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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation document

Operational Standards Rules

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Action required: Responses by 21 November 2022

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

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Overview

This consultation seeks views on the proposed operational standards rules for Building Control Bodies (BCBs) under the Building Act 1984

How to respond

You can email your response to the questions in this consultation to: enquiries.brconstruction@gov.wales

If you are responding in writing, please make it clear that you are responding to the consultation on:

“Operational Standards Rules.”

Written responses should be sent to:

Operational Standards Rules
Building Regulations, Welsh Government, Cathays Park, Cardiff, CF10 3NQ

When you reply, it would be useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable),
- the name of organisation (if applicable),
- an address (including post code),
- an email address, and
- a contact telephone number

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For any enquiries about the consultation please contact the Welsh Government Building Regulations team by emailing: enquiries.brconstruction@gov.wales

For further information:
Building Regulations
Welsh Government
Cathays Park,
Cardiff,
CF10 3NQ
Telephone: 0300 062 8144

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

E mail:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

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Introduction

Building Safety Act 2022

1. The Building Act 1984 (“the Act”) as amended by the Building Safety Act 2022 (“the 2022 Act”) includes provisions to improve competence levels and accountability in the building control sector by creating a new professional and regulatory structure for building control.
2. To do this the Welsh Ministers will establish and maintain a register of building control approvers (either organisations or individuals). These changes introduced through the 2022 Act are reflected in new titles for individuals and organisations. Individuals and organisations currently known as ‘Approved Inspectors’ who wish to continue undertaking building control work will need to register as ‘registered building control approvers’ (“RBCAs”).
3. Those who undertake work will need to meet a minimum set of standards. The Act enables the Welsh Ministers to:
 - set operational standards rules defining the minimum performance standards that Building Control Bodies, both LAs and RBCAs, must meet.
4. Under the Act the Welsh Ministers can delegate another body to undertake some of their functions. They also have other mechanisms to enable a body to act on their behalf. In this consultation paper Welsh Ministers should be read as if the function was exercised by Welsh Ministers or on their behalf.

Proposals

5. This consultation consists of five documents. These are:
 - this consultation document, which provides an introduction to each document;
 - the operational standards rules (OSRs), which provide the standards building control bodies need to meet;
 - OSR Annex A - Monitoring arrangements, including reportable data and key performance indicators, which support the OSRs;
 - OSR Annex B - strategic context to building control oversight which support the OSRs; and,
 - The Consultation response form, which provides the consultation questions.
6. The current registration of Approved Inspectors (who will become RBCAs) is undertaken by Construction Industry Council Approved Inspectors Register (CICAIR). CICAIR has been designated by both the UK and Welsh Ministers to undertake this role on their behalf.
7. We are aware Approved Inspectors currently operate in England and Wales and the registration by CICAIR for both administrations provides consistency, and ease of registrations for Approved Inspectors who work in both administrations. As we

transition to the new system we are interested in any issues that may arise out differences in the standards between administrations.

8. This is covered by questions 1 and 2

The Operational Standards Rules (OSRs)

9. The OSRs and their requirements are explained by section 58Z of the Act. New section 58Z enables the Welsh Ministers to make OSRs for building control bodies. Building control bodies must then comply with the rules in the exercise of their building control functions.
10. Over the course of time, changes within the industry may mean that the OSRs need to be revised to reflect best practice requirements. The Welsh Ministers may revise the OSRs and must publish the revised rules to ensure any revisions are accessible.

Application

11. OSRs apply to all building control functions exercised in relation to buildings or works in Wales. These functions are delivered by Building Control Bodies:
 - LAs in relation to in scope and out of scope buildings; and
 - RBCAs in relation to out of scope buildings.
12. In scope buildings will be defined under 120I of the Act and will be subject to a more stringent building control regime. The application of common standards ensures a consistent approach to building control across the whole built environment.
13. Welsh Ministers will monitor Building Control Bodies' performance against these OSRs and may take action against those who fail, or potentially fail, to fulfil the requirements.

Content

14. The OSRs include:
 - expected practices and standards;
 - monitoring arrangements, including reportable data and key performance indicators— see Annex A; and,
 - the strategic context to building control oversight which support the OSR— see Annex B.
15. The OSRs are supported by a set of annexes, and these are an integral part of the provisions to improve competence levels and accountability. These annexes will help you understand what is required.
16. The OSRs are drafted to cover the range of all BCBs from the individual to large complex organisations. Therefore they should be read in context to individuals circumstances e.g. enforcement actions will mean different things to LAs and RBCAs.

17. Questions on the OSRs are covered in questions 3 to 10

Key performance indicators

18. The OSR is supported by Annex A which lists the reportable data and key performance indicators that a building control body must submit to the Welsh Ministers.
19. These are the Welsh Ministers' primary method of measuring aspects of performance. They also provide key information for Building Control Bodies to enable their own performance reviews, improvement programmes and actions to be undertaken.
20. We want to obtain Building Control Bodies' views on the content of draft reportable data and key performance indicators in order to understand their ability to collect and submit this type of data to the regulatory body. Those views will help develop, refine and structure this work into measurable key performance indicators that support the monitoring of building safety through building control.
21. The key performance indicators are covered in questions 11 to 23

Strategic context

22. Annex B sets out the strategic context for the new professional and regulatory structure for building control. This framework shows the connection between the competence of the unified building control profession and the oversight of building control.
23. The strategic context is covered in questions 24 to 25

Professional conduct rules and code of conduct

24. The Act requires the Welsh Ministers to prepare and publish professional conduct rules (PCR) applying to registered building control approvers. These rules are referenced in the OSR. These standards will be consulted upon separately and you may wish to wait for that consultation to provide specific feedback on the PCRs.

Next steps

25. This consultation will close on 21 November 2022. Responses to this consultation will be analysed and a Welsh Government Response will follow.