

Number: WG41924



Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation – summary of responses

Statutory consultees in the development management process

Fire and Rescue Authorities becoming statutory consultees in the
development management process

October 2021

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

Contents

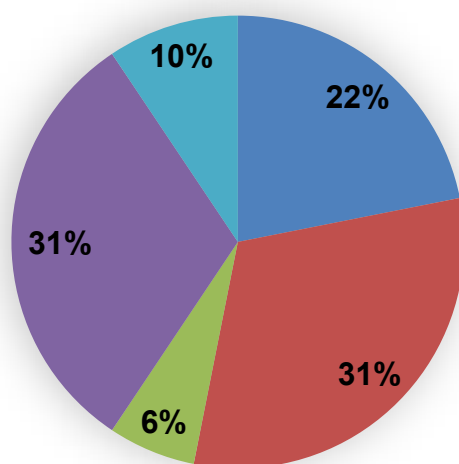
- 1. Introduction 1
- 2. Responses 2
- 3. Summary of responses by question..... 3
- 4. Next Steps 27
- Annex A - List of respondents 29

1. Introduction

- 1.1 The 'Fire and Rescue Authorities becoming statutory consultees in the development management process' consultation document was published on 28 July 2020 and was open for responses until 23 October 2020. It sought views on proposals to make the Fire and Rescue Authorities statutory consultees on specific types of development at both pre-application and post submission (i.e. consultation undertaken by Local Planning Authorities (LPAs)) once the planning application is submitted) stages of the planning applications process.
- 1.2 A total of 8 questions were set out in the consultation document, with a standard form, to be returned by post or email, and an online webform provided for ease of response.
- 1.3 This document provides a summary of the responses received to the consultation, the Welsh Government's response and the next steps.
- 1.4 Section 2 provides an overall statistical summary of the consultation and provides details of how the consultation was conducted.
- 1.5 Section 3 provides a summary of all responses received. This includes:
 - A statistical analysis of the views expressed on each consultation question;
 - A summary of the key findings under each consultation question;
 - Identification of the key themes generated for each question;
 - The Welsh Government's response.
- 1.6 Section 4 sets out the next steps the Welsh Government will take in bringing forward the proposed amendment to the relevant legislation.
- 1.7 Annex A contains a list of those who responded to the consultation.

2. Responses

- 2.1 On publishing the consultation paper, stakeholders, including individuals and organisations were notified by email of its publication. These were drawn from the core consultation list held by the Planning Directorate of the Welsh Government and publically available contact details. This included the three Fire and Rescue Authorities, Chief Fire Officers in Wales, Fire Brigades Union, Retained Firefighters Union, all local authorities in Wales, public bodies, special interest groups and other groups.
- 2.2 In total, 32 responses were received to the consultation, which have all be been read and considered. The respondents represented a number of different interest groups, just under half of which were individual members of the public, with the full breakdown of respondents shown below:



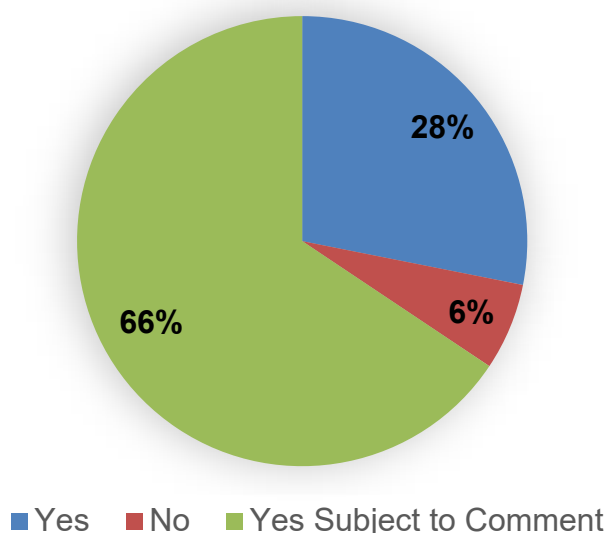
- Professional Body/Interest Group - 7 respondents
- Local Planning Authority - 10 respondents
- Voluntary Sector - 2 respondents
- Private Individuals - 10 respondents
- Fire and Rescue Authority - 3 respondents

- 2.3 A list of all the respondents by category is set out in Annex A of this report. Where respondents have asked for their details to be withheld, they will be identified 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.
- 2.4 Of the 8 questions set out in the consultation paper, 6 posed policy specific questions on the proposals. The remaining 2 questions related specifically to the potential impacts (either positive or negative) the proposal may have on the Welsh language, as required by the Welsh Language Standards relating to Welsh Government consultations, and a question inviting any other comments.

3. Summary of responses by question

Q1. Do you agree with our proposal to amend the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 and the Developments of National Significance (Procedure) (Wales) Order 2016 to make Fire and Rescue Authorities statutory consultees? If not, why not?

Sector	Yes	No	Yes Subject to Comment	Total
Fire and Rescue Authority	0	0	3	3
Professional Body/Interest Group	2	0	5	7
Local Planning Authority	3	2	5	10
Voluntary Sector	1	0	1	2
Private Individuals/Other	3	0	7	10
Total all respondents	9	2	21	32



Statistical review

3.1 Of those who responded to the question, the majority (94% answered either 'Yes' or 'Yes Subject to Comment') agreed with the principle of making Fire and Rescue Authorities (FRAs) statutory consultees in the development management process. Support was strong across all sectors. The two respondents who answered 'No' were LPAs.

Key themes

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

- Significant support for the proposal, qualified with a number of questions and/or comments regarding process.
- To ensure comments provided by FRAs constitute relevant planning considerations that fall within the scope of the Town and Country Planning regime

in order for planning authorities to be able to consider them in the determination of planning applications.

- Several comments referenced the risk of potential duplication with other regulatory regimes that are part of the development process, such as building regulations, including those who disagreed with making FRA statutory consultees.

Overview

- 3.3 All three FRAs expressed their support for the proposal to become statutory consultees.
- 3.4 In supporting the proposal, North Wales FRA stated it would make the fire rescue service aware of developments being planned in their area, allowing them to ensure that the development does not impact on others locally, heighten the danger of wild fire, and will ensure that water supplies and appliance access is suitable. They however expressed concern the proposals would not provide for FRAs to make comments regarding fire safety within the property and suggested the requirements should be extended to include a fire safety plan which indicates how the developer intends to keep the building fire safe. This position was also supported by the National Fire Chief's Council (NFCC).
- 3.5 South Wales FRA referenced the need for the process to be as efficient and effective as possible in order that FRA resources are not used unnecessarily to achieve the overall objective. To that extent, they suggested formulating a standard consultation response document to meet the requirements of a 'substantive' response which could be used by all FRAs.
- 3.6 Mid and West Wales FRA requested further information on the specific areas they would be required to comment on.
- 3.7 The response from the Fire Brigades Union (FBU) also signalled their support for the proposal, expressing that FRAs becoming statutory consultees will strengthen the fire safety regime and provide communities in Wales with renewed confidence that their safety is fully protected.
- 3.8 A response from The Law Society noted FRAs need to be sufficiently trained, referencing the need for them to be familiar with what constitutes relevant planning considerations that can be considered by planning authorities in order to ensure their responses are meaningful and relevant to the decision-making process. They also questioned whether FRAs are sufficiently resourced to deal with applications in an informed and timely manner. This position was also expressed by several LPAs including Cyngor Sir Ynys Mon, Conwy County Borough Council (Conwy CBC), and the Royal Town Planning Institute (Wales) (RTPI Cymru).
- 3.9 Whilst supporting the proposal in principle, Rhondda Cynon Taf County Borough Council (RCTCBC) raised a number of concerns, particularly on how it can be incorporated into the development management process. They raised concerns that the distinction between the responsibilities of the building regulations and development management regimes could become blurred, and that the approval of the fire safety aspect of a building must continue to be a matter for building regulations. This position was also echoed by other respondents. There was a strong emphasis in their response that fire safety matters in the context of the planning system is best

considered during the preparation of local development plans (LDP), especially for matters such as siting of development relative to other premises or land at risk of fire.. They also considered neither the national or local policy framework currently provides a basis upon which a development could be reasonably be refused on the grounds of fire risk due to proximity to another building or land, or its distance from a fire station. They were also of the view that even if a FRA had approved plans for a development through the planning system, significant alterations could be made to the internal layout of a building following planning permission, which would neither fall within the scope of development or could be relied upon by firefighters as an accurate representation of floor space.

- 3.10 Two LPAs disagreed to the proposal. Merthyr Tydfil CBC noted FRAs are already consulted on strategic sites as part of the LDP consultation process. They expressed that fire risk and safety considerations for the construction of new buildings or for the change in use of a building is already a matter that is carefully reviewed by other regulatory bodies i.e. Building Control, whilst the Highways Act regulates highway standards to ensure suitability for emergency vehicles and the provision of suitable water supply to a development is regulated by Welsh Water outside of the planning system. Caerphilly County Borough Council (Caerphilly CBC) echoed these points, referring to the potential regulatory overlap with other regulatory regimes.
- 3.11 Furthermore, Caerphilly CBC acknowledged the valuable role FRAs can play in the planning system however they already can engage with the planning process in a range of different ways and at different stages, referencing their existing effective engagement with other public bodies such as Police liaison officers on the preparation of guidance, policy and informally at pre-application and post-submission stages. They consider making FRA's statutory consultees on individual applications will bring with it an additional administrative burden that may not be necessary. They also expressed concerns that the absence of a sound planning policy context and clear guidance focussing on fire safety to support comments that FRAs may submit in response to consultation by a LPA may lead to other material considerations being given more weight in the decision making process.

Government response

- 3.12 The Welsh Government welcomes the substantial support across all sectors for making FRAs statutory consultees in the development management process. The proposal will formalise the existing voluntary and non-statutory consultations that take place for planning applications and applications for Development of National Significance (DNS)(both at pre-application and post-submission stages). The formal structure will ensure consistency regarding the types of developments y FRAs see for comment.

Scope of consultation response

- 3.13 The Welsh Government acknowledges concerns raised regarding the potential for overlap with matters regulated through Building Regulations and other non-planning related regimes. However, both Mid and West Wales FRA and South Wales FRA confirmed in their consultation responses that historically consultation responses have been limited to access issues and water supplies for firefighting. Since the publication of the consultation, further discussions have taken place between the Welsh Government and FRAs on focus of the response to be provided by them. Through

these discussions FRAs have reaffirmed the key planning matters of consideration and the focus of their responses when consulted will continue to be related to:

- Access – ensuring adequate access to a site for appropriate numbers and types of fire appliances; and
- Water – ensuring adequate supply of water for fire-fighting purposes.

3.14 These are relevant planning considerations that should be taken into account by LPAs when determining a planning application. FRAs provide professional firefighting expertise to identify such matters which are unlikely to be addressed by other consultees. Consultation responses by FRAs will therefore be focused and limited. Other non-planning matters should not be raised by FRAs or considered by LPAs through the application process, and will be captured and considered by other regulatory regimes. This will be reaffirmed through guidance to be published alongside the legislation.

Response template

3.15 In terms of the comment raised about the creation of a substantive response template, we understand this to mean providing a template that could be used to provide a standard response to relevant consultation requests. This will not be possible. Each application must be considered on its own merit, taking account of the individual circumstances of each site. The requirements of what constitutes a substantive response is prescribed in Article 2E of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO). However, a basic response template to guide the consideration and comments and assist with recording the substantive response could be created collectively between the FRAs if deemed useful.

Role of FRAs in the planning system

3.16 We note the comments regarding the appropriate stage where FRAs should become involved in the planning process. The role of FRAs in the plan-making process remains essential to ensure fire safety is considered in conjunction with other matters at a strategic level when setting the development needs of an area over the plan period, particularly in areas where wildfires pose a potential threat. Making FRAs statutory consultees at the development management stage of the process will supplement LDP development by ensuring site specific proposals, which would not be known at the plan stage, can be designed to provide maximum operational capability for the fire service in the event of an emergency.

3.17 Engagement with FRAs through the planning process will allow FRAs to begin planning for any necessary changes in operational capability, such as bring in resources or training required in response to a specific type of development. These changes will ultimately improve fire safety in new developments, reducing operational risks and resource requirements for FRAs in responding to any future fire incidences.

Planning Policy

3.18 Planning applications must be determined in accordance with the adopted plan, unless material considerations indicate otherwise. The issues upon which FRAs will focus their response (i.e. access and water supply) are material planning considerations. It will be for LPAs to determine and justify the weight to be given to all materials

considerations in making a decision on individual planning applications. Whilst a LPA is not required to comply with the recommendation of a consultee, it must provide reasonable justification for taking an opposing opinion.

Use of planning application details during an emergency

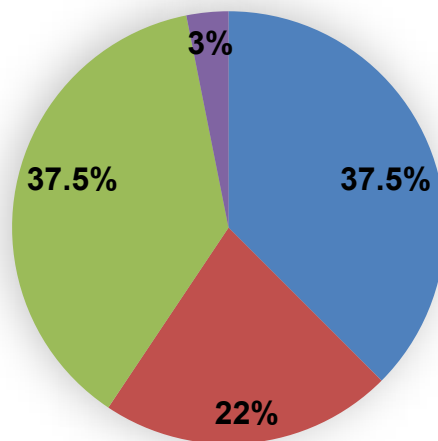
- 3.19 It is assumed the comments made by RCTCBC regarding the reliability of planning application plans for use by firefighters was made in response to paragraph 3.3 of the consultation document which states (as a benefit of FRAs becoming statutory consultees) “effective firefighting depends on FRAs having detailed knowledge of the premises in the areas they serve, and of their estimated risk of fire”. The plans accompanying planning and DNS applications are not intended to be a definitive representation of the internal layout of a development that can then be used on an operational basis. The assertion is FRAs, through having knowledge of future development within their operational area, will be able to plan for any necessary changes to operational capability - such as advance knowledge of the location of new water access points (saving time when arriving at an emergency) and procuring any specialist equipment which may be necessary in light of a future emergency at a new development.

Fire safety plans

- 3.20 Finally, in respect of comments by North Wales FRA regarding potential for the introduction of fire safety plans that indicates how the developer intends to keep the building fire safe, since this consultation was issued, the Welsh Government has published a building safety white paper ‘Safer Buildings in Wales: A Consultation’. This White Paper sets out proposals for comprehensive reform of legislation that contributes to building safety in Wales. This includes proposals on the introduction of the ‘Golden Thread’ in Wales (as in England). The Golden Thread is a living record of the building, providing up-to-date information about its design, construction and ongoing maintenance. The consultation can be viewed on the Welsh Government website - <https://gov.wales/safer-buildings-wales>.

Q2. Do you agree that the type of development proposed to be notified to Fire and Rescue Authorities is appropriate, and if not how should it change?

Statistical Summary					
Fire and Rescue Authority	0	0	3	0	3
Professional Body/Interest Group	1	1	4	1	7
Local Planning Authority	3	6	1	0	10
Voluntary Sector	2	0	0	0	2
Private Individuals/Other	6	0	4	0	10
Total all respondents	12	7	12	1	32



■ Yes ■ No ■ Yes Subject to Comment ■ Did Not Answer

Statistical review

3.21 Of those who responded to the question, the majority (75% of the answers to this question were either 'Yes' or 'Yes Subject to Comment') agreed with the types of development proposed for FRAs to be consulted as statutory consultees. Support was strong across all sectors, with the exception of LPAs where 6 of 10 who responded did not agree.

Key themes

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

- There was general support for the types of development proposed but some responses suggested additional types could be included.
- The majority of LPAs expressed concerns with the thresholds proposed, particularly expanding beyond the major development definition.

Overview

- 3.23 Of those who supported the proposal, a number of respondents suggested additional types of development that could form part of the consultation requirement, such as hotels and care homes.
- 3.24 North Wales FRA and Mid and West Wales FRA expressed support for the proposed scope of development upon which they would be consulted, however they suggested premises such as small care facilities and those of mixed purpose groups where a larger number of people reside should also be included. They also indicated the types of development listed to trigger the consultation requirement should be able to be quickly and easily amended.
- 3.25 South Wales FRA noted the clear safety benefits in considering fire safety matters at planning stage for 'major' planning applications. However, they suggest consultation should be extended to include 'unique' developments which may include single private dwellings. This position was echoed by the NFCC.
- 3.26 Pembrokeshire Coast National Park Authority (PCNPA) queried whether cladding over two storeys be added (if not covered under building regulations). A member of the public considered the FRA should review all applications.
- 3.27 Whilst they agree with the approach, the Law Society note FRAs may not have the ability, due to lack of resources, to respond to a much greater number of applications that may be captured by a broad range of development, as oppose to if consultation were limited to tall buildings over 12 storeys (i.e. Grenfell Tower). As many reported in their response to Q1, they referenced potential overlap with other existing consultees – such as Health and Safety Executive, or internal Environmental Health officers – or through building regulations and requirements, which may increase in bureaucracy and duplication which could slow down rather than improve the planning service and could lead to further resourcing issues.
- 3.28 Those who disagreed included the Home Builders Federation (HBF), who consider the use of major development as a threshold is too low, and would likely lead to excess numbers of applications being referred to FRAs for consultation, leading to delays in the decision making process.
- 3.29 Six LPAs also disagreed. RCTCBC noted the potential usefulness of aligning the type of development with the current major development definition to prevent FRAs being overwhelmed with consultations. However, they highlighted that a less arbitrary, flexible approach guided by the FRAs and their experience may be necessary based on the type and content of development proposed.
- 3.30 A LPA stated the use and proposed amendment of the exiting definition and thresholds of major development could lead to confusion where the definition of major development is applied in other parts of planning legislation. They requested if the threshold is not kept to the current legal definition of major and minor development types, the number of storeys of development should be considered as a measure for triggering consultation with the FRA. They also considered care-homes and hotels should also be included in the development types to be consulted due to their sensitive

uses. They also requested clarification regarding the term 'all waste development proposals' to ensure consistency and clarity of approach.

- 3.31 Conwy CBC reaffirmed their agreement that FRAs should be included as a statutory consultee for major development proposals but it questioned whether there is any "planning" value to including them for smaller schemes.
- 3.32 Caerphilly CBC disagreed with the inclusion of flats and HMO's. They noted significant development of this nature would be captured by the floorspace thresholds, but expressed concerns that insufficient information may be provided at upon submission for change of use applications.
- 3.33 Neath Port Talbot Council (NPTC) note the benefits of using the 'major development' definition to ensure that the FRA are engaged at statutory pre-application stage. However, they expressed strong concerns with the introduction of what they describe as a "major development +" definition for consulting FRAs, which they consider this would likely lead to inconsistencies in consultation by some development not requiring a pre-application consultation report but would require consultation at the post-submission stage. This would negate the benefits of the pre-application consultation stage. As other LPAs also raised, they also highlighted the potential for issues to arise at the post-submission stage should FRAs raise issues in their consultation response which might be matters for Building Regulation and which, on their own, might not be matters that would lead to an application being refused. As an alternative, they suggest the DMPWO definition of major development is amended to include flats, noting that whilst this wouldn't include HMOs, bedrooms in accommodation or flats of <10, it would overcome inconsistencies that would occur should the definition in the DMPWO need to be interpreted differently for one statutory consultee alone. It would also mean that developments of ten or more would require statutory pre-application consultation.
- 3.34 Merthyr Tydfil CBC considered consulting FRAs on all application types simply based on development size is too open-ended and should be more focused on more specific types/use of development.

Government response

Overview

- 3.35 Introducing a formal process and aligning the pre-application consultation requirement with major development provides clarity for LPAs, FRAs and developers. It also enables FRAs to engage consistently at an early stage in both planning and DNS application processes on developments that have the greatest fire safety risks and concerns. This structured approach also prevents FRAs from being overwhelmed with unnecessary consultations, ensuring they are only formally consulted upon large-scale development and those where significant numbers of people are involved.

Consulting beyond the minimum threshold

- 3.36 LPAs can continue to voluntarily consult FRAs on developments below the prescribed threshold, or other types of application, where they may have fire safety concerns. However, it is anticipated the majority of such developments will be captured by the proposed thresholds.

- 3.37 FRAs may also submit representations to LPAs for applications outside of the prescribed threshold on a non-statutory basis.

Pre-application and post-submission consultation thresholds

- 3.38 We note the concerns raised by some LPAs regarding the alleged use of two thresholds, one for pre-application consultation and another for post-submission consultation and the risk of confusion this may cause. For clarity, there is only one threshold that applies to pre-application consultation (i.e. major development as defined in the DMPWO). These proposals do not change this principle, they only require an additional consultation (with FRAs) to be undertaken as part of the existing process. The requirement to consult FRAs on developments that provide 10 or more flats or residential accommodation of 10 or more rooms would only apply at the post submission stage (i.e. consultation undertaken by LPAs following the submission of the planning application) because they will not, without more, constitute major development. Such developments will therefore not be subject to pre-application consultation (unless the development meets the requirement for major development).
- 3.39 It is evident from discussions with FRAs and the thorough responses to this consultation that FRAs should be seeing all residential proposals and large-scale non-residential proposals where significant numbers of people are involved to ensure the design is appropriate and the resources available by FRAs are adequate to the fire risk presented by the new development.
- 3.40 Notwithstanding this, the Welsh Government is minded to begin a conversation regarding the scope of the current definition of major development as part of wider changes proposed to the DMPWO. These future proposals will be subject to engagement with stakeholders at a later date. At this time however, to ensure at risk developments are subject to consultation, the proposed two-tier approach is necessary. It is however anticipated that most developments will be fall under the current major development threshold.

Scope

- 3.41 The types of development for which LPAs, the Welsh Ministers and developers must consult the FRAs goes beyond that recommended by the Building Safety Expert Group (i.e. limited high-rise buildings) and covers a broader range of development that may cause concern from a fire safety perspective. Many of the risks to safety are broadly the same regardless of the size of the building. Whilst Grenfell demonstrates that where a fire occurs in a high rise block of flats the results can be devastating, statistically, casualties as a result of fires are proportionately more likely to occur in HMOs and buildings converted into flats¹. Our proposals, and the wider building safety reforms set out in the white paper, seek to set in place changes that will go far wider than purpose built blocks of flats.
- 3.42 In respect of aligning consultation requirements based upon proposed building materials, this is likely result in overlap with the Building Regulations. Whilst planning governs the appearance of a building, and considers materials in doing so, ensuring

¹ Figure 4: Fire Casualty Statistics. Safer Buildings in Wales: A Consultation. 12 January 2021.
<https://gov.wales/safer-buildings-wales>

those materials meet the relevant British Standards (BS) is a matter for Building Regulations.

Resources

- 3.43 In relation to the comments raised around FRA resources these are discussed in question 5. However, our analysis indicates that there would be approximately 583 applications for major development and 2 DNS applications that would generate both pre-application and post-submission responses, i.e. two responses per application - one to the developer and one to the determining body, across the three FRAs. This compares with an average of 120 consultations per year across under the current voluntary arrangements. Further information is provided within the Regulatory Impact Assessment (RIA), which is available to view at <https://senedd.wales/media/ynvjrhylr/sub-ld14617-em-e.pdf>. Based on this analysis, the Welsh Government are content the proposals strike the right balance, ensuring those developments with the greatest fire safety concerns are subject to the oversight of FRAs, utilising available resources.

Flexibility to change the threshold

- 3.44 As with any new process, a period of time must pass in order for all stakeholders to adapt and become familiar with the changes. Any future changes must be based upon a robust evidence base that demonstrates the need for change. If the evidence base suggests changes are required, the Welsh Government can begin the process of amending the thresholds. It should be noted that any future changes to the prescribed threshold would require subordinate legislation to be made and laid before the Senedd.
- 3.45 In addition, the SI includes transitional arrangements to provide FRAs with a lead-in time to put all necessary process/procedures in place before the statutory requirement to provide a substantive response begins (see section 4).

Validation

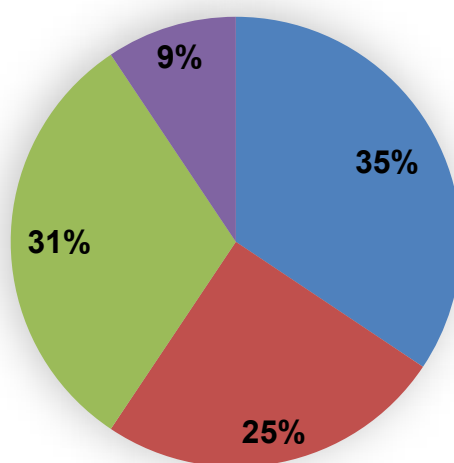
- 3.46 Caerphilly suggested in their response insufficient information may be provided by developers, such as with a change of use application, to enable the LPA to determine whether consultation with FRAs is required.
- 3.47 In respect of validation, where a change of use to a residential use is proposed, as a minimum, plans and drawings or information must be provided that are necessary to describe the subject of the application. For such applications, it is expected existing and proposed floor plans would be provided. LPAs should invalidate applications where insufficient information is provided.

Definition of Waste Development

- 3.48 There is no change to proposed to the existing definition of “waste development” as prescribed in article 2 of the DMPWO: *(a) any operational development designed to be used wholly or mainly for the purpose of treating, storing, processing or disposing of refuse or waste materials or (b) material change of use to the treatment, storage, processing or disposal of refuse or waste materials.*

Q3. Should the number of bedrooms where premises are in multiple occupation be used as a trigger for a consultation requirement? If not, why not?

Statistical Summary					
Fire and Rescue Authority	1	0	2	0	3
Professional Body/Interest Group	1	0	3	3	7
Local Planning Authority	4	5	1	0	10
Voluntary Sector	0	2	0	0	2
Private Individuals/Other	5	1	4	0	10
Total all respondents	11	8	10	3	32



■ Yes ■ No ■ Yes Subject to Comment ■ Did Not Answer

Statistical review

3.49 Of those who responded to the question, the majority (66% of the answers received were 'Yes' or 'Yes Subject to Comment') supported using the number of bedrooms in HMOs as a trigger for consultation with FRAs.

3.50 Of the 25% who responded no to this question, the majority (5 respondents) were from LPAs.

Key themes

3.51 The key themes in response to question 3 were as follows:

- The principle of using the number of bedrooms as a consultation trigger for FRAs was largely supported.
- The responses of LPAs were equally split between those who support the proposed consultation trigger and those who did not.
- The views of those who disagreed varied, but included general opposition to the principle of FRAs becoming statutory consultees.

Overview

- 3.52 The use of bedrooms as a trigger for HMOs was supported by the three FRAs, the FBU and the National Fire Chiefs Council (NFCC). South Wales FRA noted it is vitally important to consider the fire safety of buildings at the earliest stage where larger numbers of people reside. Both North Wales FRA and Mid and West Wales FRA and the NFCC whilst supporting the proposal, highlighted how some developers can seek to circumvent such requirements, such as through changing lounge spaces into bedrooms at a later date.
- 3.53 Five LPAs supported the proposal. Whilst one LPA indicated their preference is for threshold to mirror the current legal definitions of major and minor development, they agreed with the proposed approach, but also suggested that care homes should also be included in this trigger. Pembrokeshire Coast NPA suggested referring to bed spaces rather than bedrooms may be preferable as many HMO operate on a bunkhouse style system.
- 3.54 Nine respondents explicitly disagreed, or provided comments contrary to the proposal, including five LPAs.
- 3.55 Conwy CBC questioned whether there is any “planning” value to including FRAs as a consultee for smaller schemes which would be predominately a matter for Building Regulations. Whilst Merthyr Tydfil CBC consider the thresholds to be too low, noting these type of developments are already appropriately assessed through Building Regulations.
- 3.56 RCTCBC suggested the number of bedrooms may not be the main factor in determining the risk to life from fire, providing the example of a five bedroom HMO in a single storey property may provide better opportunities for escape than a four bedroom HMO in a three-storey town house. This view was shared by the NHBC who noted that any threshold trigger for consultation on HMO’s should be based on evidence of risk.
- 3.57 NPTC referred to their response to question 2, noting issues and uncertainty with a ‘major development +’ definition. However, they noted if HMOs are to be included then it is understood that the number of bedrooms would have to be the determining factor, as more bedrooms equals increased risk.
- 3.58 Caerphilly CBC considered significant development of this nature would be captured by the floorspace thresholds proposed (i.e. major development).
- 3.59 Two responses suggested all HMOs should be subject to consultation, regardless of the number of bedrooms.

Government response

Principle inclusion of HMOs (planning value)

- 3.60 As noted in our response to question 2 (paragraph 3.41), statistically, casualties as a result of fires are proportionately more likely to occur in HMOs and buildings converted into flats. There is however a need to find an appropriate balance between risk, the number of consultations FRAs are likely to receive and available resources for FRAs

to respond. Having reflected on the comments received through the consultation, we feel the proposals strike the right balance. Notwithstanding this, whilst a particular development may not be captured by the criteria, if the LPA considers there may be fire safety issues concerning a particular proposed development they can voluntarily consult the FRA.

Triggers

- 3.61 We note the suggestion made regarding the use of bed spaces as oppose to bedrooms to account for HMOs that operate on a bunkhouse style basis. Whilst we note the concern raised, it is likely to prove difficult quantifying bed spaces as part of the planning application since the amount and placement of actual beds within a proposed development is not a validation requirement.
- 3.62 Notwithstanding this, in response to the comments received, including those made by some FRAs about the potential future conversion of some rooms into bedrooms, the legislation has been drafted to require LPAs to consult FRAs for development which provides *'residential accommodation of ten or more rooms, not contained in dwellinghouses or flats, which are not solely used for cooking purposes and are not toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms'* or *'residential accommodation of ten or more rooms contained in a dwellinghouse or flat used as a house in multiple occupation, which are not solely used for cooking purposes and are not toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms'*. This replaces the 'bedrooms' trigger for consultation as proposed in the consultation paper. By capturing all rooms that are identified to be bedrooms or have the potential to be converted into bedrooms, it will prevent developers seeking to circumvent consultation whilst also assisting LPAs to identify those applications that require consultation by removing any ambiguity whether a room identified on a floorplan would constitute a bedroom.
- 3.63 This revised consultation trigger also continues to capture other forms of residential accommodation of multiple occupation, such as care homes and hotels, as suggested by a number of respondents, which the proposal in the consultation also did. Developments which provide ten or more flats (whether by increasing the number of flats within an existing building or otherwise) will also be subject to consultation, as proposed in the consultation paper.
- 3.64 We note the comments made by Caerphilly CBC highlighting that development proposals of 10 or more flats are likely be captured by the current scope of major development defined by the DMPWO, which the FRA consultation requirement is broadly based upon. However, there are some potential scenarios whereby the provision of flats, whether through new construction or change of use, would not be captured by the current definition of major development in the DMPWO. It is therefore necessary to be unequivocal in the legislation to ensure all residential proposals of the specified type and scale are captured.
- 3.65 Application data received from LPAs through the development management quarterly surveys does not categorise applications according to the category of 10 or more flats or residential accommodation of 10 or more rooms. Based on our best estimate, it is anticipated that applications for these specific development types will generate negligible additional consultations but will ensure all at risk residential development is subject to FRA consultation.

Q4. What impact do you think the proposed changes may have on resources within Local Planning Authorities?

Statistical review

- 3.66 All 10 LPAs (who made representations in response to the consultation) responded to this question. Responses were also provided from the following sectors:
- Fire and Rescue Authority – 2 responses
 - Business/Consultants – 0 responses
 - Professional Body/Interest Group - 6 responses
 - Voluntary Sector – 2 responses
 - Private Individuals/Other - 9 responses

Key themes

- 3.67 The key themes in response to question 4 were as follows:
- A majority of LPAs consider the proposal would have a limited impact upon resources.
 - The need for a timely and planning focused substantive response is seen as essential to mitigating delays to the determination of applications by LPAs and associated impact upon their resources.

Overview

- 3.68 The majority of the LPAs who responded to this question considered the proposal would have little to no material impact upon LPA resources. Several LPAs noted the action required to undertake the consultation would have no additional impact, with the process being automated and undertaken online.
- 3.69 However, their primary concerns relate the potential need for further dialogue with FRAs following receipt of their consultation response, such as if non-planning considerations are raised, adding delay to the application process, and the expectations of the FRAs on the ability of LPAs to deal with the non-planning issues raised. Ynys Mon CC noted this could be mitigated through the pre-application process and ensuring substantive responses are received in a timely manner. Carmarthenshire CC also highlighted the importance of the pre-application process, and the necessity for early effective engagement. Caerphilly CBC highlighted the need for FRA's to provide a substantive response which is justified and focussed on material planning issues to reduce any delay and/or additional burden on planning officers. Conwy CBC made similar comments.
- 3.70 Two LPAs considered it be inevitable that any additional burden will generate additional work and therefore additional resources will be required. They expressed the evaluation of the consultation responses has the potential to require a significant amount of additional work in connection with addressing any concerns or objections raised in consultation responses, negotiating amendments to schemes or potentially leading to refusal of an application.
- 3.71 Caerphilly CBC emphasised their current limited resources after more than a decade of budgetary pressure and the likely impact of additional requirements requiring the allocation of appropriate additional resources.

- 3.72 Comments were also received from other sectors and individuals. These include the Law Society who considered putting the current voluntary arrangements on a statutory footing will increase the need for LPAs to consult and engage with FRAs using their resources to do so. They suggested providing FRAs with guidance to ensure responses received are relevant to the issues to be considered by the LPA, saving time and resources. RCIS considered the proposals would have a minimal effect on resources within planning authorities, as the applications will still follow largely the same process of consideration and approval within the local authority. This was also the view of the HBF and some who were responding in an individual capacity.
- 3.73 The two FRAs who responded to this question and the NFCC shared the view the proposals would generate additional work for LPAs and would therefore require additional resources, including the potential need for training.
- 3.74 The Pembrokeshire Branch of CPRW noted the potential for additional costs but the safety of the public who have to trust developers is paramount.

Government response

Resourcing/costs

- 3.75 The majority of consultation responses stated that the proposals would not require LPAs to expend additional resources, however there was a common concern regarding the substantive response from FRAs straying into non-planning matters.
- 3.76 The Welsh Government acknowledges the concern that the proposals would require more LPA officer time to be spent dealing with responses to consultations from FRAs, particularly where non-planning issues are raised. However, where this does occur, we are content it would only be during the initial settling in period of the new process. Understandably, as with any new procedures, there will be a settling in period for both FRAs and LPAs, however, the Welsh Government will produce guidance to assist with this early stage and will advise FRAs on what constitutes a material planning consideration when consulting on fire safety matters. As referenced in paragraph 3.13, the focused nature of the response from FRAs will be on access for emergency appliances and water supply to the site for fire, which will reduce the likelihood of non-planning issues being raised and the need for LPAs to dedicate time responding. LPAs have the expertise to assess the advice presented to them in the consultation response, to determine what is and is not a material planning consideration and the weight that should be attributed as part of the decision-making process.
- 3.77 Whilst LPAs may choose to respond to FRAs to make them aware of any issues raised which are non-material to the determination of the planning application, from a procedural perspective, such matters do not need to be addressed by the LPA and can be noted in the officers/committee report as non-material considerations and the application determined accordingly.
- 3.78 The RIA identifies an approximate additional annual cost increase of just £650 per LPA. This minimal increase should be considered in the context of recent increases in planning application fees. In 2020, fees for planning and related applications were subject to a general increase of approximately 20%. The upper limits and caps to fees were increased by approximately 4%. The Welsh Government expects planning fee income to be reinvested exclusively into improving the delivery of the development

management service at the local level. The basic principle is any fees for services provided by public sector organisations are to recover the full costs of providing those services. Therefore, the existing fee structure is designed, as best as possible, to recover the full cost of providing a development management service. Notwithstanding this, the Welsh Government has commissioned research on the costs of providing a development management service with a view to suggesting a new fee structure and amounts. The findings from the research will inform future changes to planning and related application fees.

- 3.79 For these reasons, we do not agree with those LPAs who suggest the proposals would have significant impact on LPA resources.

Timely Response

- 3.80 In the context of some respondents highlighting the need for FRAs to provide a timely substantive response. The DMPWO prescribes what constitutes a substantive response and the timescales for responding at both pre and post submission stages of the application process. Article 15B of the DMPWO will also apply to FRAs which requires an annual report to be submitted to the Welsh Ministers on their compliance with their legal duties at each stage of the planning application process. The report will need to contain (for the reporting period), the number of occasions when a substantive response was requested, the number of substantive responses provided and the time taken to provide the substantive response. The report provides the opportunity for the Welsh Ministers to monitor performance in meeting the statutory requirements and the ability to raise any concerns of poor performance directly with them.

Pre-application process

- 3.81 We agree with the comments from LPAs regarding the importance of the pre-application process. Greater FRA engagement in the pre-application stage can reduce the level of FRA involvement at determination stage by reducing the likelihood of them submitting objections, or requesting post-submission amendments or conditions. Successful pre-application discussions between the developers and FRAs will facilitate a smoother application process and prevent delays arising during the determination period.
- 3.82 Notwithstanding this, as highlighted by some LPAs, as proposed the description of developments triggering the requirement for LPAs to consult FRAs also capture any developments that provide for 10 or more flats or residential accommodation of 10 or more rooms. These specific development types fall outside the definition of 'major development' and would therefore not be subject to pre-application consultation, potentially leading to a greater risk of FRA objections, or requests for post-submission amendments or conditions, during the determination of applications by LPAs. However, it is anticipated that the majority of applications for these specific development types will still require pre-application consultation between developers and FRAs as the types of development will likely be captured by other pre-application triggers that are common to major development - i.e. provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more, or development carried out on a site having an area of 1 hectare or more. Therefore, we do not consider the exclusion of these types of development from the pre-application consultation stage will impact on LPA resources at the post submission consultation stage.

Future changes to pre-application consultation

- 3.83 The Welsh Government intends to progress an existing programme of work, looking at public involvement and engagement in the planning system, from the plan stage through to construction. This will include pre-application and post submission consultation stages. Any future changes will be subject to engagement with stakeholders, including a public consultation.

Q5. What impact do you think the proposed changes may have on resources within Fire and Rescue Authorities?

Statistical review

- 3.84 All three FRAs responded to this question. Responses were also provided from the following sectors:
- Local Planning Authority – 10 responses
 - Business/Consultants – 1 response
 - Professional Body/Interest Group - 5 responses
 - Voluntary Sector – 2 responses
 - Private Individuals/Other - 11 responses

Key themes

- 3.85 The key themes in response to question 5 were as follows:
- Agreement across all sectors that the proposals will result in a need for additional resources within FRAs.
 - LPAs were in agreement that FRAs will need to have sufficient resources to be able to respond in a timely, clear and concise manner.
 - A need for FRAs to be suitably trained.
 - Potential for existing FRA resources to be impacted without further funding.

Overview

- 3.86 Whilst supporting the proposal, all three FRAs agreed additional resources would be necessary should they become statutory consultees and undertake the associated functions.
- 3.87 Mid and West Wales Fire and Rescue Service considered the potential impact to be significant. They believed it would place an additional burden on existing resources, which without additional funding, would reduce existing capacity to undertake the full range of work currently being discharged by their Business Fire Safety team.
- 3.88 They note that they currently respond to very few consultations, clarified through further discussions to be in the region of 8 per year, and as such this demand is managed within existing workloads and structure. They suggest the projections previously provided by the Welsh Government are likely to increase as an ageing and increasing population increases demand for housing stock, placing a further demand on resource availability. They suggest the resourcing requirements should be considered as part of wider impact assessment process when more detailed proposals are available.

- 3.89 North Wales Fire and Rescue Authority also expressed the view that making them a statutory consultee would increase their workload. They refer to difficulties quantifying this impact without knowing the anticipated number of consultations. In respect of resource, they highlighted that they currently have no provision to increase staffing numbers within the Fire safety function and any diversion of existing resources would result in an impact upon existing work. Consideration is therefore needed as to how FRAs can resource and fund the additional workload.
- 3.90 The South Wales Fire and Rescue Service also considered the proposal would generate additional work and therefore additional resource requirements. They estimate that they currently respond to an average of 70 consultations a year, and estimated each consultation would warrant a 6-8 hour work commitment. This would include the initial examination of plans for conformity, processing the accompanying correspondence, communications with Planning Departments and/or the applicants, site visits, dealing with general queries and formulating a substantive response in accordance with the statutory timescales. Furthermore, they noted consultations of a more complex nature would require greater attention resulting in additional hours, in terms of work commitment. They considered an additional two fulltime Station Manager posts would be required to undertake the work resulting from the proposals.
- 3.91 The National Fire Chiefs Council and the FBU both considered additional resources would be required. It was also suggested a pilot study should be carried out to trial the proposed recommendations in order to better understand the implications of any changes made on both FRAs and LPAs. The FBU also requested the Welsh Government publish its own assessment of the impact of this additional work for fire and rescue authorities and that the Welsh Government fully fund additional firefighters to carry out the extra work, as well any training and equipment necessary.
- 3.92 Several LPAs and other stakeholders also responded to this question. All that responded were in agreement that the proposal would have an impact upon FRA resources, with that impact dependent upon on how involved FRAs become in the planning process and the depth of comment they are able or expected to provide to LPAs. It was also highlighted that resource implications may not be equally spread between the three FRAs. The need for FRAs to be appropriately resourced to be able to meet the timescales for engaging with developers, submitting a substantive response, and undertaking reporting was also highlighted.
- 3.93 LPAs also raised the point that there could be a need for them to re-consult FRAs on any changes prior to determination of an application and after planning permission has been granted, such as an application to discharging conditions, which could generate additional resource requirement for FRAs. Merthyr Tydfil CBC also highlighted the potential for FRA to be drawn into the appeals process if applications are refused and appealed. This could include providing written statements and/or attending hearings/enquires.
- 3.94 RICS stated their support for the proposals, but noted additional resources may well be required within FRAs, to have permanent staff, dedicated to the role and who are capable of understanding planning level design submissions. The HBF, Law Society, and CPRW also made similar comments, all indicating FRAs will require additional resources to meet the statutory requirements placed upon them by the proposals.

NHBC wanted to ensure any requirement do not impact upon Building Control statutory consultations.

- 3.95 Those responding in a personal capacity also shared the view additional resources are likely be required to fulfil the additional requirement placed upon FRAs, including the setting up and undertaking of training and the creation of an IT system to manage the applications received. One respondent noted that any additional resource should not be funded through planning fees, whilst another respondent noted that it was important that funding was not diverted from core fire and rescue work to fund this additional requirement. A response from a Councillor acknowledged the proposals would have an impact and require more resources in terms of staff time and appointments to new duties, but saw it result in longer term benefits, as they consider has been achieved through the introduction of sprinklers and the associated reduction in the severity of fires.

Government response

Resources

- 3.96 The responses received from all sectors highlighted concern around the resourcing of FRAs and the need for additional resources to fulfil their role as a statutory consultee.
- 3.97 The Welsh Government has undertaken a Regulatory Impact Assessment (RIA) of the likely cost and benefit impacts of the proposal, which is included in the [Explanatory Memorandum](#) that accompanies the legislation.
- 3.98 The RIA considers the proposal is likely to result in some additional costs to FRAs, as they will be required to deploy further resources to scrutinise development proposals that they previously would not have been consulted on or may have chosen to not respond to.
- 3.99 Under the proposal, it is not anticipated that additional resource expenditure per response will be required as responses will continue to be focused on the same limited matters of consideration as is currently the case. In the RIA, based on discussions with FRAs, we have assumed that the task of providing consultation responses would be at WMB grade for 0.5 days (3.6 hours) per response.
- 3.100 In response to the comment reported in paragraph 3.93 regarding the potential need for further consultations after planning permission has been granted, any consultations on such consents under the proposal would remain discretionary and therefore would not represent new costs from the current system of LPA discretionary consultation.
- 3.101 FRA participation in planning appeals has not been factored into the RIA as any associated costs would not represent a new cost from the status-quo under the current system, i.e. the current system of discretionary FRA participation will continue under the proposed legislation. There is no data held on what proportion of appeals that FRAs currently participate in, but it is expected to be negligible in light of an estimated average of 120 planning consultation responses per year currently provided by FRAs.
- 3.102 In addition to the information received from FRAs through the consultation, further information on costs was submitted to the Welsh Government from FRAs, which has been factored into the estimated costs in the RIA. These reflect the estimated costs for

the current situation, with ad hoc/voluntary consultation taking place, and the estimated costs in becoming a statutory consultee.

- 3.103 Taking account of the financial information provided, and by making a reasonable assessment of the time demands that would be placed upon FRAs, the total annual cost across all FRAs of providing consultation responses and monitoring performance is estimated to be approximately £146,500. Based on the proportion of applications from major development received over a period of time within each FRA area, this estimated cost can be broken down by each FRA as follows:

FRA	Proportion of applications for major development received over the assessed period	Estimated annual cost
NWFRS	24%	£35,000
MWWFRS	35%	£51,500
SWFRS	41%	£60,000

- 3.104 However, of the estimated total annual cost of £146,500 identified across all FRAs, approximately £131,500 of this cost is estimated in the RIA to represent additional annual cost compared to the existing resources / costs currently allocated by FRAs engaging at an ad hoc / voluntary basis in the process.
- 3.105 Whilst an additional cost has been identified, due consideration must be given to the statutory function of FRAs. FRAs have a critical and highly-valued role in making and keeping people safe. Promoting fire safety is a core statutory function for FRAs, whilst continually and sustainably reducing risk and enhancing the safety of citizens and communities is one of the six key objectives for FRAs set out in the Fire and Rescue National Framework. Collaborating with LPAs through the planning system to ensure new developments to assess their fire safety is therefore considered to fall within its existing remit. Failure to engage at planning stage may jeopardise public safety should new development be inaccessible to the necessary apparatus required to tackle fires and other hazards or have insufficient or inaccessible water supplies.
- 3.106 FRAs have a highly distinctive funding model and receive no direct Welsh Government funding for their core functions. Instead, they levy contributions on their constituent local authorities as they see fit; and neither those local authorities nor the Welsh Government has any control over that process. While reform of this model has been discussed in recent years, FRAs have strongly defended it as it stands, and resisted suggestions of direct Welsh Government involvement in their funding. As such, there is currently no case for the Welsh Government to provide direct funding in response to additional statutory requirements placed upon on FRAs. Accordingly, the increase in cost as a result of these changes is to be met from the budgets of each FRA - as is currently the case with existing statutory consultees to the planning process. This also reflects the approach taken in 2017 when a new duty was introduced on FRAs to respond to flooding and water rescue incidents. It is estimated that costs will be recouped through efficiency gains and savings due to improved fire safety in developments and efficiencies in responding to fire safety issues, which cannot be quantified.

- 3.107 Becoming a statutory consultee enables FRAs to consider and productively shape proposals from an early stage to ensure they are appropriate in terms of fire safety issues relating to access for firefighting equipment and water supplies for firefighting purposes relative to the fire risk presented by the new development. This will assist to improve fire safety in new developments, reducing operational risks and resource requirements for FRAs in responding and dealing with any future fire incidences that may occur. It will also serve as an important mechanism to gain a better understanding of developments within their areas helping to establish and maintain local capacity and capability to address their fire safety risks and concerns. Engagement at this stage will allow FRAs to update that knowledge and to begin planning for any changes in operational capacity which might be necessary.
- 3.108 Whilst it is recognised that taking forward the proposal incurs some additional costs for FRAs, on balance, it is considered that such costs are generally balanced by the savings arising from greater efficiency in the determination process and improved long-term fire safety.

Pilot

- 3.109 We do not see any value in conducting a trial of these proposals. FRAs are already consulted on planning applications, albeit on a voluntary and sporadic basis, and there would be little to be gained from a further partial implementation.

Training

- 3.110 Whilst on a voluntary basis, FRAs already make some representations to LPAs on planning applications. They therefore have some familiarity with the associated processes and procedures. Any necessary training required for staff whom may be unfamiliar with the processes and procedures will need to be identified and met by FRAs.
- 3.111 The Welsh Government will provide guidance to assist FRAs, including how to prepare the annual reports required by the legislation.

IT systems

- 3.112 A respondent suggested a new IT system may be required to manage the applications / consultation requests received. It has been assumed that FRAs have existing IT systems in place to manage consultations and record their performance in responding to consultations, for instance MWWFRS confirmed that they use a Community Fire Risk Management Information System (CFRMIS) for this purpose. If an FRA does not have an existing response recording system in place, then a system as informal as a spreadsheet could be used to produce reports of their performance at negligible cost.

Other Questions Asked

- Q6. 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. What effects do you think there would be? How positive effects could be increased, or negative effects be mitigated?**
- Q7. 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.**

Overview

- 3.113 In accordance with the Welsh Language Standards, all Welsh Government consultations must include the above questions in relation to the Welsh language. No negative comments were raised by respondents in respect of any potential impact upon the Welsh language.
- 3.114 The majority of respondents did not answer the questions or pointed out that measures are already in place to ensure that the Welsh Language is supported. Some respondents noted their desire for all consultations to be provided bilingually.

Government response

- 3.115 The Welsh Government is satisfied there will be no impact upon the Welsh language by taking forward the proposed changes. Developers are encouraged to submit all information associated with a planning application bilingually. As public organisations, the Welsh Ministers, LPAs and FRAs must comply with the Welsh Language Standards.

- Q8. 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**

- 3.116 At the end of the consultation, we invited comments from respondents regarding any related issues which were not addressed by the consultation. A summary of the consistent issues raised is provided below.

Standard Conditions and Templates

- 3.117 Merthyr Tydfil CBC felt it may prove useful to see example conditions that FRAs may seek to secure on any permission and whether they meet the appropriate tests, as set out in the Circular published by the Welsh Government.

Government response

- 3.118 Notwithstanding what conditions may be suggested by a statutory consultee following consultation on a planning application, the imposition of planning conditions is ultimately at the discretion of the LPA. When doing so, the LPA must be satisfied that all conditions meet the six tests set out in Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management', available on to view on the Welsh Government website - <https://gov.wales/use-planning-conditions-development-management-wgc-0162014>.

Changes during the construction process and enforcement

- 3.119 A submission by a voluntary sector organisation queried the process if an applicant gains consent and then changes the details to use more dangerous and flammable materials as part of the construction of the development. The submission added that, in their opinion planning enforcement has not been active enough in this area and those who breach their consent should be made to pay for the subsequent enforcement action.

Government response

- 3.120 If use of specific materials is made as part of the planning application, and use of those materials is secured by planning condition, any variation would require approval of the LPA. All materials must also be compliant with the Building Regulations and may be subject to approval under this separate consenting regime.

Impact Assessment

- 3.121 NFCC commented that the proposals were not accompanied by an impact assessment.

Government response

- 3.122 The Welsh Government has held discussions directly with FRA's in order to understand the financial/resource impact of making FRAs statutory consultees in the planning process. The outcome of these discussions have informed the RIA that will accompany the legislation. The RIA can be viewed on the following link <https://senedd.wales/media/ynvjrhryr/sub-ld14617-em-e.pdf>.

Flood risk and evacuation

- 3.123 One LPA referenced their consultation response to the Welsh Government consultation on Technical Advice Note 15, noting the addition of the FRA as a consultee could also assist in matters relating to other safety matters including flood risk and evacuation.

Government response

- 3.124 The consultation on revisions to TAN 15 – planning guidance on flooding and coastal erosion – took place in winter 2019-20. Proposed changes included further advice on the role and responsibilities of Fire and Rescue Authorities and other emergency

service providers in relation to serious flood events. The comments made by the LPA and other contributors have provided valuable feedback which is enabling us to refine the proposals. The aim is to publish the revised TAN 15 later in 2021: [Technical advice note \(TAN\) 15: development, flooding and coastal erosion | GOV.WALES](#).

Matters that fall outside the scope of the Planning System

3.125 A number of points/questions were raised regarding issues which fall outside of the scope of the planning system. These are summarised as follows:

Contribution to the wider Building Safety Agenda - The FBU response added their desire for an investigation of the fire safety regime in Wales, in conjunction with similar efforts at Westminster and in other devolved administrations, to be undertaken.

Role of FRAs in Built Environment Control and Cost Recovery - The response from the South Wales Fire and Rescue Authority requested that fire safety at both the Planning and Building Regulation stage becomes the sole responsibility of each respective Fire and Rescue Authority in Wales. The submission stated *'any application for fire safety approval at both Planning and Building Regulation stage should be separated from the existing Planning and Building Control process. In addition to this, Fire and Rescue Authorities should also be afforded the opportunity to recover costs and therefore charge a fee to cover both their expertise and any additional resources costs involved. Should this ever be the case in the future, Fire and Rescue Authorities will then have full control over the application of fire safety legislation in terms of fire safety standards in buildings from the design stage to occupation of the building. As is already the case, on occupation, the building itself would then come under the jurisdiction of the Regulatory Reform (Fire Safety) Order, as appropriate. Such a procedure would assist in avoiding any misunderstandings that can arise between planning and occupancy stage and have the resultant effect of making the entire process more robust and user friendly for the applicant.'*

Government response

3.126 Since this consultation was issued, the building safety white paper 'Safer Buildings in Wales: A Consultation' has been published. This White Paper sets out proposals for comprehensive reform of legislation that contributes to building safety in Wales. It focuses on legislative change across the lifecycle of buildings as well as setting out aspirations for culture change in the way buildings are designed, constructed and managed.

The consultation can be viewed on the Welsh Government website - <https://gov.wales/safer-buildings-wales>. A summary of responses received and a government response will be published in due course.

4. Next Steps

- 4.1 The Development Procedure (Consultees) (Wales) (Miscellaneous Amendments) Order 2021 was laid on 27 October.
- 4.2 The laying of the legislation will be publicised through issuing a Dear Chief Planning Officer (CPO) letter, which will also be published on the Welsh Government website. Guidance to for FRAs and LPAs will be published simultaneously.
- 4.3 Transitional arrangements for developers have been put in place to take account of the lead time required to prepare an application for the specified types of development and to provide FRAs with sufficient notification. The differential phasing of the implementation has been designed to enable FRAs to adapt to the requirements, and be familiar with in-process applications, via pre-application consultation with developers prior to receiving requests to consult from LPAs.
- 4.4 For DNS applications (determined by the Welsh Ministers) neither pre-application nor post-application consultation will be required if the proposed application was notified to the Welsh Ministers (under Article 5 of the DNSPWO) before 24 January 2022 even where the application is submitted after that date. If an application was notified after that date both pre-application and post-application consultation would be required. FRAs will have to provide a substantive response to any consultation of them made on or after 24 January 2022.
- 4.5 In respect of planning applications to be determined by LPAs, the relevant provisions will take effect as follows:

Pre-application consultation stage:

- Developers may voluntarily undertake consultation with FRAs from 24 January 2022 onwards (three months after laying).
- Developers will be required to have conducted pre-application consultation in relation to any application submitted to LPAs on or after 25 April 2022 (six months from laying). Applications submitted before that date will be validated in any case (i.e. even where the formal Pre-application Consultation Report does not evidence consultation has been undertaken with FRAs).
- FRAs will be required to provide a substantive response to any pre-application consultation request received from developers on or after 24 January 2022 (three months after laying).

Post-submission stage:

- Where an application concerns specified development, LPAs will be required to have consulted the relevant FRA only where permission is granted on or after 25 April 2022 (six months from laying) and FRAs will be required to provide a substantive response to these consultation requests.

Substantive Responses by FRAs

- Where a developer, LPA or the Welsh Ministers choose to consult an FRA on or after 24 January, the FRA will be required to respond in accordance with the relevant provisions of the legislation.

Annex A - List of respondents

Fire and Rescue Authority	
South Wales Fire and Rescue Service	North Wales Fire and Rescue Service
Mid and West Wales Fire and Rescue Service	
Total – 3	Percentage – 10%

Professional Body/Interest Group	
Fire Brigades Union	The Law Society
Home Builders Federation	National Fire Chiefs Council
RTPI Cymru	
	<i>a further 2 requested to remain anonymous.</i>
Total – 7	Percentage – 22%

Local Planning Authority	
Caerphilly CBC	Conwy CBC
Carmarthenshire CC	Cyngor Sir Ynys Mon
Merthyr Tydfil County Borough Council	Pembrokeshire Coast National Park Authority
Neath Port Talbot County Borough Council	<i>Rhondda Cynon Taf CBC</i>
	<i>a further 2 requested to remain anonymous.</i>
Total – 10	Percentage – 31%

Voluntary Sector	
Penarth Town Council	Pembrokeshire Branch of CPRW
Total – 2	Percentage – 6%

Private Individuals	
10 individuals responded in a personal capacity.	
Total – 10	Percentage – 31%