



Llywodraeth Cymru
Welsh Government

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Welsh Government

Consultation – Summary of Responses and the
Government Response for the consultation on the
Operational Standards Rules

October 2023

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We welcome correspondence and telephone calls in Welsh

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1. Introduction

- 1.1. This report provides a summary of the responses to the consultation published on 26 September 2022 in relation to the Operational Standards Rules (“OSRs”) that Building Control Bodies, both Local Authorities (“LAs”) and Registered Building Control Approvers (“RBCAs”) will be required to follow under the provisions of the Building Act 1984 as amended by the Building Safety Act 2022.
- 1.2. It does not aim to capture in detail every point raised by respondents, though it should be noted that all comments have been duly considered whether they are noted here or not. The Welsh Government has provided a response to each group of questions, as grouped in the consultation.
- 1.3. The views reported in this summary are those expressed by the respondents to the consultation and do not necessarily reflect those of the Welsh Government.

2. Consultation Responses – Overview

- 2.1. The OSRs will apply to LAs and RBCAs.
- 2.2. There were 16 responses to the consultation. Respondents who completed the consultation response form were asked to assign their organisation to one of 12 types identified on the form (including a self-designated ‘other’ option). The table below shows the number of responses received from each sector.

Type of Organisation	Count
Builder / Developer	0
Designer / Engineer /Surveyor	1
Local Authority	6
Building Control Approved Inspector	1
AI Building Inspector	1
LA Building inspector	4
Architect	1
Manufacturer/supply chain	0
Construction professional	0
Professional body	1
Building Occupier/ Resident	0
Other interested party	1

3. Handling of responses

- 3.1. A standard response form was provided for ease of use, however, where respondents did not use the form, representations have been attributed to the most appropriate question.

- 3.2. Where respondents have not answered with the standard responses proposed but have clearly indicated a clear position in their answer, they have been assigned that response in the statistical analysis. For example where a respondent used the phrase 'I support the proposal' their response was marked as yes. Where a clear response was not identifiable, answers were marked as 'no response' in the statistical analysis with the responses included in the summary of comments.

4. Consultation responses – Brief Summary and Government Responses

Consistency across the border

Question 1

- 4.1. Is consistency across administrations (i.e. England and Wales) important for your organisation? Please provide more information on the issues inconsistency raises.

Summary of responses

Yes	13	81.3%
No	2	12.5%
Unsure	0	0%
Not applicable	1	6.3%
No response	0	0.0%

- 4.2. A large majority of respondents agreed that consistency across administrations is important, with reasons including it being more efficient to maintain control and implement best practice as both RBCAs and Registered Building Inspectors can work across borders.
- 4.3. Respondents highlighted a number of issues that inconsistency could raise, such as potentially increased costs of having to comply with systems that are different and confusion with potentially different rules and unnecessary complexity and risk.

Question 2

- 4.4. What opportunities / barriers do you consider could emerge with the development of bespoke standards for those operating in Wales.

Summary of responses

- 4.5. Respondents highlighted a number of opportunities and barriers, for example citing a major barrier could be increased costs with the implementation of a separate system as highlighted in question one but, at the same time, could

serve to drive up performance of the Welsh building control system, influencing improvements elsewhere.

Government Response

- 4.6. All the comments are noted, and we will continue to work closely with the Building Safety Regulator to align standards as much as possible whilst delivering a regulatory system that is fit for purpose in Wales.

The Operational Standards Rules

Question 3

- 4.7. How confident are you, that you / your building control body can fulfil the rules outlined in Systems and Controls? If 'not at all confident', please tell us which rule(s) you are concerned about and why.

Summary of responses

Very confident	6	37.5%
Somewhat confident	5	31.3%
Not at all confident	3	18.8%
Unsure	2	12.5%
No response	0	0.0%

- 4.8. A large proportion of respondents stated that they were very or somewhat confident regarding fulfilling the rules outlined in the Systems and Controls, with a small proportion of respondents saying they were unsure or not at all confident.
- 4.9. Respondents suggested that further detailed guidance regarding the expectation of the Regulatory authority, enforcement, and early publication would be beneficial.

Question 4

- 4.10. Thinking about rule 1.13, are there types of conflicts of interest unique to the building control industry? If 'yes', please give us your building control example(s) and explain your reasons.

Summary of responses

Yes	11	69.0%
No	2	13.0%
Unsure	3	19.0%
Not applicable	0	0.0%
No response	0	0.0%

- 4.11. The majority of respondents agreed that there are conflicts of interest unique to the building control industry.
- 4.12. Many respondents reported that they felt there were a few key issues relating to conflict of interest and impartiality within the industry such as individuals, who work for Approved Inspectors and LA Building Control bodies, having their own businesses which are related to building control such as developing plans and or structural calculations. Another issue raised by some respondents was Approved inspectors having relationships with developers/builders where repeat business is dependent on a reduced standard of service.

Question 5

- 4.13. How confident are you, that you / your building control body can fulfil the rules outlined in Persons? If 'not at all confident', please tell us which rule(s) you are concerned about and why.

Summary of responses

Very confident	2	12.5%
Somewhat confident	6	37.5%
Not at all confident	6	37.5%
Unsure	2	12.5%
No response	0	0.0%

- 4.14. Respondents were evenly split regarding level of confidence in fulfilling the rules outlined in person.
- 4.15. Some issues cited by respondents around the rules, included the monitoring of competence and that registration could be problematic. Some respondents also highlighted that staff resourcing, due to future budgets and skills shortages due to recruitment issues within the industry, being of particular concern.

Question 6

- 4.16. How confident are you, that you / your building control body can fulfil the rules outlined in Building control functions? If 'not at all confident' or unsure, please tell us which rule(s) you are concerned about and why.

Summary of responses

Very confident	4	25.0%
Somewhat confident	8	50.0%
Not at all confident	2	12.5%
Unsure	2	12.5%
No response	0	0.0%

- 4.17. The majority of respondents were very or somewhat confident that the rules outlined could be fulfilled.
- 4.18. Respondents listed a number of concerns including the level and detail of data capture and reporting would place a significant burden on those involved and clarity would also be needed on providing advice on design and construction aspects for specific building projects.

Question 7

- 4.19. Thinking about rule 3.13, how confident are you / your building control body that inspection reports are received within two working days?

Summary of responses

Very confident	2	12.5%
Somewhat confident	4	25.0%
Not at all confident	7	43.8%
Unsure	3	18.8%
No response	0	0.0%

- 4.20. If 'not at all confident' or unsure, please tell us what an achievable time frame would be:

Summary of responses

Three working days	0	0.0%
Four working days	1	6.3%
Five working days	9	56.3%
Other	2	12.5%
No response	4	25.0%

- 4.21. Most respondents were either not confident or unsure that inspection reports would be received within two working days. Over half of all respondents suggested five working days would be a more achievable.

Question 8

- 4.22. Thinking about rule 3.14, how confident are you that you / your building control body can inform other regulators of changes or concerns prior to occupation or the risk occurring? If 'not at all confident' or unsure, please tell us why this information could not be provided.

Summary of responses

Very confident	1	6.3%
Somewhat confident	9	56.3%
Not at all confident	2	12.5%
Unsure	3	18.8%
No response	1	6%

- 4.23. The majority of respondents stated that they were somewhat confident.
- 4.24. Reasons given for why this information could not be provided within the timeframe included the duty involves regular monitoring of projects which is resource intensive, it would be dependent on the level and extent of change within a project, and there may not be the level of expertise within building control bodies to foresee complex technical issues and ensure timely effective action.

Question 9

- 4.25. How confident are you, that you / your building control body can fulfil the rules outlined in Enforcement and intervention? If 'not at all confident' or unsure, please tell us why this information could not be provided.

Summary of responses

Very confident	2	12.5%
Somewhat confident	4	25.0%
Not at all confident	7	43.8%
Unsure	3	18.8%
No response	0	0%

- 4.26. There was a mixed response to this question with the most common answer being 'Not at all confident'. A slightly lower percentage of respondents replied stating they were somewhat confident or very confident.
- 4.27. Comments from respondents included: suggestion that the timescale were not feasible due to contraventions often being minor and resolved very quickly, that the legal framework underpinning the Building Act 1984 needed a major overhaul, that poor outcomes from court judgements left building control officers unwilling to assert enforcement and that the proposal would be challenging from a resource perspective.

Question 10

- 4.28. Thinking about rule 4.2, how confident are you / your building control body in being able to update records within two working days?

Summary of responses

Very confident	2	12.5%
Somewhat confident	4	25.0%
Not at all confident	7	43.8%
Unsure	3	18.8%
No response	0	0%

- 4.29. If 'not at all confident' or unsure, please tell us what you believe is an achievable time frame:

Summary of responses

Three working days	1	6.3%
Four working days	0	0.0%
Five working days	8	50.0%
Other	0	0.0%
No response	7	43.8%

- 4.30. There was a mixed response to this question, just under half of respondents were 'not at all confident'. All but one respondent suggested a timescale allowing five working days to enable building control bodies to update records would be more feasible.

Government Response

- 4.31. The comments have all been noted and, as a result, substantial changes to the OSRs will be made to add clarity and give additional guidance on expectations.
- 4.32. Specific changes include a change to the proposed 2 working day timescale for reporting to 5 working days, a similar change to the timescale for updating records of enforcement and intervention and previously proposed levels data capture have been revised (and in some cases entirely removed).
- 4.33. Additionally, whilst a majority of respondents were generally confident rule 3.14 could be complied with, the comments have led to a review of the proposal and, as a result, this rule has been removed.

Key Performance Indicators

Question 11

- 4.34. Thinking about KPI 1, how much of the data proposed are you already collecting? If 'few or none' or 'some', please tell us which specific data elements are not collected and why.

Summary of responses

Most of all	5	31.3%
Some	6	37.5%
Few or none	2	12.5%
No response	3	18.8%

- 4.35. A large percentage of the respondents stated that they currently collected some or most of the data.

- 4.36. Some respondents identified that data was not collected due to limitations set by software products and inability to assess the competence of agency staff.

Question 12

- 4.37. Thinking about KPI 1, are there any KPIs you recommend we consider further? If any, please provide details and reasons why.

Summary of responses

- 4.38. Respondents recommended a number of KPIs to consider further such as, measure of total workload, current number of vacant positions and details of age profile, to allow succession planning and staffing contingencies.

Question 13

- 4.39. Thinking about KPI 2, how much of the data proposed are you already collecting? If 'few or none' or 'some', please tell us which specific data elements are not collected and why.

Summary of responses

Most of all	10	62.2%
Some	2	12.5%
Few or none	0	0.0%
No response	4	25.0%

- 4.40. A large majority of respondents stated that they currently collect most or all of the data set out in KPI 2. There were no comments identifying specific data elements not collected.

Question 14

- 4.41. Thinking about KPI 2, are there any KPIs you recommend we consider further? If any, please provide details and reasons why:

Summary of responses

- 4.42. Respondents recommended KPIs to consider further would be based on competence, qualifications, experience of staff and matters relating to leadership and communication.

Question 15

- 4.43. Thinking about KPI 3, how much of the data proposed are you already collecting? If 'few or none' or 'some' please tell us which specific data elements are not collected and why.

Summary of responses

Most of all	10	62.5%
Some	1	6.3%
Few or none	1	6.3%
No response	4	25.0%

4.44. The large majority of respondents stated that they are collecting most or all of the data set out in KPI 3.

4.45. Some respondents commented that recording outcomes and data relating to corporate complaints handling and appeals process would perhaps be more meaningful.

Question 16

4.46. Thinking about KPI 3, are there any KPIs you recommend we consider further? If any, please provide details and reasons why.

Summary of responses

4.47. Many respondents suggested data relating to corporate complaints handling and appeals process. Some respondents also requested guidance on what constitutes a complaint and an analysis on causes of complaints.

Question 17

4.48. Thinking about KPI 4, how much of the data proposed are you already collecting? If 'few or none' or 'some', please tell us which specific data elements are not collected and why.

Summary of responses

Most of all	7	43.8%
Some	4	25.0%
Few or none	2	12.5%
No response	3	18.8%

4.49. The majority of respondents answered that they are already collecting some or most of the data.

4.50. Respondents highlighted specific KPIs currently not collected, such as the number of inspection reports are not recorded and some KPI features may not be available in the current format from existing software providers and requested sufficient time to update systems for some of the additional detail required.

Question 18

- 4.51. Thinking about KPI 4, are there any KPIs you recommend we consider further? If any, please provide details and reasons why.

Summary of responses

- 4.52. Respondents suggested additional KPIs to consider, including 'number of non-chargeable building control approval applications received' and 'number of commencement of works inspections'.

Question 19

- 4.53. Thinking about KPI 5, how much of the data proposed are you already collecting? If 'few or none' or 'some', please tell us which specific data elements are not collected and why.

Summary of responses

Most of all	5	31.3%
Some	5	31.3%
Few or none	2	12.5%
No response	4	25.0%

- 4.54. A majority of respondents stated that they collected some or most data for this KPI.
- 4.55. Specific data elements that some respondents identified as not currently collected included 'number of Section 77 and 78 dangerous structure cases' but noted that these are outside of Building Regulations.
- 4.56. Some respondents thought the level of detail proposed would be impractical to gather, though some others suggested that most of the data would already be available. Several respondents suggested sufficient lead in times would be needed in order to update current systems to accommodate additional detail required.

Question 20

- 4.57. Thinking about KPI 5, are there any KPIs you recommend we consider further? If any, please provide details and reasons why.

Summary of responses

- 4.58. Respondents listed a number of KPIs to consider further, such as Invalid Initial Notices and Initial Notice Extension of Time requests, number of contraventions identified at planning and vetting stages, successful interventions, and number of demolition notices.

Question 21

- 4.59. Thinking about KPI 6, how much of the data proposed are you already collecting? If 'few or none' or 'some', please tell us which specific data elements are not collected and why.

Summary of responses

Most of all	2	12.5%
Some	2	12.5%
Few or none	8	50.0%
No response	4	25.0%

- 4.60. A large majority of people who responded to this question were collecting few or none of KPI 6.
- 4.61. Several respondents stated that currently there is no process to capture this data and would need to invest in new systems.

Question 22

- 4.62. Thinking about KPI 6, are there any KPIs you recommend we consider further? If any, please provide details and reasons why

Summary of responses

- 4.63. Several respondents suggested no further KPIs need to be considered. One respondent suggested further sub-division of recording applications in respect of 'relevant buildings' into more specific purpose groups.

Question 23

- 4.64. Do you have any views on the reporting frequency of KPIs 1 to 6? If 'yes', please provide details and reasons.

Summary of responses

Yes	8	53.3%
No	2	13.3%
Unsure / no opinion	1	6.7%
No response	4	26.7%

- 4.65. A number of respondents put forward their views on KPIs 1 to 6, suggesting that building control providers should monitor the KPIs on a routine basis to indicate any emerging trends requiring management intervention. However, many respondents suggested annual reporting as more reasonable to not present too much of a burden and to avoid unnecessary administrative costs.

Government response

- 4.66. All comments regarding the KPIs have been taken into consideration when further developing the monitoring scheme for the OSRs. Whilst it is positive to see that for the majority of respondents most of the KPI data required is already being captured, a common request among respondents was the need for further clarity on the requirements and time in which to implement them. Therefore, we intend to both simplify, and clarify the requirements and publish the final KPIs by Autumn 2023.
- 4.67. A number of changes have been made to the KPIs as a result of comments received. In general, many of the requirements have been simplified, such as the reporting of competent professionals, and others have been revised, such as reportable information for regularisation certificates. Several requirements have also been removed, such as the reportability of section 77/78 dangerous structure notices, to simplify the entire system of monitoring and reduce the potential burden on information handling and reporting

Strategic Context

Question 24

- 4.68. Thinking about annex B, do you / your building control body understand what is required of you? If 'no' or 'unsure', please tell us what would help make this clearer.

Summary of responses

Yes	10	62.5%
No	0	0.0%
Unsure	3	18.8%
No response	3	18.8%

- 4.69. A large majority of respondents stated they understood what will be required of them.
- 4.70. Respondents suggested holding focused workshops and to clarify who will monitor performance against the OSRs, if the Welsh Government appoint a delegated body to act on their behalf.

Question 25

- 4.71. Thinking about annex B, how confident are you, that you / your building control body can meet the requirements outlined in it? If 'not at all confident' or unsure, please tell us which paragraphs concern you and why:

Summary of responses

Very confident	2	12.5%
Somewhat confident	9	56.3%
Not at all confident	1	6.3%
Unsure	1	6.3%
No response	3	18.8%

- 4.72. The majority of respondents stated that they were somewhat confident or very confident that they could meet the requirements outlined in Annex B.
- 4.73. Some respondents stated that it is not clear what is expected of Building Control and that consistency will not be achieved. Additionally, some respondents stated concerns over the level of clarity in the annex.

Government Response

- 4.74. Whilst positive that the Strategic Context is largely understood and respondents are fairly confident the requirements can be met, comments regarding clarity of both the document and the regulatory body are noted. The document has been revised to be clearer and communication regarding any potential delegation will be issued as soon as possible.

General questions

Question 26

- 4.75. We would like to know your views on the effects that the proposed policies 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 could positive effects be increased, or negative effects be mitigated?

Summary of responses

- 4.76. Most respondents either had no views about this or believed that the proposed policies would have no effect on the Welsh language. Some respondents felt it may have a positive impact in that it may create more opportunities for people to use the Welsh language.

Question 27

- 4.77. Please also explain how you believe the proposed policies 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.

Summary of responses

- 4.78. Most respondents either had no views about this or believed that the proposed policies would have no effect on the Welsh language.

Question 28

- 4.79. 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.

Summary of responses

- 4.80. Respondents provided comments on other related issues, including, what measures are being considered for who constitutes a competent Duty Holder. They also stated that any OSR should allow for flexibility for building control providers to adopt suitable processes and practices appropriate to the workload. Some respondents felt that the introduction of these OSRs will provide an additional administrative burden on Local Authority Building control questioned whether a system similar to England is needed in Wales.

Government Response

- 4.81. We are grateful for all comments received and have considered all in detail. Comments regarding a system bespoke to Wales are noted and are considered alongside comments to the first questions of this consultation where there was strong support given to consistency across Wales and England.
- 4.82. We will ensure that proposals will comply with the Welsh Language Standards as they are reviewed and finalised.
- 4.83. We believe that the OSRs provide a framework for standards which Building Control Bodies need to meet but allow for flexibility in how individual organisations meet them in practice. Nevertheless, these comments, along with all others, will be taken into account as the OSRs are finalised.

5. Next Steps

- 5.1. The OSRs, and associated Annexes, will be finalised in line with the Government responses above and published in the Autumn.
- 5.2. Once introduced, Welsh Ministers will periodically review the OSRs where necessary and appropriate whilst considering the views of the profession and other stakeholders.