

Safer Buildings in Wales: A Consultation

What action is the Welsh Government considering and why?

The fire at Grenfell Tower in 2017 threw into the sharp focus the importance of safe housing and the priority that people feeling safe in their homes should be a given; but unfortunately the Hackitt Review¹, which looked at the existing system following the fire at Grenfell has confirmed that for some across Wales this is not the case. Building safety has a high profile in the media and on the floor of the Senedd. More importantly however, the impact of unsafe buildings is being felt by those living in, and leaseholders of, buildings experiencing issues.

The proposed Building Safety Regime sets out proposals that represent a significant overhaul to the existing system; they would also result in the most expansive Building Safety Regime in the UK. The proposed changes outlined in the Building Safety White Paper will see improvements made to every stage of the lifecycle of multi-occupied buildings, from design through construction and on into occupation, so that the risk of fire in these buildings are managed in order to ensure they are safe for residents.

The proposed Building Safety Regime aims to improve the fire safety of buildings within scope of the regime. Residential buildings containing two or more dwellings will be included within this scope, going further than focusing on high rise buildings alone. The regime will articulate roles and responsibilities for dutyholders, not only during the design and construction phases, but also in the occupation phase, this will make clear who is accountable for building safety and dealing with any failings, should they occur in the future.

Long term

For many years, the building and construction sector has focused on maximising profit over safety, this has resulted in a 'race to the bottom', for example meaning cheaper building materials or methods have been favoured that reduce costs rather than maximising safety. This culture will need to change; we have begun engaging with the building sector on the proposed regime set out in the building safety white paper, and will continue to do so during the consultation period following its launch as well as maintaining a collaborative approach going forward.

¹ Hackitt Review: <https://www.gov.uk/government/publications/independent-review-of-building-regulations-and-fire-safety-final-report>

Housing is a key priority for the Welsh Government, with additional housing units being built across the country, including the 20,000 affordable homes commitment during the 2016-2021 term of Government. It is likely that a number of these buildings will fall within the scope of the proposals set out in this white paper, and we want to make certain those buildings will be as safe as possible throughout their lifecycle.

This regime is about more than just high rise buildings. It proposes to capture a house converted into two flat, through to a licensed HMO and through to a high rise purpose built block of flats. There are currently many thousands of buildings already in existence that will be captured by this scope. The proposed regime will clearly identify those who are responsible and ensure they are aware of their duties. They will be held accountable for ensuring all buildings that they are responsible for (within scope) become as safe as possible, with any risks of fire being managed as appropriate.

Currently, and positively, fire statistics show instances of fire are on a downward trajectory in Wales and this is something we want to make sure continues. We recognise however, our proposals and any regulations put in place in the future will be limited to physical structures and roles and responsibilities of dutyholders. We are unable to regulate human behaviour, which is the biggest cause of fire, and as such, acknowledge the changes proposed will not alleviate the risk of fire due to human behaviour which is often difficult to change. However we hope that a better understanding by residents of risks will support behaviour change.

Prevention

The proposals set out in the White Paper are preventative in nature. The changes proposed will ensure fire safety improves in buildings in Wales. The aim of the Building Safety Regime is to treat the underlying structural cause of building safety issues that enable fires to spread rapidly, putting people at greater risk of injury and contributing to loss of life, like that seen at Grenfell Tower in 2017.

The current system of building control has allowed developers to have an undefined amount of control during the design and construction phases. An example of this is currently, as highlighted in the Hackitt Review, developers have the ability to choose their own approved inspector causing a potential conflict of interest at the expense of safety. The proposals for regulation around each of the design, construction and occupation phases are intended to put in place mechanisms that will ensure buildings are constructed and managed appropriately. This will ultimately support those managing buildings during occupation to prevent the spread of fire should it occur, and reduce the extent of injury and loss of life as a result.

The proposals set out a clear and coherent path to accountability with regards to the development and construction of building in Wales. We want to enshrine building safety into the ethos of any and all building projects through a more robust regulatory regime of dutyholders. During occupation, we also intend to create a dutyholder role (Accountable

Person) who will have a clear set of roles and responsibilities, including with regards to residents. We believe that residents' expectations of those managing buildings within scope should be increased, residents should be clear as to what they can expect of those who are managing buildings.

Integration

Housing is a cross cutting item on the agenda in many Welsh Government divisions, especially with its effects being linked to health. In the current climate being in the midst of the Covid-19 pandemic, we are having to spend more time at home where the toll of being in a building with safety issues can have a significant negative effect on a person's mental well-being. It is hoped the changes being taken forward alongside these legislative reforms will aid residents' mental well-being in the present, as well as long term.

Integration has been at the heart of our approach. In the first instance, internal Welsh Government teams across portfolio areas have been working closely to develop the Building Safety White Paper, taking into account their areas of expertise. Alongside this, we have worked with Local Authorities and the Fire and Rescue Authorities to inform our thinking ahead of the White Paper and ensure a joined-up approach which contributes to safety, health and well-being, with clear lines of accountability.

Collaboration and Involvement

The nature of the reforms proposed require collaboration between all parties, for example, those designing and constructing buildings, those living in and managing buildings, and those regulating those buildings. The Five Ways of Working set out in the Well-being of Future Generations Act will guide this work.

Collaboration and engagement work with regards to building safety has already begun in Wales. The social housing sector and the Tenant Participation Advisory Service (TPAS) have already undertaken considerable engagement with their tenants following the tragedy of Grenfell Tower. The social housing sector has already establish a good practice guide in relation to engaging with residents on issues of building safety. The Fire Rescue Service (FRS) have engaged with residents in high rise buildings, especially where there are known issues to consider how to make existing buildings safer.

Direct engagement with residents by the Welsh Government has generally been in relation to previous existing issues; however engagement is planned during the White Paper consultation. As part of this targeted engagement, we have produced easy read and quick read versions of the White Paper to make them more accessible to a wider audience. A video is also available as an introduction to our proposals.

Using a collaborative approach has been essential for Welsh Government to produce the Building Safety White Paper. Part of the process which enabled this to happen is the creation of the Building Safety Expert Group, which had members including those mentioned above, as well as social landlords and builders. As a result of this broad

engagement thus far, the scope of the proposals given in the white paper are wider than those originally proposed in the Hackitt review and is more fitting for Wales. This engagement has continued as the work has evolved; for example, engagement with building control colleagues has helped inform design and construction phase proposals. Engagement with FRS and Local Authorities with expertise in building control and environmental health was crucial for developing our understanding of the scale of the issues.

We continue to use a collaborative approach to increase our understanding of the impact that our proposals will have. We hope that during the consultation period, and beyond, that all stakeholders are able to help feed into to our thinking as we continue to refine policy proposals. This engagement, particularly for residents, will help to raise their expectations about how they can expect to be involved in the future in decisions about the buildings they live in.

The White Paper consultation is an opportunity to develop new stakeholder relationships, as well as continuing to strengthen existing ones. Our delivery partners are essential to driving forward change and taking any future work forward as a result of the proposals.

The impact assessments will continue to be developed iteratively throughout, after the consultation has finished and people's views have been gathered.

Impact, Cost and Savings

An initial Economic Impact Assessment² has been independently undertaken which covers the costs and benefits in more detail. This will be updated and revised following the White Paper consultation as we refine the proposals and take account of evidence provided in response to the consultation.

Mechanism

The UK Government's Ministry of Housing, Communities and Local Government (MHCLG) have developed a draft Building Safety Bill. Welsh Government are working with them to identify areas where we can join together on legislation reforms which would allow us to bring forward change quickly. Where policies diverge, we have set out our own proposals for Wales in this white paper. We are using the responses to the consultation by MHCLG and subsequent evidence to build our understanding of the position in Wales and to further shape our proposals.

Welsh Government are also working with the Home Office on their work for regulatory reform of the Fire Safety Order (FSO) 2005³, which will also apply to Wales. This work is in

² Economic Impact Assessment: <https://gov.wales/safer-buildings-wales>

³ Fire Safety Order (FSO) 2005: <https://www.legislation.gov.uk/ukxi/2005/1541/contents/made>

regard to the external envelope of the building and clarifying common areas. We will enact these reforms in Wales ahead of more comprehensive legislative reforms as set out in this white paper.

Conclusion

How have people most likely to be affected by the proposal been involved in developing it?

Discussions on the need to reform the Building Safety Regime have been in the public arena since the Grenfell Tower tragedy in 2017.

Issues relating to building safety have been raised frequently in the Senedd and with the Welsh Ministers through correspondence, regular meetings and ad-hoc discussions with stakeholders and those impacted by building safety issues in their homes. These include the WLGA and local authorities, Fire and Rescue Authorities, developers, building owners, managing agents, other Government departments, the finance industry, the Health and Safety Executive, resident groups and others. We are also engaging with the UK Government, who will be introducing a Building Safety Bill into Parliament in 2021, and industry on aspects of our reform.

A Position Paper⁴, setting out the Welsh Government's plans was published in Summer 2020 for consultation. Responses to this consultation – and a similar consultation undertaken by the UK Government in 2019 - have informed the proposals in the White Paper.

We will be undertaking a programme of engagement during the White Paper consultation period, which will seek to engage with those most likely to be affected by our proposals. We have produced easy read and quick read versions of the White Paper to make them more accessible to a wider audience. A video is also available as an introduction to our proposals. Responses to the White Paper consultation will inform our policy proposals and ongoing plans to legislate in this area.

We would welcome suggestions of any groups representing those who may be impacted by our proposals – especially those with protected characteristic, young people and relevant Welsh language groups – for further engagement during the consultation period and the development of future legislation.

⁴ **Position Statement:** <https://gov.wales/sites/default/files/publications/2020-06/building-safety-position-statement.pdf>

What are the most significant impacts, positive and negative?

Our proposals for a new Building Safety Regime will see improvement across the lifecycle of multi-occupied buildings, from design through construction and on into occupation, so these buildings are safe for every resident.

For many years, the building and construction sector has focused on maximising profit over safety, meaning cheaper building materials or methods have been favoured that reduce cost rather than maximise safety. This culture needs to change. Changes and improvements have been made in Wales and across the UK since the Grenfell Tower tragedy, but further action is needed, which will require legislation to take forward some of the more significant changes we would like to see.

Our initial proposals were set out in a Position Paper⁵ in Summer 2020. This integrated impact assessment accompanies a White Paper. We will continue to refine our proposals prior to the introduction of new primary legislation in Wales. Where we are able to take some aspects of building safety reform forward using existing powers or those gained from proposed UK Government legislation, additional impact assessments will be undertaken on the detail of those specific proposals.

The proposals set out in the White Paper are preventative in nature, to ensure fire safety improves in buildings within the scope of these proposals. Such buildings are located all across Wales, although Cardiff and Swansea have the highest proportion of high-rise residential (Category 1) buildings. There are approximately 150 high-rise buildings in Wales.

We anticipate a significant positive impact for those living in the buildings in scope and their wider communities, with the greater impact on residents living in high-rise buildings. Such impacts will be seen in improved mental health of residents who currently live in buildings with fire risk concerns and peace-of-mind for all residents in multi-occupied buildings that they have greater access to information on any potential fire risks and mitigating actions for their home. For the wider communities, knowing such buildings have stringent fire safety procedures in place and are as safe as possible will alleviate any concerns about the fire risk of such buildings.

We do not have access to data related to the age or socio-economic status of residents in buildings within scope of these proposals, but anecdotal evidence suggests a greater proportion are likely to be younger or older residents who do not want, or need, the space of other housing types. While we do not have data, we believe that for social housing and HMOs, residents are more likely to be in lower socio-economic groups, while those who

⁵ [Position Statement](https://gov.wales/sites/default/files/publications/2020-06/building-safety-position-statement.pdf): <https://gov.wales/sites/default/files/publications/2020-06/building-safety-position-statement.pdf>

own their properties leasehold may be of higher socio-economic status. Thus, our proposals are likely to have an impact across age and socio-economic groups.

We anticipate that the tenure of housing may have an impact on the balance between positive and negative impacts on residents. All residents should have positive impacts in terms of mental well-being related to living in safer buildings. However, it is possible the cost of some of the actions required by our proposals may be passed on to residents through higher service charges or similar charges – this negative impact could potentially be higher for those who own their properties who may have to pay these costs in a single annual lump sum; those that rent whether privately or in the social housing sector, or as part of an HMO may see increased rents to cover these costs, these may be distributed over the course of a rental period.

The building industry and associated people are likely to be negatively impacted in the short-term until changes, such as the proposals in the White Paper, become embedded into their ways of working. However, in the longer term we anticipate our proposals will raise standards, and enhance the competence and qualifications of those working in the industry.

In some instances, managing agents will be employed to manage buildings, including building safety concerns. In Category 2 buildings, there may be an additional role of Building Safety Manager (BSM) to assist the Accountable Person in managing a building during occupation. It is likely that any costs for employing a BSM will be passed on to leaseholders through the service charges, which passes the negative impact of increased costs for managing the building from the building owner to the leaseholders.

While the White Paper covers improvements to building safety and fire safety for new and existing buildings, the remediation of existing building defects is out of scope.

We have taken the five ways of working and seven well-being goals set out in the Well-being of Future Generations Act into account in developing the proposals to date and will continue to do so, including through engagement activity during the consultation period on the White Paper.

A separate Economic Impact Assessment⁶ has been undertaken and is published alongside this integrated impact assessment. The Economic Impact Assessment includes a summary which sets out the key issues.

⁶ [Economic Impact Assessment](https://gov.wales/safer-buildings-wales): <https://gov.wales/safer-buildings-wales>

In light of the impacts identified, how will the proposal:

- **maximise contribution to our well-being objectives and the seven well-being goals; and/or,**
- **avoid, reduce or mitigate any negative impacts?**

We believe our proposals fit with the seven well-being goals as follows:

- Prosperous Wales – our proposals will require upskilling of the workforce during design and construction phase, which will be a longer-term positive impact for those individuals. When buildings are occupied, we are expecting greater professionalisation of the workforce used (e.g. qualified fire risk assessors, licensed building safety managers etc) all of which will see an upskilling of the workforce.
- Resilient Wales – we don't think our proposals have a direct contribution to creating a resilient Wales, but would welcome information or views to support this goal
- Healthier Wales – we anticipate improvements in the mental well-being of residents through the knowledge of their homes being safer and having more access to information about building safety in their buildings
- More Equal Wales – all residents will benefit from greater accountability for the fire safety of their homes, all residents will also have greater access to information about their building's safety, which should be provided in a format suitable to their needs.
- A Wales of Cohesive Communities – safer buildings and increased safety of residents will increase the community will lead to longer-term viable properties that will stand the test of time.
- Wales of Thriving Culture and Welsh language – we do not anticipate any specific positive impacts, but there will be no negative impacts either
- Globally responsible Wales – the building safety reforms will help promote safer buildings and best practice

The Welsh Government believes the current position with regard to the need to reform building safety issues in Wales will reduce the current negative impacts seen as a result of buildings not being built to appropriate building regulation standards. For example, the use of unsuitable building materials and issues of compartmentation in the past, and the effect this is having on current residents in such buildings.

During the process of developing future legislation in this area, we will be engaging with those most impacted – from developers and the construction industry, through to those with a current regulatory role, and those managing or living in buildings in scope of our

proposals – to ensure we fully understand the impacts (positive and negative). These will be set out in revisions to the integrated impact assessment.

How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

This integrated impact assessment accompanies a Building Safety White Paper.

Following the end of the consultation period, all responses will be reviewed and used to refine the proposals further as part of the process to develop draft legislation in this area. It is our intention to consult on a draft Bill prior to its introduction into the Senedd, at which time the integrated impact assessment will be revised to take account of any new evidence and to cover the refined proposals.

DECLARATION

Declaration

I am satisfied that the impact of the proposed action has been adequately assessed and recorded.

Name of Senior Responsible Officer / Deputy Director: **Amelia John, Deputy Director, Housing Policy**

Department: **Department of Housing and Regeneration**

Date: **12 January 2021**