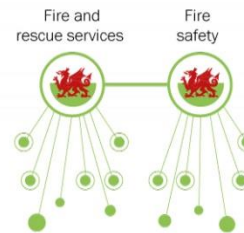
## Codes of Welsh law



## Housing

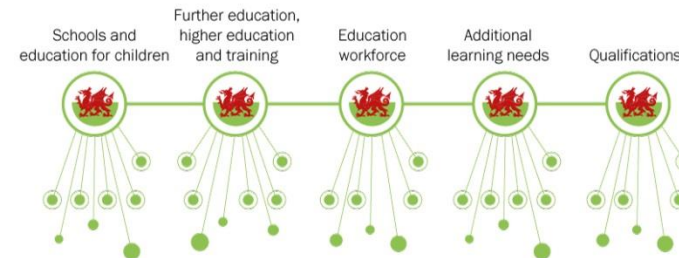


## Fire and rescue

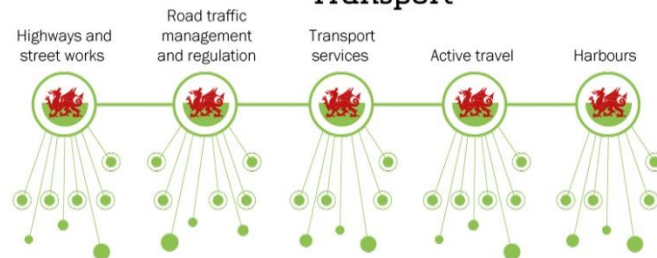


Llywodraeth Cymru  
Welsh Government

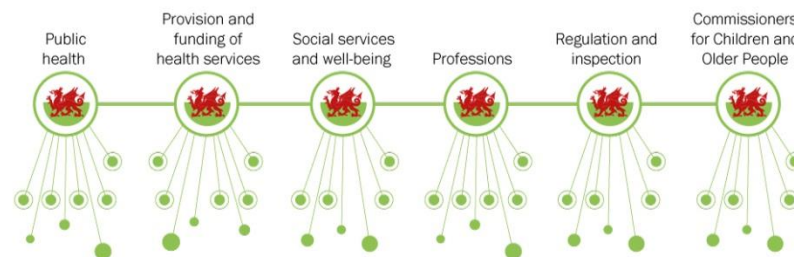
## Education and skills



## Transport






## Health and social care

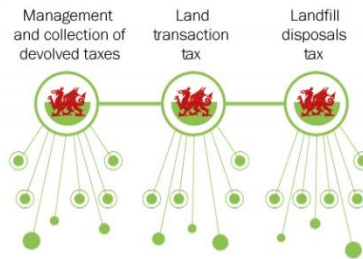


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National Assembly for Wales

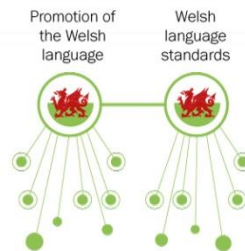
## Codes of Welsh law

-  Acts
-  Statutory Instruments
-  Guidance

## Taxation

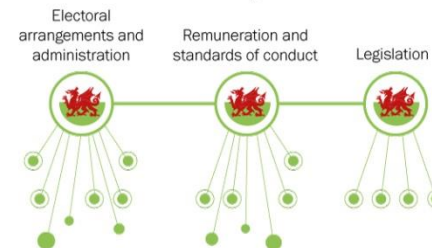


## Welsh language

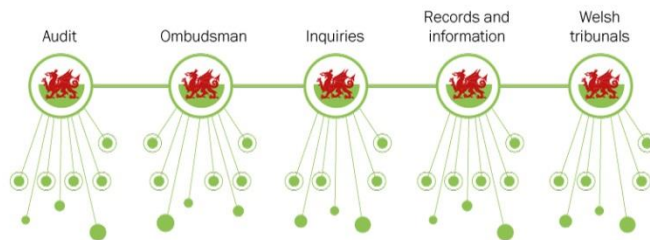


Llywodraeth Cymru  
Welsh Government

## Senedd and legislation

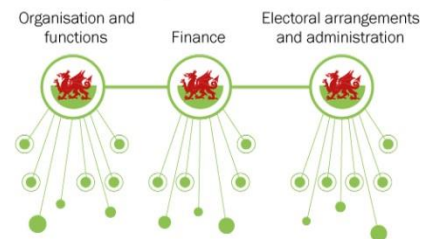


## Public administration



Cynulliad Cenedlaethol Cymru  
National Assembly for Wales

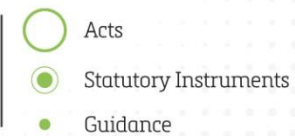
## Local government



## Future generations



## Codes of Welsh law





## Annex B

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### *Proposed Code and topics*

### *Examples of existing legislation which could be included in the Code*

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## **Agriculture, animals and plants**

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### Agriculture

### Fisheries

### Animal health and welfare

### Plant health

### Plant varieties and seeds

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Agriculture Acts 1967 to 1993; Slaughter of Poultry Act 1967; Sea Fisheries (Shellfish) Act 1967; Salmon and Freshwater Fisheries Act 1975; Plant Health Act 1967; Plant Varieties Act 1997; Animal Health Acts 1981 and 2002; Animal Welfare Act 2006; Red Meat Industry (Wales) Measure 2010; Agricultural Sector (Wales) Act 2014; Control of Horses (Wales) Act 2014.

## **Food**

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### Food hygiene and safety

Food Safety Act 1990; Food Standards Act 1999; Food Hygiene Rating (Wales) Act 2013.

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## **Environment and natural resources**

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### Climate change and environmental protection (including pollution control)

### Wildlife and nature conservation (including biodiversity and habitats)

Environmental Protection Act 1990; Planning (Hazardous Substances) Act 1990; Environment Act 1995; Pollution Prevention and Control Act 1999; Waste and Emissions Trading Act 2003; Clean Neighbourhoods and Environment Act 2005; National Parks and Access to the Countryside Act 1949; Forestry Act 1967; Countryside Act 1968; Conservation of Seals Act 1970; Wildlife and Countryside Act 1981; Deer Act 1991; Protection of Badgers Act 1992; Commons Acts 1899 and 2006; Commons Registration Act

<i>Proposed Code and topics</i>	<i>Examples of existing legislation which could be included in the Code</i>
Forestry	1965; Countryside and Rights of Way Act 2000; Coast Protection Act 1949; Reservoirs Act 1975; Land Drainage Act 1991; Water Industry Act 1991; Water Resources Act 1991; Flood and Water Management Act 2010; Waters Acts 2003 and 2014; Marine and Coastal Access Act 2009 (parts); Waste (Wales) Measure 2010; Environment (Wales) Act 2016.
Countryside and access to land	
Flood risk management and coastal protection	
Water supply and sewerage services	
Waste	
Marine	

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## **Planning, building and land**

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Planning	
Infrastructure consents	Town and Country Planning Act 1990; Planning (Consequential Provisions) Act 1990; Planning and Compulsory Purchase Act 2004; Planning Act 2008; Planning (Wales) Act 2015; Defective Premises Act 1972; Building Act 1984; Domestic Fire Safety (Wales) Measure 2011; Compulsory Purchase Act 1965; Compulsory Purchase (Vesting Declarations) Act 1981; Acquisition of Land Act 1981; Housing and Planning Act 2016; Neighbourhood Planning Act 2017.
Acquisition of land and compulsory purchase	
Building regulations and control	

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**Culture, sport and historic environment**

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Historic monuments and buildings  
of architectural interest

Protection of Wrecks Act 1973; Ancient Monuments and Archaeological Areas Act 1979; Planning (Listed Buildings) Act 1990; Public Libraries and Museums Act 1964; Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2010; Historic Environment (Wales) Act 2016.

Museums, galleries and libraries

Sport and recreation

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**Economic development and tourism**

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Economic regeneration and  
development

Business promotion

Development of Tourism Act 1969; Welsh Development Agency Act 1975.

Tourism

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**Education and skills**

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Schools and education for children

Further education, higher education  
and training

Education workforce

Additional learning needs

Education Reform Act 1988; Further and Higher Education Act 1992; Education Acts 1996, 1997, 2002 and 2005; Learning and Skills Act 2000; Apprenticeships, Skills, Children and Learning Act 2009 (part); Learning and Skills (Wales) Measure 2009; Healthy Eating in Schools (Wales) Measure 2009; Education (Wales) Measures 2009 and 2011; School Standards and Organisation (Wales) Act 2013; Education (Wales) Act 2014; Higher Education (Wales) Act 2015; Qualifications Wales Act 2015; Additional Learning Needs and Education Tribunal (Wales) Act 2018.

*Proposed Code and topics*

*Examples of existing legislation which could be included in the Code*

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Qualifications

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**Fire and rescue**

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Fire and rescue services

Fire and Rescue Services Act 2004; Regulatory Reform (Fire Safety) Order 2005.

Fire safety

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**Health and social care**

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Public health

Provision and funding of health services

Social services and well-being

Professions

Regulation and inspection of health and social care

Commissioners for Children and Older People

Mental Health Acts 1983 and 2007; Access to Health Records Act 1990; Tobacco Advertising and Promotion Act 2002; Health Act 2006; National Health Service (Wales) Act 2006; NHS Redress (Wales) Measure 2008; Mental Health (Wales) Measure 2010; Human Transplantation (Wales) Act 2013; National Health Service Finance (Wales) Act 2014; Nurse Staffing Levels (Wales) Act 2016; Public Health (Wales) Act 2017; Public Health (Minimum Price for Alcohol) (Wales) Act 2018; Children Acts 1989 and 2004; Care Standards Act 2000; Health and Social Care (Community Health and Standards) Act 2003; Commissioner for Older People (Wales) Act 2006; Children and Families (Wales) Measure 2010; Social Services and Well-being (Wales) Act 2014; Regulation and Inspection of Social Care (Wales) Act 2016.

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**Housing**

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Domestic tenancies

<i>Proposed Code and topics</i>	<i>Examples of existing legislation which could be included in the Code</i>
Registration and licensing of landlords (including HMOs)	Rent Act 1977; Protection from Eviction Act 1977; Housing Acts 1985, 1988, 1996 and 2004; Housing Associations Act 1985; Housing Grants, Construction and Regeneration Act 1996; Homelessness Act 2002; Housing (Wales) Measure 2011; Mobile Homes (Wales) Act 2013; Housing (Wales) Act 2014; Renting Homes (Wales) Act 2016; Abolition of the Right to Buy and Associated Rights (Wales) Act 2018; Regulation of Registered Social Landlords (Wales) Act 2018
Homelessness	
Regulation and provision of social housing	
Mobile homes and caravans	
<b>Transport</b>	
Highways and street works	Harbours Act 1964; Transport Acts 1968-2000; Chronically Sick and Disabled Persons Act 1970; Highways Act 1980; Cycle Tracks Act 1984; Road Traffic Regulation Act 1984; New Roads and Street Works Act 1991; Road Traffic Reduction Act 1997; Local Transport Act 2008; Active Travel (Wales) Act 2013.
Road traffic management and regulation	
Transport services (including buses and taxis)	
Active travel	
Harbours	
<b>Local government</b>	
Local government organisation and functions	Local Government Acts 1972, 1986, 2000 and 2003; Local Authorities (Land) Act 1963; Local Authorities (Goods and Services) Act 1970; Local Government (Miscellaneous

<i>Proposed Code and topics</i>	<i>Examples of existing legislation which could be included in the Code</i>
Local government finance	Provisions) Act 1982; Local Government and Housing Act 1989; Local Government (Wales) Acts 1994 and 2015; Local Government (Contracts) Act 1997; Local Government (Wales) Measures 2009 and 2011; Local Government Byelaws (Wales) Act 2012; Local Government (Democracy) (Wales) Act 2013; Local Government Finance Acts 1988 and 1992.
Local government electoral arrangements and administration	
<b>Public administration</b>	
Audit	
Ombudsman	
Inquiries	Public Audit (Wales) Acts 2004 and 2013; Public Services Ombudsman (Wales) Act 2005; Inquiries Act 2005; Freedom of Information Act 2000; provisions in various Acts establishing Welsh tribunals.
Records and information	
Welsh tribunals	
<b>Senedd and legislation</b>	
Senedd electoral arrangements and administration	
Remuneration and standards of conduct of Members of the Senedd	Government of Wales Act 2006; National Assembly for Wales Commissioner for Standards Measure 2009; National Assembly for Wales (Remuneration) Measure 2010; Statutory Instruments Act 1946; Legislation (Wales) Bill 2018.
Legislation (making, meaning, publishing)	

*Proposed Code and topics*

*Examples of existing legislation which could be included in the Code*

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**Taxation**

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Management and collection of  
devolved taxes

Tax Collection and Management (Wales) Act 2016; Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017; Landfill Disposals Tax (Wales) Act 2017.

Land transaction tax

Landfill disposals tax

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**Welsh language**

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Promotion of the Welsh language

Welsh Language Act 1993; Welsh Language (Wales) Measure 2011.

Welsh language standards

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**Future generations**

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Well-being of future generations

Well-being of Future Generations (Wales) Act 2015

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**Annex C:**  
**Consultation**  
**response form**

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

**Question 1:** With reference to the draft taxonomy in Annex 1, do you agree with the suggested structure of subjects and sub-topics?

**Question 2:** Do you have any suggestions for improving this draft taxonomy?

**Question 3:** What specific area or areas of devolved law do you think are most in need of consolidation, and why?

**Question 4:** Do you agree with the Welsh Government's vision and proposed approach for codification of Welsh law?

**Question 5:** What activities could the Welsh Government undertake or support that would help you or others to better understand Welsh law?

**Question 6:** We would like to know your views on the effects that the classification, consolidation and codification of Welsh law 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 7:** Please also explain how you believe the classification, consolidation and codification of Welsh law 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 8:** 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:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

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