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Welsh Government

Consultation – summary of response

Changes to planning and related application fees

June 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
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1. Introduction

- 1.1 The 'Changes to planning and related application fees' consultation document was launched on 16 December 2019 and was open for responses until 13 March 2020. A total of 5 specific questions were set out in the consultation document, with a standard form provided for ease of response. Comments were also made outside of the standard questions.
- 1.2 This document details a summary of responses to the consultation, the Welsh Government's response and the next steps. It is separated into two further sections.
- 1.3 Section 2 provides an overall statistical summary of the consultation and provides details of how the consultation was conducted.
- 1.4 Section 3 provides a summary of all responses received. This includes:
 - A summary of the key findings under each consultation question;
 - A statistical analysis of the views expressed on each consultation question, where statistics could be extracted;
 - A summary and analysis of the key themes generated for each question;
 - The Welsh Government's response to that analysis; and
 - An explanation of what the Welsh Government will do following the response to each question.
- 1.5 In analysing and summarising the response to this consultation, this report will not address the following:
 - **Clarifications sought to matters of detail:** It is the intention that, when in force, the new processes will be supplemented by guidance. That guidance will seek to clarify matters of detail raised in this consultation paper;
 - **Comments on individual cases or decisions before or made by the Welsh Ministers:** Given the statutory role of the Welsh Ministers in the planning process it is not possible for them, or anyone else within the Welsh Government, to comment on a decision to which they are, or may be party. To do so could prejudice the position of the Welsh Government.
 - **Matters outside the scope of the consultation:** Where comments have been made that are relevant to this consultation but were made in relation to matters outside of the scope of the question, efforts have been made to summarise under the correct question. However, comments outside of the remit of this consultation will not be addressed; and

- **Comments which incorrectly interpret the proposed policy and existing legislation:** Responses have been received which request changes to policy which, in fact, either reflect the intentions set out in the consultation paper or reflect existing legislation which is to be unchanged.

2. Responses

- 2.1 On 16 December 2019 over 200 stakeholders, including individuals and organisations were notified by email of the publication of the consultation paper. These were drawn from the core consultation list held by the Planning Directorate of the Welsh Government. This included all local authorities in Wales, public bodies, special interest groups and other groups. The consultation was made available on the Welsh Government's consultation website.
- 2.2 The consultation generated 59 responses and we are grateful to all those who responded. All the consultation responses have been read and considered as part of this analysis.
- 2.3 A consultation form was provided as an annex to the consultation document and separately on the Welsh Government's consultation website. Respondents were asked to assign themselves to one of six broad respondent categories. Table 1 below shows the breakdown of respondents.

Table 1 – Breakdown of Respondents		
Category	Number	% of total
Business / Planning Consultants	6	10%
Local Authorities (including National Park Authorities)	16	28%
Government Agency / Other Public Sector	25	42%
Professional Bodies / Interest Groups	8	13%
Voluntary Sector	0	0%
Others (other groups not listed)	4	7%
Total	59	

- 2.4 Consultation questions 1 and 2 posed policy specific questions. The questions required one of the following responses; ‘yes’, ‘yes (subject to further comment)’ or ‘no’. Consultation question 3 sought quantitative responses in relation to the current fee regime to inform research and future reforms. Consultation questions 4 and 5 related specifically to the potential impact (either positive or negative) the proposals may have on the Welsh language.
- 2.5 A statistical overview of the responses, showing the nature of the responses to questions is presented as part of the analysis to each question in section 3 of this document. Where respondents did not specify a particular answer, these were considered and recorded as ‘don’t know’.

Table 2: Consultation Questions	
Q1	Do you agree with the proposed 20% increase in application fees, excluding pre-application services? If not, why not?
Q2	Do you agree with introducing a fee of £230 for applications for Certificates of Appropriate Alternative Development, made under section 17 of the Land Compensation Act 1961? If not, why not?
Q3	Do you have any comments to make, or evidence to put forward in relation to the current fee regime, or any suggestions for improvements?
Q4	We would like to know your views on the effects that changes for planning and related application fees 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 effect do you think there would be? How could positive effects be increased, or negative effects be mitigated?
Q5	Please also explain how you believe the proposed policy for changes to fees for planning and related applications could be formulated or changes 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.

- 2.6 A list of respondents and the categories they were assigned to can be found in Annex A of this report. Where respondents have asked for their details to be withheld, they will appear as “Anonymous” under the appropriate category, with the exception of private individuals, all of whom will appear as “Anonymous” in order to comply with the General Data Protection Regulations.

3. Summary of responses

Q1	Do you agree with the proposed 20% increase in application fees, excluding pre-application services? If not, why not?
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Statistical Summary						
Sector		Yes	Yes (subject to further comment)	No	Don't Know	Total
A	Business / Planning Consultants	0	3	3	0	6
B	Local Authorities (including National Park Authorities)	8	8	0	0	16
C	Government Agency/Other Public Sector	5	5	6	9	25
D	Professional Bodies/Interest Groups	0	3	4	1	8
E	Voluntary Sector	0	0	0	0	0
F	Others (other groups not listed)	2	1	1	0	4
Total all respondents		15	20	14	10	59

	Yes/Yes subject to comment	No
Total Respondents indicating a response	35	14
Overall Percentage	71%	29%

Statistical review

- 3.1 Of those respondents who answered either 'Yes', 'Yes (subject to further comment)' or 'No' to the consultation question, almost three quarters agreed with the proposal to increase fees for planning and related applications by approximately 20%. With the exception of LPAs, who fully supported the proposal, responses among other respondent groups were mixed. Ten respondents submitted their response as 'Don't know'.

Key themes

- 3.2 The key themes in response to question 1 were as follows:

- General agreement and support for the proposal, although justification and evidence as to why the figure has been set at 20% would be beneficial;
- Comments suggested LPA performance and service levels should be monitored if the proposal for a 20% increase in fees for planning and related application is progressed, as service levels do not appear to have improved since the last increase in fees; and
- Any increase in fees need to be ring-fenced within planning departments rather than be absorbed centrally by local authorities if any benefits are to be seen.

Overview

- 3.3 LPAs, proportionately, supported the proposals the most, stating a fee increase is required to help better reflect the costs of a planning service, although noting a 20% increase isn't likely to be enough in helping achieve this. Comments were also received which state a longer term solution is necessary, to ensure the system is adequately resourced for the future and that research should be undertaken to determine true cost and to recover it. Two LPAs suggested fees for pre-application services should also be reviewed and increased, along with applications for Developments of National Significance, and a further LPA stated the costs of advertising applications should be reviewed as this places a significant financial burden on LPAs.
- 3.4 Other respondents agreed with the proposals in principle, although with various caveats. For example, a Government Agency / Other Public Sector respondent, and two Business / Planning Consultants and a Professional Body / Interest Group respondents agreed with the proposal, however, stated definite improvements and benefits are required to the service received and LPAs must use any additional fee income to address gaps in resource and capacity.

- 3.5 It was also suggested a larger uplift in fees to either reflect extra officer time required to deal with certain applications, or to act as a deterrent to unauthorised development. These include fees for commercial development, renewable energy projects and retrospective applications.
- 3.6 Two Government Agency / Other Public Sector respondents considered planning fee concessions did not currently go far enough and should include those from low income families, disabilities and applications submitted by voluntary and community groups.
- 3.7 Finally, a number of responses commented any increase in fees needed to be ring-fenced within planning departments, rather than be absorbed into a central fund to ensure the planning system directly benefits from a proposed increase.
- 3.8 Of those who disagreed with the proposal, the general consensus among respondents was that the proposed fee increase was too high, significantly ahead of inflation and disproportionate to the level of service delivered by LPAs.
- 3.9 A number of respondents also put forward alternative suggestions on how fees should be increased. For example, a Government Agency / Other Public Sector respondent suggested any increase should be carried out in line with APT&C (Administrative, Professional, Technical and Clerical) pay awards and an 'Other' respondent stated any increase should not be higher than the consumer price index percentage. Similarly, a respondent from the 'Other' category suggested fees should be based on a sliding scale, depending on an applicant's income, or the size / expense of a proposed development.
- 3.10 A Business / Planning Consultant and a Government Agency / Other Public Sector responded stating there is not enough evidence to justify a 20% increase in fees and a respondent from the Professional Bodies / Interest Groups added any fee increase should not be carried forward until further data gathering has been undertaken to better understand what cost recovery should be.
- 3.11 Concerns were also raised in relation to performance levels of LPAs, on the basis that increasing fees should have a direct correlation with service levels within LPAs. A respondent from the 'Other' category suggested rather than increasing fees, the costs of processing applications should be looked at to see if there are ways to streamline and reduce costs. Similarly, a Business / Planning Consultant commented that although increasing fees may improve efficiency, previous fee increases have not shown this.
- 3.12 A Government Agency / Other Public Sector respondent stated the planning system does not just work to the private benefit of developers, it also benefits the general public, and therefore fees should not be increased until the cost of the service is charged equally between developer fees and the public, via local taxation.

- 3.13 Finally, there was also a suggestion from the Professional Bodies / Interest Groups category that additional funding for LPAs should not be drawn from those who are compelled by law to use the planning system the most, such as owners of historic buildings. This is because these works are generally not for private benefit, but for essential maintenance and repairs.

Government response

- 3.14 We acknowledge the concerns raised by respondents regarding how much fees are proposed to be increased by and agree any increase should be accompanied by a correlating improvement of service levels from LPAs. The Welsh Government will continue to monitor LPAs' performance via data gathered through the 'Development Management Quarterly Survey' reports.
- 3.15 However, a balance must be struck between making provision for LPAs to recover more of their costs to provide an adequate and timely development management service and not significantly disadvantaging applicants through disproportionate fees, or discouraging people from engaging with the planning system. On this basis, we consider the proposed 20% increase in fees appropriate in achieving this aim. We acknowledge this increase may not be sufficient to enable LPAs to fully recover their costs, however, the Welsh Government remains committed to carrying out research into the costs associated with delivering a development management service, to ensure cost recovery of that service can be achieved.
- 3.16 Regarding the potential benefits the planning system can provide, we acknowledge there are cases where the planning system is used to benefit the general public, the majority of applications are submitted for private benefit and we do not consider it appropriate to require the general public to essentially pay for, or subsidise such private benefits through taxation.
- 3.17 In relation to historic buildings, there are currently no fees to be paid for proposals which require listed building consent and this consultation does not consider introducing fees for these applications at this time.
- 3.18 Other comments received will be considered as evidence to support research into further reforms to planning and related application fees.

Next steps

- 3.19 It is proposed to progress with our proposals to increase fees for planning and related applications by approximately 20%, as set out in Annex A to the "Changes to planning and related application fees" consultation paper (16 December 2019).

Q2	Do you agree with introducing a fee of £230 for applications for Certificates of Appropriate Alternative Development, made under section 17 of the Land Compensation Act 1961? If not, why not?
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Statistical Summary						
Sector		Yes	Yes (subject to further comment)	No	Don't Know	Total
A	Business / Planning Consultants	5	0	1	0	6
B	Local Authorities (including National Park Authorities)	7	8	1	0	16
C	Government Agency/Other Public Sector	8	4	4	9	25
D	Professional Bodies/Interest Groups	1	1	2	4	8
E	Voluntary Sector	0	0	0	0	0
F	Others (other groups not listed)	2	0	1	1	4
Total all respondents		23	13	9	14	59

	Yes/Yes subject to comment	No
Total Respondents indicating a response	35	9
Overall Percentage	80%	20%

Statistical review

3.20 Of those respondents who answered either 'Yes', 'Yes (subject to further comment)' or 'No' to the consultation question, a significant majority agreed with the proposal to introduce a fee of £230 for applications relating to Certificates of Appropriate Alternative Development. With the exception of the Professional Bodies / Interest Groups, the majority of all other groups all agreed with the proposal. However, almost a quarter of all respondents did not respond to the consultation question.

Key themes

3.21 The key themes in response to question 2 were as follows:

- The vast majority of respondents were in agreement with the proposal;
- The proposed should potentially be higher than £230 if it is to truly cover the costs of LPAs delivering this service; and
- Consideration should be given to introducing variable fees based on the size, category and type of development, rather than a flat fee.

Overview

3.22 Although the majority of respondents agreed with the proposal, a number of comments were submitted to query how the proposed £230 fee was reached and whether this would adequately cover the costs in determining such applications. For example, two LPAs suggested the proposed fee should be higher to accurately reflect the true cost of time, resource and expertise required. One of these LPAs commented the fee should be £460, while a respondent from the Government Agency / Other Public Sector category stated the fee should be closer to £500.

3.23 Additional comments from those in agreement with introducing a fee for applications relating to Certificates of Appropriate Alternative Development stated there must be a corresponding improvement in service levels from LPAs and that the fee should possibly be variable, based on the size / scale of proposed development.

3.24 Those who disagreed with the proposal claimed not enough information has been provided to justify the proposed fee and that it is not necessary to introduce a fee for these types of applications. Similar to a respondent who agreed with the proposal, an LPA suggested rather than a flat fee, the equivalent fee for the category / type of development should be applied. Finally, a respondent from the Professional Bodies / Interest Group category commented on the disruption to businesses that Compulsory Purchase Orders already cause, land owners should not be further burdened by fees if they apply for a Certificate of Appropriate Alternative Development.

Government response

- 3.25 The level of resource and time required to determine an application for a Certificate of Appropriate Alternative Development is considered to be comparable to applications made for Certificates of Lawful Use of Development.
- 3.26 The 'Changes to planning and related applications fees' consultation paper proposed increasing fees for applications made under section 191(1)(c) of the Town and Country Planning Act 1990, which relate to Certificates of Lawful Use of Development, to £230. Therefore, we consider this fee level to be appropriate and fair for applications relating to Certificates of Appropriate Alternative Development.
- 3.27 We acknowledge comments received in relation to the level of fee and how it is calculated, and such comments will be considered as evidence to support research into further reforms to planning and related application fees.

Next steps

- 3.28 It is proposed to progress with our proposals to introduce a fee of £230 which would be payable to the relevant LPA upon submission of an application for a Certificate of Appropriate Alternative Development.

Q3

Do you have any comments to make, or evidence to put forward in relation to the current fee regime, or any suggestions for improvements?

As this question sought qualitative information, no statistical analysis is provided.

Publishing third party comments

- 3.29 Six Government Agency / Other Public Sector respondents recommended the costs associated with publishing third party comments on LPA websites should be factored into planning fees as it was suggested not all LPAs are publishing such comments, on the basis of financial limitations.

Processes and service delivery

- 3.30 A Business / Planning Consultant respondent commented on the disparity between LPAs and how applications are determined, stating that although increasing fees may improve efficiency, previous fee increases have not shown this. It was suggested processes and procedures should be reviewed and rolled out across LPAs.
- 3.31 A similar comment was made by a respondent from the Government Agency / Other Public Sector category, claiming it wouldn't be fair to plug gaps in LPA funding by essentially passing the costs onto developers as the issue of service delivery requires a wider strategic vision. Another Government Agency / Other Public Sector respondent stated fees should not be increased at all as it would not bring any improvements to service delivery.

Charging for certain applications and increasing fees for others

- 3.32 A number of responses were received which suggested consideration should be given to both charging for certain applications which do not currently command a fee and to increasing fees further than what is proposed for certain applications.
- 3.33 Some responses across all respondent categories proposed increasing fees for:
- Applications relating to wind turbines;
 - Applications submitted under section 73 of the Town and Country Planning Act 1990; and
 - Retrospective applications
- 3.34 Respondents argued the proposed fees for these types of applications would still not accurately reflect the time and resource LPAs put in to determining them and therefore, would still not result in cost recovery. It was also suggested if fees were increased for retrospective applications, this may act as a deterrent against unauthorised development.

3.35 Some responses across all respondent categories proposed introducing fees for:

- Work relating to enforcement;
- Screening and scoping opinions;
- Applications for Listed Building Consent and Conservation Area Consent;
- Applications for Tree Preservation Orders;
- Removing or varying section 106 agreements; and
- 'Free go's for refused / withdrawn applications.

3.36 Respondents argued each of these applications and work involved in combating unauthorised development do not currently command a fee, despite LPAs having to expend time and resource in determining such applications and administering such processes, and therefore, should be able to recover their costs.

3.37 Some respondents also proposed changing fees relating to:

- Discharging conditions. It was suggested this should be charged per condition and by application type to more accurately reflect the time and resource;
- Fees for agricultural buildings. A comment was received stating these fees are too high for the level of work required to determine these applications; and
- Refunds. A respondent commented refunds of planning fees should be revoked as it places unnecessary pressures on LPAs.

Further research into cost recovery

3.38 Four respondents disagreed with the proposal to increase planning fees, stating further research into what true cost recovery is, as discussed in the consultation paper, should be undertaken as a matter of priority.

3.39 A respondent from the Government Agency / Other Public Sector category went on to explain it is not acceptable to expect applicants to pay ever increasing fees, where the quality of service is not matched and therefore, any fee increase should not occur until such research has been undertaken.

3.40 A Professional Body / Interest Group was also in favour of pursuing detailed research into cost recovery, however did not agree fees should correlate directly with the costs of running a planning service.

How fees are charged

3.41 Comments received from the Government Agency / Other Public Sector category state fees should be set to the scale of development rather than the size of land under constructions as it makes it easier for developers to place artificial boundaries around proposed application sites to minimise fees and that a local, rather than national, fee regime would be preferable and the costs

should be split between the general public and developers. A further comment was raised which claimed small, minor applications should not cost more as planning officers should have local knowledge to assist with these applications and larger, more detailed applications should recover the additional fees.

- 3.42 Two LPAs claimed fees should be increased incrementally on an annual basis to reflect the actual cost of delivering an effective planning service and another LPA commented on issues around developments being split to benefit from reduced fees because of the way in which fees are currently charged.
- 3.43 Another LPA suggested other factors which may influence costs should be taken into account, such as increasing demands in terms of officer time to determination applications as a result of new procedures and policies, information required to support applications and levels of consultation / publicity.
- 3.44 A Professional Body / Interest Group stated where certain applications require a level of expertise, such as minerals, an hourly rate should be considered, which could then be supplemented by a fixed registration fee.

Ring fencing fees within planning departments

- 3.45 Both a Government Agency / Other Public Sector respondent and a Business / Planning Consultant respondent commented any increase in planning fees must be ring fenced within planning departments and not go into a central pot if any benefits from the increase are to be seen.

Other comments

- 3.46 A Government Agency / Other Public Sector respondent disagreed with increasing fees as applicants are not only expected to cover the costs of determining the application, but also aspects such as ecology and tree reports.
- 3.47 A Professional Body / Interest Group would like to see the formalisation of Planning Performance Agreements in legislation, as this would provide greater certainty for determination timescales.
- 3.48 Another respondent from the Professional Body / Interest Group commented the quality of submissions by third parties should be considered, as this can affect the length of time taken for applications to be determined and that best practice and lessons learnt should be shared between nation states.
- 3.49 An additional Professional Body / Interest Group stated full cost recovery for householder applications would be too expensive for applicants and therefore, would need to be supplemented by fees for major applications, however queried whether this is appropriate.

- 3.50 A respondent from the 'Other' category claimed stricter measures should be in place for developers wanting to build more than 1 new house and that rules and fees should be relaxed for those wanting to build 1 house which has low environmental impact.
- 3.51 An LPA suggested One Planet Development should have a separate fee and should include fees for monitoring because they can often be resource intensive.

Government response

- 3.52 We agree the planning system should be open, fair and transparent and where possible, comments from third parties published on local authority websites. However, there may instances where certain comments are not able to be published online as a matter of security. For example, personal information included within a petition where the signatory has not consented to, or is not aware of, their information being publicly available.
- 3.53 When determining applications, LPAs are often required to seek input from colleagues in other departments for expert advice, such as ecology or the historic environment. As this forms part of the determination process, we consider it appropriate for planning fees to cover this element of the determination process, if required.
- 3.54 Planning Performance Agreements are entered into voluntarily between LPAs and applicants as a tool to agree timescales, actions and resources for handling particular applications. Although we agree with the principle of these agreements in the correct circumstances, we do not consider it appropriate to formalise them at this stage.
- 3.55 In terms of sharing best practice, the Welsh Government is committed to working with the nation states to share any lessons learnt and will continue to share experiences and best practice, to ensure the planning system in Wales functions to the benefit of all parties involved.
- 3.56 All comments received in relation to fees as part of this response will be considered when undertaken further, detailed research into cost recovery. We will assess any potential changes to fees, the introduction of fees for applications which currently do not command a fee and whether any further concessions should be made. The research will be published online by the Welsh Government once available.

Q4	We would like to know your views on the effects that changes for planning and related application fees 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 effect do you think there would be? How could positive effects be increased, or negative effects be mitigated?
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Overview

- 3.57 The majority of respondents did not answer the consultation question. Of those who responded, a significant number failed to see the connection between proposals to increase planning fees and the Welsh language, stating the question shouldn't even be asked and the proposals are unlikely to have any effect.
- 3.58 A Government Agency / Other Public Sector respondent stated there will be added cost for translation for applications made in Welsh so a single language application should be considered and then a flat rate added to cover translation costs.

Government response

- 3.59 Planning and related applications are readily available in both Welsh and English and applicants may decide the language of their application and the applicant can expect the same level of service.

Next steps

- 3.60 None required.

Q5	Please also explain how you believe the proposed policy for changes to fees for planning and related applications could be formulated or changes 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.
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Overview

- 3.61 Similar to question 4 of the consultation paper, the majority of respondents did not provide any comments in relation to this question.
- 3.62 Of those who responded, two comments were put forward suggesting fees should be increased slightly more to allow for more readily available translation services, which can help reduce delay in publishing bilingual documents for the general public.
- 3.63 However, comments from a Government Agency / Other Public Sector respondent and a Professional Body / Interest Group respondent suggested fees for applications submitted in Welsh should have a reduced fee, or have the fee waived entirely, to encourage use of the language.
- 3.64 Similarly, an LPA stated proposed fee increases may have unintended consequences in relation to the amount of capital available to developers to spend on their own Welsh language assessments / statements.

Government response

- 3.65 There is a legal requirement for LPAs to publish documentation bilingually and although we accept there may be translation costs due to this, whether to translate to English or to Welsh, we do not consider it appropriate to pass these costs onto applicants.
- 3.66 Although the Welsh Government encourages the use of the Welsh language and the planning system is equipped to deal with applications through the medium of Welsh, we do not consider appropriate for applications submitted in Welsh to benefit from reduced fee, or to have the fee waived entirely.
- 3.67 This would be discriminatory against those applicants choosing to submit an application in English, or not having the ability to submit one in Welsh due to language barriers. This would also be in contravention to Article 14 of the European Convention on Human Rights.

Next steps

- 3.68 None required.

ANNEX A – LIST OF RESPONDENTS BY CATEGORY

Business / Planning Consultant	LPA
Anonymous	Monmouthshire County Council
Talsin Ltd	Merthyr Tydfil County Borough Council
Roger Parry & Partners LLP	Isle of Angelsey County Council
Innogy Renewables UK Ltd	Newport City Council
Anonymous	Gwynedd Council
Redrow Homes	Anonymous
	National Park Authorities (Joint Response)
Government Agency / Other Public Sector	Ceredigion County Council
Aberedw Community Council	Anonymous
Anonymous	Anonymous
Llanelli Town Council	Bridgend County Borough Council
Anonymous	Vale of Glamorgan Council
Llantrisant Community Council	Planning Officers Society Wales
Anonymous	Carmarthenshire County Borough Council
Anonymous	Caerphilly County Borough Council
Anonymous	Anonymous
Llandrinio & Arddleen Community Council	
Anonymous	Professional Bodies / Interest Groups
Anonymous	Home Builders Federation
Anonymous	Farmers Union for Wales
Anonymous	CLA Cymru
Pembroke Dock Town Council	Anonymous
Abergele Town Council	Anonymous
Newtown & Llanllwchariarn Town Council	Anonymous
Wentlooge Community Council	Anonymous
Vale of Gwyney Community Council	Historic Houses
Barry Town Council	
Anonymous	Other
Anonymous	Anonymous
Penarth Town Council	Anonymous
Theatres Trust	Anonymous
Anonymous	Anonymous
Anonymous	