



Llywodraeth Cymru
Welsh Government

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Welsh Government

Consultation – Summary of Responses and the
Government Response for the consultation on the
Regulation of the Building Control profession and
Building Control bodies

October 2023

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg /
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 21 April 2023 in relation to the 'Regulation of the Building Control profession and Building Control bodies'. It is structured around the questions posed from question 1 to 47. All other questions were related to personal details.
- 1.2. 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. The Welsh Government has provided a response to each question.

2. Consultation Responses – Overview

- 2.1. The consultation generated eleven responses, and one response of general comments. We are grateful to all those who responded. All the consultation responses have been read and considered as part of this analysis.
- 2.2. Respondents who completed the consultation response form were asked to assign their organisation to one of twelve 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	Number of Respondents	%
Builder / Developer	0	0%
Designer / Engineer / Surveyor	2	18%
Local Authority	0	0%
Approved Inspector	2	18%
AI Building Inspector	0	0%
Local authority building control	2	18%
Architect	0	0%
Manufacturer / supply chain	0	0%
Construction professional	0	0%
Professional body	1	9%
Building Occupier/ Resident	0	0%
Other interested party	4	36%

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. In addition, certain questions were designed to have four possible answers; yes/agree, no/disagree, unsure and not applicable.

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 response

4.1. Question 1

4.1.1. Do you think that a 6 month transition period is appropriate?

Summary of responses

Yes	4	36%
No	4	36%
Unsure	2	18%
Not applicable	1	1%
No response	0	0%

4.1.2. There was an equal percentage response for agreement and disagreement with six month transitional periods. Common themes in responses were lack of clarity and uncertainty around requirements for registration and risk of impact of incomplete work being transferred from unregistered Approved Inspectors (AIs) to Registered Building Control Approvers (RBCAs) and Local Authorities (LAs).

Government Response

4.1.3. We have considered the mixed responses to this question, and the scale of the issue in Wales. On balance a six month transition time is considered proportionate. The concerns regarding the perceived lack of clarity and uncertainty regarding registration are noted and understood, therefore, further communication on these points will be forthcoming.

4.2. Question 2

4.2.1. Do you agree that ending the ability for an AI (who is not registered as an RBCA) to oversee Higher Risk Building (HRB) work on day one of the new regime is appropriate?

Summary of responses

Yes	8	73%
No	1	9%
Unsure	2	18%
Not applicable	0	0%
No response	0	0%

- 4.2.2. The vast majority of responses agreed. One response that disagreed raised concerns over the ability for LAs to take over the work.

Government Response

- 4.2.3. The vast majority of the respondents agreed with the proposal. A key reason for the requirements to register as an RBCA will be to prove competence to work on Higher Risk buildings, given the higher-risk nature of this work we will proceed as proposed i.e. those who choose not to register as an RBCA will not be able to supervise work on high risk buildings from the date on which registration under the new regime becomes compulsory. Given that there are only a relatively small number of higher-risk buildings currently being built/ refurbished in Wales we consider that local authorities will be able to undertake the required work.

4.3. Question 3

- 4.3.1. Do you think it is reasonable for RBCAs to be able to oversee the completion of existing HRB work in line with the transitional arrangements proposed?

Summary of responses

Yes	10	91%
No	1	9%
Unsure	0	0%
Not applicable	0	0%
No response	0	0%

- 4.3.2. Overwhelming majority of responses agreed. Themes of comments were around technical clarification questions raised, for example around amendment notices issued to change from a non-HRB to an HRB where the higher risk element of work has not commenced but the standard work has and where an AI has registered as an RBCA.

Government Response

- 4.3.3. The overwhelming majority of respondents supporting the proposal, it is deemed that no changes to the proposed policy are necessary. However, the comments raised in relation to the technical questions will be considered

further when the transitional provisions are developed, and guidance documents are published (as appropriate).

4.4. **Question 4**

- 4.4.1. Do you agree with the proposed approach to initial notices where higher-risk building work is un-commenced at the end of the transitional period?

Summary of responses

Yes	7	64%
No	2	18%
Unsure	1	9%
Not applicable	0	0%
No response	1	9%

- 4.4.2. The majority of respondents agreed. Some concerns raised were around the definition of ‘commencement’ and a potential surge in new works.

Government Response

- 4.4.3. We do not propose to define or clarify ‘commencement’ as we consider its meaning is currently well understood. Given the estimated numbers of higher-risk buildings in Wales we do not envisage that the proposals will result in an increase in current new HRB work in Wales prior to the end of the transitional period. Having considered the responses, we plan to proceed as proposed in the consultation.

4.5. **Question 5**

- 4.5.1. Do you have any other comments in relation to the proposals?

Summary of responses

- 4.5.2. One respondent raised concern over the competency of local authorities in specialist areas of building control and another commented that alignment with England for standards and registration was desirable.

Government Response

- 4.5.3. We are working closely with the Building Safety Regulator (“BSR”) in England to align standards and registration procedures as much as possible. The regulation of building inspectors, including those working for local authorities, will require a verification of their competency in relation to the areas of building control they will be able to work on.

4.6. **Question 6**

- 4.6.1. Do you agree that where an AI and a RBCA are the same legal entity then, with some exceptions, the initial notices of the AI will be treated as the initial notices of the RBCA?

Summary of responses

Yes	5	46%
No	4	36%
Unsure	1	9%
Not applicable	0	0%
No response	1	9%

- 4.6.2. Just under half of respondents agreed, though there were several respondents that disagreed with the proposal. Some concerns were raised about the practicalities of this with a common theme being the lack of clarity around the registration process, such as what buildings fall into different RBCA registration classes.

Government Response

- 4.6.3. The registered competence of the RBCA being appropriate to the work will be included under the exceptions i.e. the building work on the initial notice must be within the scope of the RBCA's registration, the RBCA having the required competence to complete work is part of the new professional standards. We propose to go ahead with the proposed policy though concerns regarding the clarity of the registration process are understood, therefore further communication on this will be forthcoming.

4.7. **Question 7**

- 4.7.1. Where the AI and RBCA are not the same entity, do you agree that AIs should have a transitional period to complete non-higher risk building work?

Summary of responses

Yes	7	64%
No	2	18%
Unsure	1	9%
Not applicable	0	0%
No response	1	9%

- 4.7.2. The majority of respondents agreed. Some concerns were raised about the clarity of what happens to initial notices at the end of the transitional period and the regime under which non-registered AIs will operate under during the transitional period.

Government Response

- 4.7.3. The majority of responses were in agreement, however, the concerns about lack of clarity including about oversight of AIs are noted and additional clarification will be provided alongside the regulations that make provision for the transitional arrangements.

4.8. Question 8

- 4.8.1. Do you agree that six months is a reasonable transition time?

Summary of responses

Yes	2	18%
No	5	46%
Unsure	3	27%
Not applicable	0	0%
No response	1	9%

- 4.8.2. A majority of respondents disagreed or were unsure. Some concerns were raised regarding the potential for complex builds to take longer than the transition time and the lack of available information regarding the registration process and requirements. Response to the length of the six month period was mixed, with variety of responses from it being too long to too short.

Government Response

- 4.8.3. We acknowledge that the new regime for regulation of the building control profession will have impacts for some ongoing projects but consider it is important for there to be an end date for the transitional provisions, given the importance of the improvements being brought in by the new regime. After considering the mixed responses to this question and question 9, six months is still considered to be a reasonable period for transition and therefore no change is proposed.

4.9. Question 9

- 4.9.1. Do you think a different length of transitional period would be more appropriate?

Summary of responses

Yes	7	64%
No	3	27%
Unsure	0	0%
Not applicable	0	0%
No response	1	9%

4.9.2. The majority of respondents agreed, although responses ranged from a shorter transitional period to no set period with transition decided on a case-by-case basis. A common theme in comments was the suggestion of collating data on the number of projects likely to take longer to complete than the proposed transitional period in order to determine a different transitional period.

Government Response

4.9.3. There was a mixed response to the length of the transition period, from none to much longer than proposed, no changes to the proposal are to be made. Please also refer to response in 4.8.3 above.

4.10. **Question 10**

4.10.1. Do you agree that higher-risk building work should be treated differently to non-higher risk building work in cases where an AI (who does not register as a RBCA) continues to operate after the new regime commences i.e. that they should continue to be able to oversee existing non-higher risk work for a transitional period but not higher-risk building work?

Summary of responses

Yes	5	46%
No	2	18%
Unsure	3	27%
Not applicable	0	0%
No response	1	9%

4.10.2. Half the respondents agreed, with the remainder either disagreeing or unsure. A common theme in comments was that the proposed approach to HRBs should apply to all building work.

Government Response

4.10.3. Whilst a common response was that the proposed approach to HRBs should apply to all building work it is not considered appropriate for this to be the case in Wales. Although there was a mixed response to this question, we consider that no changes to the proposal are necessary and that they provide a balance between limiting disruption whilst ensuring that HRB work is overseen by those with the appropriate and proven competence.

4.11. **Question 11**

4.11.1. **Do you have any other comments on the proposals in relation to the transitional arrangements?**

Summary of responses

- 4.11.2. Comments re-iterated responses to previous questions including the need for clearer information regarding registration timescales and requirements, that there should be no transitional period, and that the transitional period should be determined on a case-by-case basis.

Government Response

- 4.11.3. Comments regarding clarity are noted and we will ensure this is provided when the regulations are published. Regarding transitional periods it is considered appropriate to clearly define these to ensure a smooth, unambiguous changeover from one regime to another.

4.12. Question 12

- 4.12.1. Do you agree that the delegation of the functions under Part 2A, except some relating to LAs, of the Building Act 1984 to another body is a pragmatic option for establishing and maintaining the registers of building inspectors and building control approvers for Wales?

Summary of responses

Yes	8	73%
No	1	9%
Unsure	1	9%
Not applicable	0	0%
No response	1	9%

- 4.12.2. A large majority of respondents agreed. Common themes in comments were support for a combined, consistent approach between England and Wales and a desire for a single registration process.

Government Response

- 4.12.3. Welsh Government are in agreement that a combined and consistent approach with England would be beneficial for all, and we are working closely with the BSR. There will be separate appeal routes for England and Wales due to the differences in review/appeal provisions, however, we are working with the BSR to consider the best way of handling this.

4.13. Question 13

- 4.13.1. Are there any functions proposed to be delegated that should not be delegated?

Summary of responses

Yes	0	0%
No	8	73%
Unsure	1	9%
Not applicable	1	9%
No response	1	9%

4.13.2. A large majority of respondents returned 'No' with no respondents replying that some functions proposed to be delegated should not be.

Government Response

4.13.3. In light of the responses in agreement with the proposals we do not plan that any of the functions proposed to be delegated will be removed.

4.14. Question 14

4.14.1. Do you agree that the proposed registration length for an RBCA should be 5 years (as is currently the case for AIs)?

Summary of responses

Yes	5	46%
No	3	27%
Unsure	1	9%
Not applicable	1	9%
No response	1	9%

4.14.2. Half of respondents who replied agreed. All other comments were regarding other topics not related to this question.

Government Response

4.14.3. No other period for registration length was suggested, no changes are deemed necessary to the proposal.

4.15. Question 15

4.15.1. Do you agree that the proposed registration length for an RBI should be set at 4 years?

Summary of responses

Yes	6	55%
No	2	18%
Unsure	1	9%
Not applicable	1	9%
No response	1	9%

4.15.2. The majority of respondents agreed. A common theme in comments was for consideration of staggering registration to avoid a large influx of registration applications every 4 years.

Government Response

4.15.3. Given the majority of respondents agreed, we will continue with the proposal, however, we will take the comments into account and are working closely with the BSR to ensure that any large influx of applications can be dealt with to prevent delays.

4.16. **Question 16**

4.16.1. Do you agree the principles for setting fees are fair and reasonable?

Summary of responses

Yes	4	36%
No	2	18%
Unsure	2	18%
Not applicable	2	18%
No response	1	9%

4.16.2. Under half of respondents agreed, with the remainder split evenly between disagreeing, unsure or no answer provided. Common themes in comments were that the fees scheme should be auditable and transparent, with further clarity provided (such as on annual fee requirements). Some concerns were raised regarding the potential charging for investigations and/or prosecution where no fault was found and that the level of fees may be burdensome.

Government Response

4.16.3. Any fees/charges will take into account Managing Welsh Public Money, with the principle of fees/charges only providing for cost-recovery being one of the key principles to apply when setting fees/charges. In addition, it is our policy intention that there will be no fees/charges in the event of an investigation finding no fault.

4.17. **Question 17**

4.17.1. Do you agree the scope of functions that we propose charging for is correct?

Summary of responses

Yes	5	46%
No	1	9%
Unsure	2	18%
Not applicable	2	18%
No response	1	9%

4.17.2. Half of respondents who replied agreed, with the remainder split between disagreeing, unsure or no answer provided. Concerns were raised regarding the potential charging for investigations and/or prosecution where no fault was found, and also for the timeframe for publication of any new charges be lengthened from 7 days.

Government Response

4.17.3. Any fees/charges will take into account Managing Welsh Public Money, with the principle of cost-recovery being one of the key principles to apply when setting fees/charges. In addition, it is our policy intention that there will be no fees/charges in the event of an investigation finding no fault.

4.18. Question 18

4.18.1. Do you have any other comments on these proposals?

Summary of responses

4.18.2. Comments included the concern that charges would be burdensome, and that there was a desire for a consistent/single system of registration and charges across England and Wales.

Government Response

4.18.3. Any fees/charges will be charged in line with Managing Welsh Public Money taking into account the principle of cost-recovery. Welsh Government agree that a closely aligned system for registration across England & Wales would be beneficial for all and are working closely with the BSR.

4.19. Question 19

4.19.1. Do you agree that the proposals in relation to appeals?

Summary of responses

Yes	5	46%
No	2	18%
Unsure	2	18%
Not applicable	1	9%
No response	1	9%

4.19.2. Half of respondents who replied agreed. Some concerns were raised regarding the 21 day period to raise an appeal potentially being insufficient, the expertise of magistrates in this specialist area, a desire for clarification on the processes, and the impact on RBIs of incorrectly brought disciplinary proceedings and the potential for compensation in such an event.

Government Response

- 4.19.3. We note the responses regarding the potential for the 21 day period to be insufficient in some cases and will take this into account when developing the regulations. We are working with the Ministry of Justice to ensure that magistrates are able to make informed decisions on matters brought to them in this area.

4.20. Question 20

- 4.20.1. Do you agree that 21 days is sufficient time for an appeal to be made to the magistrates' court?

Summary of responses

Yes	4	36%
No	3	27%
Unsure	2	18%
Not applicable	1	9%
No response	1	9%

- 4.20.2. Just under half the respondents who replied agreed, and a slightly smaller number disagreed. Some concerns were raised regarding the 21-day period being too short and a perceived lack of clarity of the appeals process in general.

Government Response

- 4.20.3. There was a mixed response to this question, which we will take into account when developing the regulations. Concerns regarding the clarity of processes are noted and communication regarding this will be forthcoming. In addition, we propose to allow for this period to be extendable by mutual consent between the appellant and the Welsh Ministers (or their delegate).

4.21. Question 21

- 4.21.1. Do you agree with the grounds of appeal that are being proposed?

Summary of responses

Yes	8	73%
No	0	0%
Unsure	1	9%
Not applicable	1	9%
No response	1	9%

- 4.21.2. A large majority of respondents agreed. Comments were raised regarding the potential for 'malicious intent' to be included as grounds for appeal, a

request for more information regarding the appeals process in general, and consideration be given to the process should Magistrates' Courts be closed.

Government Response

- 4.21.3. Having considered all responses, we consider that the grounds are suitable as proposed and are already wide enough to cover the suggested additions.

4.22. Question 22

- 4.22.1. Do you have anything further to add?

Summary of responses

- 4.22.2. Comments relevant to the questions asked re-iterated responses to previous questions.

4.23. Question 23

- 4.23.1. Are there situations in which you think it would be appropriate to require a copy of an improvement notice and statement of reasons that has been given to a RBCA to be provided to all local authorities in Wales?

Summary of responses

Yes	5	46%
No	2	18%
Unsure	2	18%
Not applicable	1	9%
No response	1	9%

- 4.23.2. Almost half of respondents replied 'yes'. Examples of situations given were where there was a heightened level of risk or serious 'offences'. Additionally, there some comments suggested all notices/statements be held centrally and available publicly.

Government Response

- 4.23.3. Whilst most respondents indicated 'yes' the examples suggested were in line with existing plans for serious contraventions of the Professional Conduct Rules to be shared, which are the subject of Question 24, rather than improvement notices. Having taken into account the responses it is considered no changes are required to this proposal.

4.24. Question 24

- 4.24.1. Are there situations in which you think it would be appropriate to require a copy of a serious contravention notice and statement of reasons that has been given to a RBCA to be provided to all local authorities in Wales?

Summary of responses

Yes	6	55%
No	1	9%
Unsure	2	18%
Not applicable	1	9%
No response	1	9%

4.24.2. The majority of respondents replied 'yes'. Examples of situation given were where there was a heightened level of risk or serious 'offences'. Additionally, there was a common theme in comments suggesting all notices/statements be held centrally and available publicly.

Government Response

4.24.3. Due to the majority of respondents agreeing it is deemed the proposal is appropriate and no changes are necessary to the original proposal to make regulations to specify situations at this time.

4.25. Question 25

4.25.1. Do you agree that 21 days is sufficient time for an appeal to be made to the magistrates' court?

Summary of responses

Yes	5	46%
No	3	27%
Unsure	1	9%
Not applicable	1	9%
No response	1	9%

4.25.2. Half of respondents agreed. Some concerns raised were that the 21 day period may be insufficient for the gathering of evidence and preparation of a full appeal.

Government Response

4.25.3. Whilst half of respondents agreed, the concerns regarding the 21 day time period potentially being insufficient are noted. Therefore, we propose to allow for this period to be extendable by mutual consent between the appellant and the Welsh Ministers (or their delegate).

4.26. Question 26

4.26.1. Do you agree with the grounds of appeal that are being proposed?

Summary of responses

Yes	7	64%
No	0	0%
Unsure	2	18%
Not applicable	1	9%
No response	1	9%

4.26.2. The majority of respondents agreed. One comment suggested adding 'malicious intent' to the grounds for appeal.

Government Response

4.26.3. We have considered all responses. With the majority of respondents agreeing and we consider the proposals are wide enough to cover relevant grounds, and therefore do not propose to make any changes.

4.27. Question 27

4.27.1. Do you have anything further to add?

Summary of responses

4.27.2. No comments made.

4.28. Question 28

4.28.1. Do you agree that a copy of an order (and statement of reasons where required to be provided to the RBCA) and any subsequent revocation (in respect of revocations under new section 58V(3)) should be sent to every local authority in Wales in the four circumstances proposed?

Summary of responses

Yes	5	46%
No	3	27%
Unsure	1	9%
Not applicable	1	9%
No response	1	9%

4.28.2. Half of respondents agreed. A common theme in comments were for the consideration of centralisation and publication of all orders, whether issued to RBCAs or local authorities.

Government Response

4.28.3. Taking into account the responses it is deemed that the proposals are proportionate and therefore no changes are required. However, comments

regarding the applicability of performance measurements to local authorities as well as RBCAs are noted. Proposals on this matter will be forthcoming.

4.29. **Question 29**

4.29.1. Do you agree with the proposal that the activities and functions included in the table should be “restricted”?

Summary of responses

Yes	7	64%
No	2	18%
Unsure	1	9%
Not applicable	0	0%
No response	1	9%

4.29.2. The majority of respondents agreed. Concerns were raised regarding the impact of restricted functions on the ability for an RBI to seek input from non-registered specialists, e.g. Fire or Electrical Engineers, when assessing plans for compliance, and regarding the restrictive 'blanket' nature of the proposals. Additionally, a number of other functions were suggested for consideration to be restricted.

Government Response

4.29.3. The majority of respondents agreed with the proposed list of activities and functions to be restricted. There were some additional functions identified as listed above that we will also consider adding to the final list of restrictions, with the exception of section 80 of the Building Act 1984, as this is not linked to building regulation procedures.

4.30. **Question 30**

4.30.1. Do you think that that voluntary submissions of non-statutory plans and information with Initial notices and Building notices should be checked by a Registered Building Inspector and be listed a restricted activity?

Summary of responses

Yes	3	27%
No	3	27%
Unsure	3	27%
Not applicable	1	9%
No response	1	9%

4.30.2. An equal number of respondents agreed, disagreed and were unsure. A common theme in comments was the lack of clarity of 'non-statutory plans' and also that non-statutory information was often outside of the scope of

building regulations and therefore may be outside of the expertise of an RBI to assess.

Government Response

- 4.30.3. The mixed response to this question is noted and, upon review, this proposal will not be taken forward at this time. Therefore the checking of non-statutory plans and information is no longer planned to be a restricted function.

4.31. Question 31

- 4.31.1. Do you agree that there should not be any transitional arrangements for the restricted functions?

Summary of responses

Yes	7	64%
No	0	0%
Unsure	3	27%
Not applicable	0	0%
No response	1	9%

- 4.31.2. The majority of respondents agreed. Some concerns were raised regarding the impact that the registration process may have should not enough RBIs become registered before April 2024.

Government Response

- 4.31.3. The majority of respondents agreed, it is planned that the proposal for no transitional period for restricted functions remain unchanged. Concerns regarding the registration process are noted and Welsh Government are working closely with the BSR and relevant bodies to ensure that the processes to be put in place are sufficient and associated risks are minimised.

4.32. Question 32

- 4.32.1. Are there any additional circumstances, in addition to those set out in primary legislation, under which an RBCA, the person carrying out the work or local authority should be required to cancel the initial notice?

Summary of responses

Yes	1	9%
No	6	55%
Unsure	2	18%
Not applicable	1	9%
No response	1	9%

4.32.2. The majority of responses received indicated 'No'. No additional circumstances were raised in comments, though concerns were raised regarding the additional burden placed on local authorities to cancel Initial Notices where the RBCA has been sanctioned within a 7-day period, also that there should be a single/simple cancellation form. One comment raised a concern about the number of regulations being introduced.

Government Response

4.32.3. As no additional circumstances have been proposed through the consultation the proposals will remain unchanged although will be subject to continued review as implementation progresses. A review of forms will be undertaken to support the legislative changes. Regarding the requirement for a local authority to cancel Initial Notices where RBCAs have been sanctioned it is deemed necessary to cancel the notices for formal notification to the RBCA and also to the Dutyholder.

4.33. **Question 33**

4.33.1. Do you agree or disagree with the information to be included in the cancellation notices?

Summary of responses

Agree	7	64%
Disagree	1	9%
Unsure	2	18%
Not applicable	0	0%
No response	1	9%

4.33.2. The majority of respondents agreed. Comments included suggestions for additional information to be included such as the location of the work and reason for cancellation.

Government Response

4.33.3. A review of forms will be undertaken to support the legislative changes. That review will include further consideration of these comments.

4.34. **Question 34**

4.34.1. Do you agree or disagree that the categories in paragraphs 92-96 cover the necessary circumstances for a new initial notice to be submitted?

Summary of responses

Agree	7	64%
Disagree	1	9%
Unsure	1	9%
Not applicable	1	9%
No response	1	9%

4.34.2. The majority of respondents agreed. Comments included the suggestion that other reasons for cancellation be included within business cessation clause or similar (death of sole RBCA or responsible RBI, loss of capacity, loss of insurance, war or act of God etc).

Government Response

4.34.3. Having considered all comments no immediate changes to the proposals are deemed necessary. The comments regarding the business cessation clause are noted and will be considered when the relevant regulations are developed.

4.35. Question 35

4.35.1. Do you agree or disagree with the additional circumstance of business cessation as in paragraph 96 for which a new initial notice may be given?

Summary of responses

Agree	8	73%
Disagree	1	9%
Unsure	1	9%
Not applicable	0	0%
No response	1	9%

4.35.2. The majority of respondents agreed. Comments included the suggestion that insolvency of RBCAs be considered (in the light of directors registering as a new RBCA), circumstances where the outgoing RBCA may not be able to issue an Initial Notice, and whether there should be transitional arrangements between Initial Notices.

Government Response

4.35.3. Having considered all comments no changes to the proposals are at this stage deemed necessary. Although the comments regarding the business cessation clause are noted and will be considered when the relevant regulations are drafted.

4.36. **Question 36**

4.36.1. Is a period of seven days sufficient for an incoming RBCA to submit a new initial notice?

Summary of responses

Yes	5	46%
No	2	18%
Unsure	3	27%
Not applicable	0	0%
No response	1	9%

4.36.2. Half of the respondents who replied agreed. Some concerns were raised that the 7 day period may be too short for an incoming RBCA to be appointed and assess the existing plans/work.

Government Response

4.36.3. The concern that the 7-day period may be too short is noted. We remain of the view that the period is sufficient and no changes to the proposals are deemed necessary/advisable at this stage.

4.37. **Question 37**

4.37.1. Do you agree or disagree that the categories cover the necessary circumstances for a new initial notice to be submitted?

Summary of responses

Agree	8	73%
Disagree	0	0%
Unsure	1	9%
Not applicable	1	9%
No response	1	9%

4.37.2. The majority of respondents agreed. Comments included the suggestion that other reasons for a new Initial Notice be included (death of sole RBCA or responsible RBI, loss of capacity, loss of insurance, war or act of god etc).

Government Response

4.37.3. Having taken into account the responses no changes to the proposals are deemed necessary at this time. The comments regarding the business cessation clause are noted and will be considered when the relevant regulations are developed.

4.38. **Question 38**

- 4.38.1. Do you agree or disagree with the proposal to specify that the information detailed in paragraph 101 must be included in the transfer certificate?

Summary of responses

Agree	7	64%
Disagree	2	18%
Unsure	1	9%
Not applicable	0	0%
No response	1	9%

- 4.38.2. The majority of respondents agreed. Concerns were raised regarding the clarity of the detail required and potential for disagreements between local authorities and RBCAs, also that the certificate should include planning conditions that impose a requirement (e.g. Regulation 36(2)(b) - optional requirement for water efficiency of 110 litres per person per day). Additionally, a suggestion was made that supporting documents should be included alongside inspection reports.

Government Response

- 4.38.3. Having considered the responses no changes to the proposals are deemed necessary. Concerns regarding level of detail required and potential for disagreement are noted, though provisions for the local authority to request further information are deemed sufficient to resolve such potential issues. In relation to including Planning conditions on the transfer certificate, this is not currently applicable to the Welsh building regulations processes.

4.39. **Question 39**

- 4.39.1. Where a local authority has accepted an initial notice from an “incoming” RBCA, is the time frame of 21 days reasonable for the RBCA to give a transfer certificate and report?

Summary of responses

Yes	4	36%
No	1	9%
Unsure	4	36%
Not applicable	1	9%
No response	1	9%

- 4.39.2. Just under half of the respondents who replied agreed, with the same number 'unsure'. A common concern raised was whether 21 days was reasonable in the event of complex works and/or where the previous RBCA was not forthcoming with information. A suggestion was made that if local authorities are given 28 days to review, RBCAs should be allowed the same.

Also, a concern was noted regarding continuation of safety critical works during this time period.

Government Response

- 4.39.3. Concerns regarding the potential 21-day timescale are noted, though as the proposal includes the provision that this timescale be extendable by agreement with the local authority (section 53B(7)(b) of Building Act 1984) it is deemed to be an appropriate time scale. In relation to the concerns on continuing critical safety work we will consider this concern further.

4.40. Question 40

- 4.40.1. Is the time frame of 21 days for the Local Authority to consider the transfer certificate and report and decide as to whether to accept or reject it reasonable, currently this period is extended by 7 days in some circumstances (see new section 53C)?

Summary of responses

Yes	5	46%
No	2	18%
Unsure	3	27%
Not applicable	0	0%
No response	1	9%

- 4.40.2. Whilst half of respondents agreed there were comments that suggested this period should be extendable where required. Also, a concern was noted regarding continuation of safety critical works during this time period.

Government Response

- 4.41. Whilst half of respondents agreed that the timeframe is reasonable, the suggestion in comments that the period be extendable will be considered further as the relevant regulations are developed. In relation to the concerns on continuing critical safety work we will consider this concern further.

Question 41

- 4.41.1. Following receipt of a transfer certificate and report, where a local authority has requested additional information, is the time frame of 7 days for the “incoming” RBCA to provide the information reasonable?

Summary of responses

Yes	5	46%
No	2	18%
Unsure	3	27%
Not applicable	0	0%
No response	1	9%

4.41.2. Half of respondents agreed. A common theme in comments was that this period may be insufficient to provide all information required and should be extendable where needed. Also, a concern was noted regarding continuation of safety critical works during this time period.

Government Response

4.41.3. Whilst half of respondents agreed with the question, the suggestion in comments that the period be extendable will be considered further as the relevant regulations are developed. In relation to the concerns on continuing critical safety work we will consider this concern as the regulations are developed.

4.42. Question 42

4.42.1. Do you agree or disagree that the list covers the grounds under which a local authority should be able to reject a transfer certificate and report?

Summary of responses

Agree	6	55%
Disagree	1	9%
Unsure	2	18%
Not applicable	1	9%
No response	1	9%

4.42.2. The majority of respondents agreed. Some concerns were raised that the ability for local authorities to start enforcement proceedings could prevent transfer from one RBCA to another in any circumstance, that an RBCA would be unable to confirm compliance of unfinished work since it is unfinished, and a procedural matter of enforcement and regularisation where a local authority should not accept an Initial Notice rather than later reject a transfer certificate and report.

Government Response

4.42.3. Having considered the responses we intend to proceed in line with the consultation proposals but will keep this under review. Concerns around the RBCA being unable to confirm compliance with the building regulations as the work will not be fully complete are noted. Therefore we will look to make

clear that the policy aim for transfer certificates is to ensure that the building work completed so far (rather than the completed project) does not contravene any provision of the building regulations. In relation to concerns around enforcement action by a local authority this could be following cancellation of the initial notice (where prescribed circumstances apply, as detailed in paragraph 100 of the consultation document). Similarly, in relation to regularisation applications, these are included in the list as a local authority may have received a regularisation application following a cancellation notice and before a transfer certificate is received (again where prescribed circumstances apply).

4.43. **Question 43**

4.43.1. Is the prescribed period of 21 days for the outgoing RBCA to provide this information reasonable?

Summary of responses

Yes	6	55%
No	2	18%
Unsure	2	18%
Not applicable	0	0%
No response	1	9%

4.43.2. The majority of respondents agreed. Concerns were raised that this period may need to be extended, by agreement, where there was a large amount of information to be transferred, also whether there are provisions for where the RBCA was either incapable of transferring information, such as insolvency, or where they did not comply with the requirement to provide information. There was also a suggestion that the timescales for provision of information described in section 53(4C) be aligned with local authority timescales.

Government Response

4.44. We note the majority of respondents agree with the proposal, and the mixed comments in terms of the length of the period. We consider the proposed time period is reasonable. However, the comments suggesting the period be extendable in some circumstances will be considered further as the relevant regulations are developed. Regarding the suggestion of timescale alignment, we still propose to allow a local authority 28 days, rather than 21 days, in order to consider the transfer certificate and report and request additional information.

Question 44

- 4.44.1. Do you agree or disagree that the additional information should be included on the relevant forms?

Summary of responses

Agree	7	64%
Disagree	0	0%
Unsure	2	18%
Not applicable	0	0%
No response	2	18%

- 4.44.2. The majority of respondents agreed. Comments included that forms should be specific about what information is needed (including whether departments can be named rather than individuals) and that the same information should be required for local authority forms.

Government Response

- 4.44.3. A review of forms will be undertaken to support the legislative changes, that review will include further consideration of these comments.

4.45. Question 45

- 4.45.1. 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

- 4.45.2. One commentor raised concern over the potential delay Welsh translations may cause. Another comment stated that bi-lingual forms and notices would be a positive for the Welsh language.

Government Response

- 4.45.3. We will ensure that regulations and guidance are published in both languages and that the Welsh Language Standards are complied with.

4.46. Question 46

- 4.46.1. 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. Please enter here:

Summary of responses

4.46.2. No relevant comments received.

4.47. Question 47

4.47.1. 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. Please enter here:

Summary of responses

4.47.2. There were extensive comments regarding the treatment of 'traditionally constructed' buildings, that these should be treated as HRBs and issues with limitations in Approved Documents, in particular Part L.

4.47.3. There was a query about the policy intent of HRBs sitting only within local authorities in Wales and how this might restrict the ability of the industry to oversee such works.

Government Response

4.47.4. Whilst there are no current plans to include traditionally constructed buildings within the definition of an HRB, the comments are noted and will be considered further in due course.

4.47.5. A primary purpose of the reforms to improve regulation of the building industry is to restrict the wider industry from overseeing works on HRBs. In England this is being achieved by introducing the BSR, however in Wales, due to the difference in scale of the issue, it is deemed appropriate for this responsibility to be placed on local authorities.

5. Next Steps

5.1. The necessary regulations will now be further developed and finalised in line with the Government responses above, with a view to them be made later this year. Further consideration will be given to the detail required in regulations/guidance as they are developed and this may result in further policy development being required due to the technical nature of some of the matters consulted upon, these will be communicated to stakeholders.

5.2. We will continue working closely with the BSR on the implementation of provisions to enable alignment where possible in respect of the regulation of the Building Control Profession.