

Number: WG 42926



Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Heritage Partnership Agreements

Summary of responses

Date of issue: 08 June 2021

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

Introduction

1. A heritage partnership agreement (HPA) is a voluntary arrangement for the long-term management of one or more designated historic assets. It is negotiated between the owner of the asset(s), the relevant consenting authority or authorities and any other interested parties. A heritage partnership agreement can incorporate listed building and/or scheduled monument consents for an agreed programme of works to be carried out during the lifetime of the agreement, which may last for as long as 10 to 15 years.
2. This consultation was developed as a component of a wider programme to improve the protection and management of the Welsh historic environment. It sought views on:
 - the draft The Scheduled Monuments (Heritage Partnership Agreements) (Wales) Regulations 2021;
 - the draft The Listed Buildings (Heritage Partnership Agreements) (Wales) Regulations 2021;
 - draft guidance, Heritage Partnership Agreements in Wales;
 - Heritage Partnership Agreement Regulations — Regulatory Impact Assessment;
 - Heritage Partnership Agreement Regulations — Integrated Impact Assessment.
3. The consultation period was from 18 January 2021 to 12 April 2021.
4. The consultation was published on the Welsh Government's dedicated consultation web pages ([Heritage partnership agreements: regulations and guidance | GOV.WALES](#)), where the relevant documents could be downloaded. The response form was available as an online form and as a downloadable Word document.
5. A variety of methods were used to publicise the consultation. It was signposted on Cadw's website, Twitter feed and Facebook page. The publication of the consultation was featured in Cadw's 'Historic Environment Update' which was distributed to more than 1100 stakeholders and interested members of the public. An email reminder was sent to the same recipients. It was also promoted through Welsh Government channels.

The responses

6. The consultation received 22 substantive responses. A full list of respondents is provided at Annex 1, with details omitted where they have requested anonymity.
7. Seventeen responses were sent from Wales. While the rest were from outside Wales or undisclosed addresses, most reflected a direct involvement or interest in listed buildings and scheduled monuments in Wales.

8. Where duplicate responses to different questions have been submitted, they are not been replicated in each question but in the section considered most appropriate.
9. The consultation responses have been categorised in Figure 1.

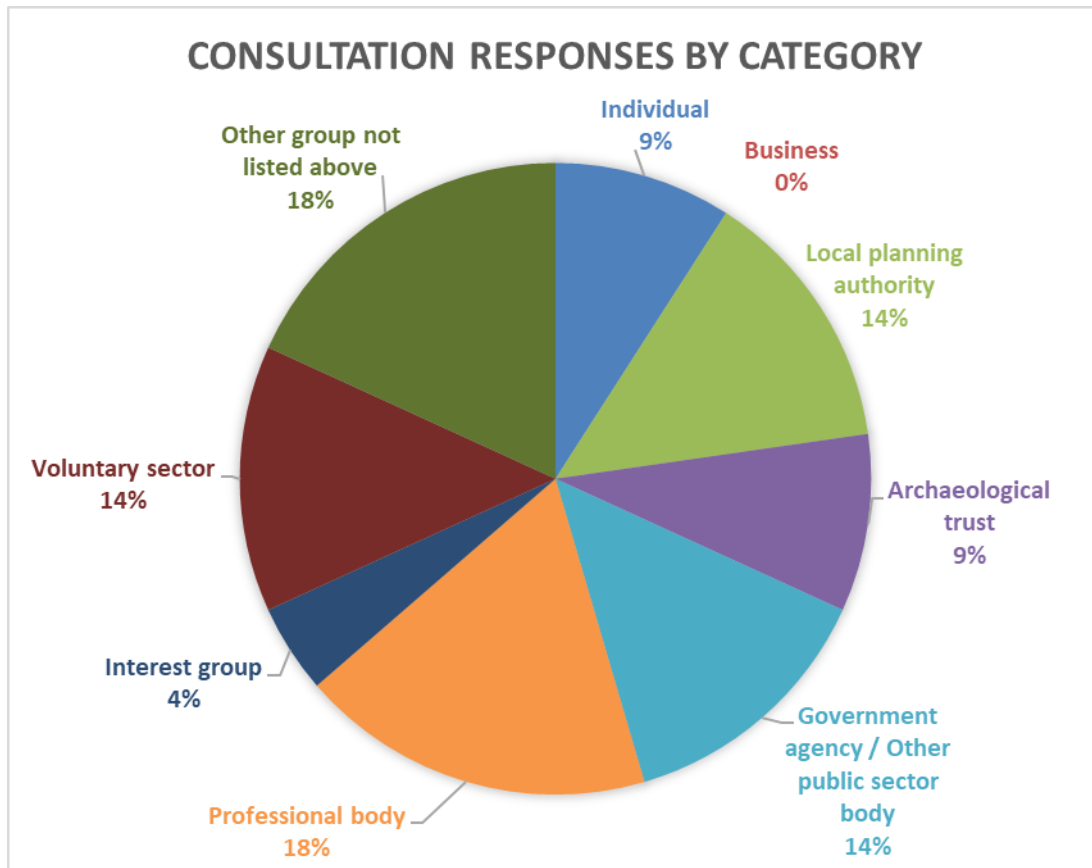


Figure 1. Consultation responses by category

Q1.	The draft guidance, Heritage Partnership Agreements in Wales, is intended to help owners and consenting authorities to set up and manage heritage partnership agreements. The main guidance relating to setting up an agreement appears in section 3. Is there sufficient detail here to support the creation of a heritage partnership agreement? If not, how could it be improved?
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Yes	No	Comment only	No response	Total
13	7	1	1	22
59%	32%	5%	5%	100%

Summary analysis

10. The majority of consultees (13) agreed that the draft guidance contains sufficient detail to support the creation of a heritage partnership agreement. However, seven of the 22 respondents disagreed.
11. A number of helpful and detailed comments were made on how to improve the guidance.
12. Many respondents said that clarity and simplicity are important, suggesting that the use of a flow chart make the process easier to understand.
13. Some of the suggestions made to improve the clarity of the guidance included:
 - Make clear who can be involved in an HPA and what their roles and responsibilities are over the duration of its existence;
 - provide indicative costs, timeframes and number of review meetings for establishing different levels of agreement, to manage expectations, ensure consistency, and help owners to understand the resource commitment; and
 - provide clear guidance on what consents the HPA can provide to avoid inadvertent breaches.
14. The duration of an HPA was raised by a respondent who felt that they should be extended to up to 25 years to help mitigate the cost of entering into an HPA and the amount of work involved in developing it. They suggested that it could also better accommodate complex works programmes and allow for delays.
15. Some of the suggestions received are already contained in the guidance. These included:
 - The HPA should allow for either one or a collection of assets
 - The HPA should specify that other consents relating to, environmental protection, for example should be specified

- The scope of an HPA could include works to curtilage structures and land within the environs of a scheduled monument, which would not necessarily fall within the current remit of the consenting body.
16. A number of respondents suggested that the guidance could include better links to other sources of advice and guidance such as:
- Assessing the significance of the asset(s)
 - Guidance on standards and depositing material and photographic recording with relevant organisations
 - Conservation plans
17. Other suggestions were made about wider considerations that could be implemented to improve the quality of HPAs. These included:
- The Welsh Government should provide training on HPAs
 - Specific guidance should be provided on the naming of assets to ensure that adequate and specific information about the names of listed buildings and scheduled monuments is included in the agreements and to ensure they are recorded on the List of Historic Place Names.

Welsh Government response

18. The Welsh Government is pleased to note that in the main the guidance was adequate. The guidance will be amended to provide clarity on a number of the issues raised including:
- The roles and responsibilities of those involved in the HPA
 - The importance of applying for other consents and licences
 - How to develop the HPA to ensure that the works consented are clearly set out
 - The recording and use of historic names of designated assets included in HPAs and their inclusion in the List of Historic Place Names of Wales, and
 - Links to other relevant source materials for technical advice and guidance on significance, recording and the management of listed buildings and scheduled monuments.
19. Following the consultation, the associated regulations will be amended to allow the duration of the HPA to be extended, subject to agreement by all the parties and relevant consultation and publicity requirements.
20. The Welsh Government will work closely with early adopters of HPAs in order to provide guidance and to exchange good practice and advice with future users.

Q2.	<p>The consultation and publicity arrangements for heritage partnership agreements are set out in:</p> <ul style="list-style-type: none"> • regulations 5 to 7 and 9 of the draft listed buildings (Heritage Partnership Agreements) (Wales) Regulations 2021 • regulations 4 to 5 of the draft scheduled monuments (Heritage Partnership Agreements) (Wales) Regulations 2021 • section 4 of the draft guidance, heritage partnership agreements in Wales. <p>Are these arrangements clear and workable?</p> <p>If not, how can they be improved?</p>
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Yes	No	Comment only	No response	Total
15	5	0	2	22
68%	23%	0%	9%	100%

Summary analysis

21. The majority of respondents (15) agreed that the proposed consultation and publicity arrangements for HPAs are clear and workable.
22. One respondent questioned whether a 21-day consultation period is sufficient for a potentially complex agreement such as an HPA.
23. The guidance states that documents should be available in the locality of the site, but can be at a Council office. A respondent asked for further explanation of this, particularly where the HPA covers a large area.
24. The guidance refers to sending full copies of the HPA to long-term residents. One respondent asked whether, rather than sending hard copies, notification could be sent to long term residents which directed them to the documents online or informed them they are available to view in the Council's office.

Welsh Government response

25. The Welsh Government considers that the regulations and guidance are clear that the 21-day consultation period can be extended to allow for the scrutiny of larger or more complex HPAs. However, the guidance has been amended to ensure clarity on this. The guidance has also been amended to explain further where site notices should be placed to publicise an HPA.
26. The regulations will be amended to allow consenting authorities to send long-term residents notification of an HPA or variation rather than full copies of the HPA.

Q3.	<p>It is intended that minor alterations to heritage partnership agreements will not trigger the publicity and consultation requirements specified in:</p> <ul style="list-style-type: none"> • regulation 5 of the draft listed buildings (Heritage Partnership Agreements) (Wales) Regulations 2021 • regulation 4 of the draft scheduled monuments (Heritage Partnership Agreements) (Wales) Regulations 2021. <p>The draft guidance, heritage partnership agreements in Wales, expands on these requirements in paragraph 3.10. Can you provide examples of changes that you believe heritage partnership agreements should be able to accommodate without requiring full publicity and consultation?</p>
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Summary analysis

27. Fifteen respondents proposed examples of changes that heritage partnership agreements should be able to accommodate without requiring full publicity and consultation to ensure the HPA retains a level of flexibility and can accommodate minor variations to specifications or conditions without requiring full publicity and consultation. These included:

- Minor design changes to models and materials, minor additions and subtractions to scheduled work, minor changes to timescales and conditions, and minor changes of materials (for example, including another set of identical windows in a replacement scheme, in the same style as the already agreed replacement);
- Conservation management plans and opportunities for increased public access
- Non-material amendments similar to a planning application
- Parity is needed in the regulations between scheduled monuments and listed buildings, where new assets are to be included or where new works will affect significance, national importance, or special interest of an asset
- Changes that do not give rise to a requirement for listed building or scheduled monument consent, should be excluded from the need for further consultation
- Issues of public safety
- Any work required for the maintenance of vulnerable elements such as watercourses or landscaping
- Changes in ownership over the years either through sale or decease
- The removal of seats within a chapel, or internal restructuring of a building that requires adaptation for the twenty-first century;

28. One respondent suggested that there should be a requirement built into HPAs for owners to maintain and protect heritage sites in an appropriate fashion, and thus require full consultation with local authorities if any modifications or repairs were proposed. However another agreed that the ability to make small changes over email is a good approach and should be explicitly included in the related regulations.

29. Other respondents suggested that the HPA should provide an opportunity to reduce bureaucracy by appointing an accredited professional to be involved in the development of the HPA to reduce the need for further consultation for minor alterations.
30. One respondent raised concerns that terminating an HPA could cause problems for larger schemes, where listed buildings, scheduled monuments and planning overlap. They suggested a default mechanism whereby the affected building/site is isolated and perhaps reverts to conventional control.

Welsh Government response

31. The Welsh Government is grateful for all the suggestions received about the arrangements for minor variations in a heritage partnership agreement.
32. Primary legislation does not provide a mechanism for some of the other changes requested to the HPA regulations, such as changes to ownership. The guidance, however, has been amended to ensure that it is clearer what could constitute a minor variation that does not require consultation and publicity. The guidance also clarifies that the HPA can include arrangements to cover acceptable minor amendments to the HPA with the agreement of the parties involved.
33. The guidance has been also amended to clarify the arrangements that can be included where termination affects the whole or part of an agreement.

Q4.	Section 7 of the draft guidance, heritage partnership agreements in Wales, provides a template for a heritage partnership agreement. Do you think this template will be helpful? If not, how could it be improved?
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Yes	No	Comment only	No response	Total
19	1	0	2	22
86%	5%	0%	9%	100%

Summary analysis

34. A majority of consultees (19) agreed that the HPA template would be helpful.
35. Some helpful comments were provided, including suggestions to:
- Provide a worked example of a completed HPA
 - Include a guide on specific terminology and 'model answers'
 - Provide a proforma to form the basis of a HPA

- Include an executive summary, including a stakeholder hierarchy that maps out the roles and level of involvement of 'other interested parties' to the agreement
- Include under 'Works' a planning application as well as listed building consent.
- Clarity about the provision for grant payments
- Integrated/sustainable management options to embed holistic management principles and act as a prompt to check interactions with other considerations
- Clarify whether 'impact' means a 'heritage impact assessment.'

Welsh Government response

36. The Welsh Government acknowledges that a template can be a useful tool to help set up a heritage partnership agreement, for the consenting authority and other parties.
37. Where clarity has been requested, changes have been made to the template, for example, further explanation about the types of works that can be included in an HPA have been added. Further changes have been made to the guidance, for example to clarify the provision of grant payments. Where appropriate, the final document will include links to more detailed guidance on areas such as assessing the impact of works.
38. Whilst the Welsh Government recognises that as a new process, new adopters of HPA will require greater advice and guidance, it is not possible to include a completed version of an agreement. Their very nature means that they will include a wide variety of listed buildings and scheduled monuments requiring very different works and consents. By working closely with new adopters, the Welsh Government will be able to exchange good practice and advice with future participants.

Q5.

The regulatory impact assessment in annex D analyses the costs and benefits of the proposed heritage partnership agreement regulations. Do you have other information or evidence that would be useful to add to this assessment?

Summary analysis

39. Nine respondents offered comments on this question and two actively supported option 4. They agreed with the opportunities HPAs provide for a more flexible approach to managing historic assets which would allow recurring tasks to be completed more efficiently. Others welcomed the opportunity for closer working partnerships to complement existing structures.
40. A concern raised by several respondents was the impact of developing HPAs on local planning authorities. Some expressed concern that the impact assessment understated the cost of administering the current system and the work required to develop a HPA will be extensive and the cost savings that might be offset by the reduction in the number of listed building consent applications may not be that great in practice. There was also more general

concern about the capacity and skill levels of local planning authorities to deliver HPAs. Some suggested that this may lead to a reluctance to set them up.

41. Another iterated the need to take into account those historic structures which are important, but which have no 'potential use' such as Offa's Dyke or Pembroke Town Walls where cost / benefit equations could falter.
42. Other general comments received on impact assessments highlighted the need for them to be proportionate and the concern that the impact of HPAs will inevitably be low because they do not address the problems in the current heritage consent systems. Another respondent reiterated that whilst there may be some cost benefit in the process of developing an HPA, relevant professionals should be included.

Welsh Government response

43. The Welsh Government is grateful for the detailed comments received on the regulatory impact assessment. The impact assessment will be amended to take account of some of the points made in the responses.
44. As HPAs are developed, their impact will be monitored and assessed to measure their effectiveness, and to identify any improvements that can be made to benefit consenting authorities, owners and the wider communities.

Q6.	The draft integrated impact assessment in annex E considers the impact of the proposed heritage partnership agreement regulations in a number of spheres. Do you have other information or evidence that would be useful to add to this assessment?
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Summary analysis

45. Seven respondents provided further information in this section. This included:
 - Agreeing that it was appropriate that the impact of the proposed HPAs has been assessed against the indicators in the Well-being of Future Generations Act to support the sustainable management of Wales' historic and natural environment, promoting public engagement and protecting culture and heritage for present and future generations
 - Agreement that the public benefit of well-maintained heritage is recognised as well as the potential for reducing the administrative and time cost for both owners and local planning authorities
 - An analysis of the impact of the use of HPAs by Cadw for its own sites and monuments in care may be appropriate.
46. One respondent noted the omission of 'contested heritage', saying that protests in the UK over the last year have highlighted the need to think about elements

of our collective past and whether some of the physical commemorations should be reconsidered (e.g. statues of slave owners).

Welsh Government response

47. The Welsh Government is pleased to note the positive response to the integrated impact assessment and that HPAs are a useful way to monitor the well-being goals in the Well-being of Future Generations Act.
48. The issue of contested heritage is not within the remit of this consultation or HPAs but has been dealt with separately by the First Minister and the Culture, Welsh Language and Communities Committee in their respective reports.

QA.	<p>We are under a duty to consider the effects of our policy decisions on the Welsh language, under the requirements of the Welsh Language (Wales) Measure 2011.</p> <p>We would like to know your views on the effects that the proposals 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.</p> <p>What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?</p>
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Summary analysis

49. Thirteen of the consultees provided responses in this section. Some of the issues raised, such as the importance of Welsh place names have been addressed elsewhere in this report. We are grateful to the Welsh Language Commission for their detailed response on this matter and their suggestions on how place names can be integrated into HPA.
50. Other comments made regarding opportunities to use Welsh include:
 - Ensure that all guidance and certification should be bilingual
 - Recognise the duty that public bodies have in relation to Welsh Language legislation
 - Recognise that bilingualism and promoting the use of the Welsh language is positive and necessary
 - Recognise that the Welsh language is as important as the buildings in terms of heritage protection and any authority that deals with the partnerships should be able to discuss through the medium of Welsh
 - Where voluntary organisations are involved as third parties, the Welsh Government could provide translation services for them to draft documents etc. bilingually
 - Include a general text on the importance of place-names

- Acknowledge that the use of the Welsh language should be used in a positive way and owners should be encouraged and supported to do so.

Welsh Government response

51. The Welsh Government is fully committed to supporting the Welsh language. The Welsh language has official status and legislation is in place which provides rights for Welsh speakers to receive Welsh-language services.

52. Through the Well-being of Future Generations Act (Wales) 2015 specified public bodies covering the whole of Wales are required to work towards seven well-being goals, one of which is 'A Wales of vibrant culture and thriving Welsh language'. The Welsh Government is also under a duty to promote and facilitate the use of Welsh and work towards the well-being goals. HPAs should be developed with this in mind.

QB.	Please also explain how you believe the proposals 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.
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Summary analysis

53. Five respondents provided information in this section. Some of the issues raised have been addressed elsewhere in this report. These included reference to the list of historic place names, providing bilingual forms and agreements and meeting the needs of those that wish to communicate in Welsh.
54. One respondent suggested that rural centres in Welsh communities should be given the opportunity to adapt for the future without having to worry about financial barriers. The requirements associated with listed buildings such as particular materials can be a financial burden which cannot be met and as a result has a negative impact on the Welsh language. Having Welsh speakers within the partnership who understand the challenges is essential, and the intention that partnerships work together over a number of years is an excellent idea.

Welsh Government response

55. The Welsh Government welcomes all the contributions made in response to this question. We are committed to ensuring that there are no adverse effects for people using Welsh and that it is not treated less favourably than English.
56. The Welsh Government encourages those that are party to an HPA to not only meet any legislative duties but to exceed them wherever possible, in addition to the long term protection and management of the historic environment provided by HPAs.

QC.	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.
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Summary analysis

57. Thirteen respondents took the opportunity to add additional information in this section.
58. Several themes emerged from the responses, some of which have been covered elsewhere in this summary report. Additional matters raised include:

- The impact of coronavirus on budgets and spending could create a challenge in setting up and managing agreements.
- Consideration should be given to future climate change adaptation requirements.
- Consideration should be given to the nature of the listed building or scheduled monument, particularly buildings, structures and monuments on risk registers.
- How HPAs will reflect listed churches, the faculty process and ecclesiastical exemption
- Regulations should be amended to include National Park Authorities alongside local authorities
- Whether it would be a requirement for all listed buildings and scheduled monuments in Wales to have HPAs.

59. Further clarification was requested on:

- The definition of 'like-for-like' works
- Monitoring arrangements
- The grounds for termination
- How enforcement and compliance measures apply to HPAs
- How tourist attractions and related requirements such as car parking, cycle routes, signage, bus services etc can be accommodated in an HPA
- Whether HPAs should be deposited with the Historic Environment Records
- The definition of 'demolition'
- What is 'too complex' and who determines this.

60. One heritage organisation offered to trial the HPA at their properties which has several listed building structures.

Welsh Government response

61. The Welsh Government is grateful for all of comments provided during the heritage partnership agreement consultation on regulations, guidance and associated documents.

62. Where appropriate, the guidance has been changed to reflect areas where clarity is needed. For example, monitoring arrangements and how enforcement measures apply to HPAs.

63. The collaborative nature of HPAs means that not every eventuality can be reflected in the regulations or guidance. The scheduled monument regulations have, however, been amended to include National Park Authorities alongside local authorities. The scope of the regulations is limited but the guidance has been expanded to ensure that consenting authorities and other parties have the basis to form an agreement that is appropriate for the needs of the historic

assets included. It has not been possible to provide detail on every aspect especially where this is already covered in other technical or best practice guidance documents. These sources have been signposted where they are relevant.

Annex 1 — List of respondents

Each entry gives the number of the consultation response, the name of the individual or organisation responding (unless anonymity has been requested) and the location of the respondent (if known).

No.	Name	Location
001	Matthew Camilleri	Not known
002	Glamorgan-Gwent Archaeological Trust	Wales
003	Pembroke Town Walls Trust	Wales
004	Snowdonia National Park Authority	Wales
005	Natural Resources Wales	Wales
006	Anonymous	Wales
007	Friends of Neath Abbey Iron Company	Wales
008	The Church in Wales	Wales
009	National Trust Wales	Wales
010	Julian Selman	Not known
011	Dyfed Archaeological Trust	Wales
012	Welsh Language Commissioner	Wales
013	Pembrokeshire Coast National Park Authority	Wales
014	Association of Local Government Archaeological Officers	Wales
015	Royal Society of Architects in Wales	Wales
016	Royal Town Planning Institute	Wales
017	Anonymous	Wales
018	Theatres Trust	UK
019	CLA Cymru	Wales
020	Historic Houses	UK
021	Chartered Institute for Archaeologists & Council for British Archaeology	UK
022	Monmouthshire County Council	Wales