



Llywodraeth Cymru
Welsh Government

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Consultation Document

Consultation on the new building control regime for higher-risk buildings and wider changes to the building regulations in Wales

Date of issue: 26 March 2025

Action required: Responses by 25 May 2025

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

Overview

This consultation seeks views on the proposed new building control regime for higher-risk buildings and wider changes to the building regulations in Wales.

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:

“The new building control regime for higher-risk buildings and wider changes to the building regulations in Wales”

Written responses should be sent to:

Consultation Response

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 further information:

Building Regulations

Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Email: enquiries.brconstruction@gov.wales

This document is also available in Welsh: <https://www.llyw.cymru/trefn-rheoli-adeiladu-newydd-ar-gyfer-adeiladau-risg-uwch-newidiadau-ehangach-ir-rheoliadau>

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The Welsh Government will be data controller for Welsh Government consultations and 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. The lawful basis for processing information in this data collection exercise is our public task; that is, exercising our official authority to undertake the core role and functions of the Welsh Government. (Art 6(1)(e))

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. In the case of joint consultations this may also include other public authorities. 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 and that the Welsh Government may be under a legal obligation to disclose some information.

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.

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- to be informed of the personal data held about you and to access it
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- 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 UK GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ
e-mail: dataprotectionofficer@gov.wales

The contact details for the Information
Commissioner's Office are:
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Tel: 0303 123 1113
Website: <https://ico.org.uk/>

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1. Introduction

- 1.1 Following the Grenfell Tower tragedy, the UK Government appointed Dame Judith Hackitt to lead an independent review of building regulations and fire safety in England. In her final report, Dame Judith Hackitt outlined a new approach to managing fire and structural safety risks in high-rise multi-occupied residential buildings together with fundamental changes to the way building control operates, alongside driving up competence across the profession and industry more widely.
- 1.2 Our own Building Safety Expert Group developed a 'Road Map to Safer Buildings in Wales' which applied the Hackitt report recommendations to Wales. These proposals were built on in the White paper: Safer Buildings in Wales which set out how we planned to address the issues in the design and construction and occupation stages. The White paper explained that changes to the design and construction regime in Wales would be brought forward through the Building Safety Act 2022.
- 1.3 The Building Safety Act 2022 which received Royal Assent in April 2022, brought forward a package of legislative changes in relation to building safety. For Wales, the Act contains, amongst other provisions, legislative changes to establish new design and construction processes, to oversee the competence of those who operate in the system, and other improvements to support the construction of safer buildings generally, and also makes specific provision in relation to higher-risk buildings.
- 1.4 The Building Safety Act 2022 provides the Welsh Ministers with powers to make secondary legislation such as regulations, which will set out much of the procedural and administrative detail of the changes. Through secondary legislation, Welsh Ministers will be able to make provision to drive up performance and safety across the built environment while providing clarity to industry on its responsibilities and duties.
- 1.5 Some of this secondary legislation has already been put in place and was largely related to the registration and regulation of the building control profession. New standards and codes of conduct were introduced that the profession must comply with. It also became mandatory for individual building inspectors and private-sector building control companies to register with the Building Safety Regulator to continue overseeing building work. As part of the registration process individuals and companies must prove they meet the required competency criteria to work in the profession.
- 1.6 In addition, the Grenfell Tower Inquiry has published its Phase 2 report into events contributing to the tragic fire. Whilst the report makes recommendations for the UK Government and England in particular, there are clearly a large number that may equally apply in Wales. It will take time to fully

work-through each recommendation in the report, but this consultation sets out the first outcome of this work through a proposal for the documentation required for higher-risk building work.

Purpose of this consultation

- 1.7 This next phase of the Welsh Government's implementation of the Building Safety Act 2022 focuses on procedural reform for building control, introducing new duties and requirements for the key decision makers in building projects and giving local authorities new enforcement powers.
- 1.8 Whilst the new regulatory regime for higher-risk building is the focus of much of this consultation, nevertheless it covers a broad range of issues and seeks feedback on the changes we are proposing.
- 1.9 The consultation covers the following:
 - Dutyholders' responsibilities and competence requirements
 - Golden Thread of building information
 - Gateway processes for higher-risk building work
 - Mandatory occurrence reporting of safety issues during construction
 - Compliance and Stop Notices that give local authorities new enforcement powers
 - New process for local authorities wanting to carry out higher-risk building work
 - Wider changes to building regulations including
 - Reform of non-higher-risk building work applications
 - Automatic lapse of building control approval after 3 years
 - Public bodies carrying out higher-risk building work
 - Transitional provisions
- 1.10 We will refine these proposals from the responses we receive and, once regulations have been made, will continue to work with stakeholders to ensure the new regime operates effectively in practice.

Consultation timing

- 1.11 We are opening this consultation for a period of eight weeks. We believe this timeframe is sufficient for respondents to fully consider our proposals and submit their responses. Our overall policy intentions were set out in the [Consultation Safer Buildings In Wales](#) and this consultation adds procedural detail to the proposals previously consulted on. This consultation period will enable us to confirm arrangements as soon as possible and introduce secondary legislation with sufficient lead time for industry to prepare.

2. Dutyholders and competence

New dutyholder roles and responsibilities in the building regulations to ensure a stronger focus on compliance with the regulations

- 2.1 The Building Safety Act 2022 amends the Building Act 1984 to create powers to prescribe requirements on those who procure, plan, manage and undertake building work also known as dutyholders. The proposals will set out a framework of duties for dutyholders, make clear who they are and impose specific duties on them. These dutyholders will be the client, principal designer, designers, principal contractor and contractors. We are also considering the creation of domestic clients and DIYers – a subset of clients who may be working on their own home – as specific types of dutyholders with reduced responsibilities.
- 2.2 Our proposals also include the competence requirements on anyone carrying out design or building work and those who appoint them to take reasonable steps to ensure that they are competent to perform their functions in relation to the design and construction of buildings.
- 2.3 This section will set out proposed requirements which will apply in relation to any work or matter to which the Building Regulations 2010 are applicable.

Dutyholder titles

- 2.4 During our initial work on this topic, we have received industry feedback that considers titles under other regulatory frameworks confusing.
- 2.5 While the types of dutyholders we are proposing are linked to the roles performed under the Construction (Design and Management) Regulations 2015 (CDM) (see below for more details), our initial feedback after England's implementation of dutyholder regulation has suggested that duplicating the titles Principal Designer and Principal Contractor is causing issues as a project will have a Principal Designer under CDM and also a Principal Designer under building regulations, yet these dutyholders may be different people or entities. However, we expect that as people become accustomed to dutyholders regulation this confusion may dissipate.
- 2.6 By default we are proposing to retain the titles Principal Designer and Principal Contractor to align with other regulatory frameworks, including England's implementation of dutyholders for building regulations, however we may consider amending these titles depending on answers to this consultation and other feedback that might be received.

Question 2.1: Do you agree with the proposed dutyholder titles 'Principal Designer' and 'Principal Contractor'?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.2: If you have answered disagree, please explain what changes you think should be made.

Dutyholder requirements

General duties in design and construction

- 2.7 Under the proposed requirements, dutyholders will need to ensure that there are arrangements and systems in place to plan, manage and monitor both the design work and the building work to ensure compliance with building regulations.
- 2.8 They will be required to cooperate with other dutyholders, coordinate their work, and communicate and provide information to other dutyholders. They will also need to ensure they and those they appoint are competent (have the necessary skills, knowledge, experience and behaviours) to carry out the design work and building work they are engaged to do and only undertake work within the limits of that competence.
- 2.9 We have modelled the dutyholders and their duties on those in Construction (Design and Management) Regulations 2015 (CDM). CDM is embedded in the construction industry and has driven a cultural and behavioural change in relation to compliance with health and safety requirements. The people and organisations procuring and undertaking the work in compliance with CDM are the same as those who should be considering compliance with building regulations, so these regulations will take a similar approach.
- 2.10 Although these are the same general dutyholders identified by CDM for health and safety duties, we do not expect duplicate dutyholders, but they will need the right competence for the work they are engaged to do, and it should also be clear how the statutory roles have been allocated. For example, the client may decide to appoint a Principal Designer or Principal Contractor for CDM, and a Principal Designer or Principal Contractor for building regulations purposes after considering the different statutory requirements. The same person may also fulfil both roles if competent to do so.
- 2.11 Furthermore, one person can carry out more than one dutyholder role, for example a developer may carry out both the Principal Designer and Principal Contractor role for building regulations on a building project if they possess

the required competencies to carry out the design and building work as per the appointment.

- 2.12 We propose that the following duties will apply to all dutyholders during design and construction, they must:
- Plan, manage and monitor their work to ensure the building work complies with building regulations;
 - Cooperate with other dutyholders (e.g. share information, have effective routes of communication, and support other dutyholders in achieving compliance with the regulatory requirements imposed by the new regime for higher-risk buildings, including meeting gateway two and three, golden thread and mandatory occurrence reporting requirements); and
 - Ensure they and the people they appoint are competent (have the necessary skills, knowledge, experience and behaviours and where organisations are involved, the appropriate organisational capability) to carry out design work and building work they are engaged to do and only undertake work within the limits of that competence.

Question 2.3: Do you agree or disagree with the proposed duties that will apply to all dutyholders during design and construction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.4: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Specific dutyholder requirements

Clients

- 2.13 The client is the person for whom the building work is done; often the client will be the developer or the building owner. They have a major influence over the way a project is procured, managed and funded. They control the contract, the finances and the time available for the project. We propose that the client should have the following duties:

- Make suitable arrangements for planning, managing and monitoring a project, including the allocation of sufficient time and resource, to deliver compliance with building regulations. In practice, this means appointing the right people, with the right competencies (the skills, knowledge, experience and behaviours or organisational capability) for the work and ensuring those they appoint have systems in place to ensure compliance with building regulations;
- Where there are a number of firms working on different aspects of the project, the client will need to appoint a Principal Designer to be in

control of design work and a Principal Contractor to be in control of the building work;

- Provide building information to every designer and contractor on the project and have arrangements to ensure information is provided to designers and contractors to make them aware that the project includes any higher-risk building work; and,
- Cooperate and share information with other relevant dutyholders.
- Where the work is higher-risk building work, to inform and maintain relevant records as part of the development of the Golden Thread process.

Question 2.5: Do you agree or disagree with the proposed duties that will apply to the client during design and construction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.6: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Domestic Clients

2.14 We are proposing that Domestic Clients be considered a subset of 'Clients' as described above. Domestic Clients are individuals commissioning work for their own homes, and for whom a project is carried out which is not done in connection with a business.

2.15 If we proceed with this category, we would seek to make compliance and competence requirements commensurate with the scope of work that Domestic Clients are likely to undertake. Being a Domestic Client would not permit an individual to perform work reserved to people operating under competent person schemes, and Domestic Clients would still need to ensure that building regulations are followed and that their work is approved by an Registered Building Inspector working for a Registered Building Control Approver or local authority.

2.16 This would involve updating the Building Regulations 2010 and subsequent regulations.

2.17 A Domestic Client will have the following duties:

- To make suitable arrangements for planning, managing and monitoring a project within the limits of their own competence and ability.
- To employ designers and contractors as required (including a Principal Designer and Principal Contractor where appropriate) and taking such

care as practicable to ensure these people have sufficient competency through skills, experience, knowledge and behaviours to perform their duties.

- To seek advice from suitably competent sources where relevant before beginning any work covered by building regulations, and to take heed of that advice during any work.
- Provide building information to every designer and contractor on the project and have arrangements to ensure information is provided to designers and contractors to make them aware that the project includes any higher-risk building work
- Where the work is higher-risk building work, to document any work relevant to the Golden Thread process and to pass this documentation to the relevant person.

2.18 However, these duties will be assigned to the first contractor appointed by a domestic client (or potentially to a designer under specific circumstances) for reasons outlined below.

Question 2.7: Do you agree or disagree with the proposed introduction of Domestic Clients, and the potential relaxation of requirements compared other the main Client dutyholder type?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.8: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

2.19 We are proposing that Domestic Clients must only be individuals who have no commercial interest in the work they are undertaking (for example, they must not be conducting the work as part of a business) and may only work on properties they own or reside in as a primary or secondary residence.

Question 2.9: Do you agree or disagree that a Domestic Client may only be an individual, who is not conducting the work as part of a business, and that the scope of locations where they may work, be restricted to their own home(s)?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.10: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

- 2.20 We are proposing that where a Domestic Client has employed suitably competent contractors or designers (including Principal Contractors and Principal Designers), a Domestic Client must discharge responsibility for many of their functions to assigned dutyholders to reflect that these appointees are better placed to understand and fulfil the regulatory requirements.

Question 2.11: Do you agree or disagree that Domestic Clients should discharge responsibilities to comply with building regulations and other legislation to appointed dutyholders?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.12: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Individuals working alone

- 2.21 While a Domestic Client is a person who has hired a contractor and potentially a designer to complete work on their behalf, it is also possible that some people may complete all work themselves without hiring any external help. These people are technically dutyholders but would not typically fall under the dutyholder regime: they cannot prove their own competence, and there is nobody who could complete duties on their behalf. These people are essentially “doing it yourself” (aka “DIYers”).
- 2.22 While we do not intend to prescribe specific duties upon DIYers, they will still need to comply with building regulations generally (which, in the case of building work in a higher-risk building would include a requirement to generate relevant information relating to the Golden Thread, and to notify the Relevant Person of this information, in order to pass Gateway 3 and achieve a Completion Certificate). Where notifiable building work is being completed, DIYers must still engage with building control bodies so the correct permissions and building control processes can be followed.
- 2.23 As there is nobody else who can be accountable for any building work completed by a DIYer, the responsibility for any work conducted will remain with them. In the event that a DIYer does not comply with building regulations

or work with a building control body on their project, there are already protocols for local authorities and Registered Building Control Approvers to follow for what would then be unauthorised building work.

- 2.24 A DIYer, in this context, would only remain so while they are the only person working on a particular project. If they hire a contractor or designer then they may enter the scope of being a Client or Domestic Client and would be bound by any responsibilities that would apply under those regimes.
- 2.25 Where a DIYer completes some portion of the work themselves, and other portions are completed by contractors (etc) then each person remains responsible for the portions of the work they complete.

Question 2.13: Do you agree or disagree with our approach to DIYers who are operating on their own?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.14: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Designers

- 2.26 Any person who, in the course or furtherance of a business, carries out any design work, or arranges for or instructs, someone under their control to carry out design work, will be a designer. In addition to the general duties we propose that designers should have the following duties and take all reasonable steps to fulfil them:

- To not start design work unless satisfied that the client is aware of their duties;
- When carrying out design work the designer must ensure that, if built in accordance with the design, the building work to which the design relates would be in compliance with all relevant requirements;
- In providing a design, a designer must provide sufficient information about the design, construction and maintenance of the building to assist the client, other designers and contractors to comply with all relevant requirements;
- Where a designer is carrying out only part of the design of the building work which comprises a project, the designer must consider other design work which directly relates to that building work and report any concerns as to compliance with all relevant requirements to the Principal Designer; and,

- If requested to do so, a designer must provide advice to the Principal Designer or the client on whether any work, to which a design they are preparing or modifying relates, is higher-risk building work.
- To inform, develop and maintain relevant records as part of the development of the Golden Thread process.

2.27 The Principal Designer is a designer appointed to be in control of all of the design work. In addition to the general and the designer duties, we propose that the Principal Designer should have the following duties and take all reasonable steps to fulfil them:

- Plan, manage and monitor the design work during the design phase;
- Co-ordinate matters relating to the design work to ensure that, if built, the building work to which that design relates will comply with building regulations;
- Ensure that they, and all designers working on the project, co-operate, communicate and co-ordinate their work with the client, the Principal Contractor, and other designers;
- Liaise with the Principal Contractor and share information relevant to the building work; and,
- Assist the client in providing information to other designers and contractors.

Question 2.15: Do you agree or disagree with the proposed duties that will apply to the *Principal Designer* during design and construction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.16: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 2.17: Do you agree or disagree with the proposed duties that will apply to designers during design and construction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.18: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Contractors

- 2.28 Any person who, in the course or furtherance of a business carries out, manages or controls any building work will be a contractor. In addition to the general duties we propose that contractors should have the following duties:
- To not start building work unless satisfied that the client is aware of their duties; and,
 - Contractors must provide each worker under their control with appropriate supervision, instructions and information so as to ensure that the building work is in compliance with all relevant requirements.
 - To inform, create and maintain relevant records as part of the development of the Golden Thread process.
- 2.29 The Principal Contractor is a contractor appointed to be in control of the whole project during the construction phase. In addition to the general and the contractor duties we propose that the Principal Contractor should have the following duties:
- Plan, manage and monitor all the building work;
 - Co-ordinate matters relating to the building work to ensure that it complies with building regulations;
 - Ensure that they, and the contractors in the team, co-operate, communicate and co-ordinate their work with the client, the Principal Designer and other contractors;
 - Liaise with the Principal Designer and share information relevant to the building work; and,
 - Assist the client in providing information to other designers and contractors.

Question 2.19: Do you agree or disagree with the proposed duties that will apply to the *Principal Contractor* during design and construction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.20: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 2.21: Do you agree or disagree with the proposed duties that will apply to contractors during design and construction?

- Agree
- Disagree

- Neither agree nor disagree
- Don't know

Question 2.22: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Implementing Dutyholders

2.30 We are proposing to prescribe the duties and roles described above in regulations. These regulations would also make provision about who may appoint dutyholders, who may be appointed as a dutyholder, when appointments must be made and how long appointments last for, the process for terminating a dutyholder appointment, and how to manage replacing dutyholders where required.

Who may be a dutyholder

2.31 Existing legislation states that “regulations may require an appointed person who is not an individual to give an individual acting under its control who has the appropriate skills, knowledge, experience and behaviours the task of managing its functions as an appointed person.”

2.32 As such, we are proposing that Clients, Contractors, Designers, the Principal Designer, and the Principal Contractor roles may be appointed to individuals, or to businesses – but in the case of a business being appointed as a dutyholder, they must appoint a designated individual to manage its functions. This person must have the appropriate skills, knowledge, experience and behaviours to perform these functions. Domestic Clients cannot be businesses.

Question 2.23: Do you agree or disagree that, where a business has been appointed as a dutyholder, it must appoint a designated individual who meets the relevant criteria to manage its functions as a dutyholder?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.24: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Timeframe for appointing a Principal Designer

2.33 We are proposing that for projects which include higher-risk building work which requires building control, the Principal Designer must be appointed before any application for that building control is submitted. For any other project, the Principal Designer must be appointed before the construction phase begins.

Question 2.25: Do you agree or disagree with the proposed timeframes for appointing a Principal Designer?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.26: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Timeframe for appointing a Principal Contractor

2.34 We are proposing that for projects which includes higher-risk building work which requires building control, the Principal Contractor must be appointed before any application for that building control is submitted. For any other project, the Principal Contractor must be appointed before the construction phase begins.

Question 2.27: Do you agree or disagree with the proposed timeframes for appointing a Principal Contractor?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.28: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Length of appointment as dutyholder

2.35 We are proposing that the Client (or Domestic Client) will remain as that type of dutyholder for the duration of the project, until they become unable to do so, or until another person becomes the client. Clients (and Domestic Clients)

may transfer their responsibilities to new people by following the change of dutyholder notification process outlined elsewhere in this document.

- 2.36 While other duty holders may be appointed and dismissed, and at times it might be possible that a Client (or Domestic Client) is also the Principal Designer and/or Principal Contractor, without an active client there can be no project. If a client ceases to be a dutyholder (due to insolvency, death, willingly withdrawing from the project etc) and a new client cannot be appointed then the project must end.
- 2.37 For other appointments (Principal Designer, other designers, Principal Contractor, other contractors) the appointment will last for the duration of the contract, or until the Client or the dutyholder terminates their appointment (which would also be notified using the process outlined elsewhere in this document). Principal Designers can end the appointment of designers, and the Principal Contractors can end the appointment of contractors. The Client, can also appoint different dutyholders in the chain reporting to them.

Situations where an appointment is considered to have been made

- 2.38 We are proposing that the Client (or Domestic Client) is considered to have been appointed as soon as any preparation for the project begins. This is an automatic appointment.
- 2.39 We are proposing that the appointment to the status of dutyholder for Principal Designer, or other designer, Principal Contractor, or other contractor, is considered to have been made if the person appointed agrees to the appointment in writing. Dutyholders may be individuals or organisations (though an organisation appointed as a dutyholder must name a specific individual to carry out their duties).
- 2.40 We also propose that in the event that somebody acting as the Principal Designer or Principal Contractor for the purpose of CDM regulations is appointed as Principal Designer or Principal Contractor, the written appointment from the Client is sufficient to demonstrate the appointment has been made.

Question 2.29: Do you agree or disagree with the proposed criteria around the appointment of dutyholders?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.30: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

What happens if a project does not have a Principal Designer or a Principal Contractor?

2.41 We are proposing that in the case where a Client fails to appoint a Principal Designer or Principal Contractor, or where one was appointed and their appointment ends before the end of the project and the client fails to appoint a new Principal Designer or Principal Contractor, the Client must fulfil the duties of the absent dutyholder until they appoint another person to that role.

Question 2.31: Do you agree or disagree with this approach, which would treat the client as if they are the missing dutyholder while no other person holds the appointed position?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.32: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Change of Dutyholders

2.42 Elsewhere in this document we are proposing a protocol involving notifying local authorities and other dutyholders if a dutyholder changes. This would occur at the appointment, removal, or change of dutyholder.

2.43 Where dutyholder changes have occurred (for example, if there are multiple contractors working in sequence on a project) each dutyholder is responsible for the work that they complete on a project.

Competence requirements

General requirements

2.44 Our intention is to ensure that everyone doing design work or building work is competent to carry out their work in a way that is compliant with building regulations. For any design or building work on all buildings in Wales, it is intended that building regulations set out the duties on anyone who participates in or manages the work to have the appropriate skills, knowledge,

experience and behaviours, and if they are an organisation, the organisational capability to carry out work in a way that is compliant with building regulations.

- 2.45 It is recognised that competent individuals may be supported by other individuals who may not be fully competent. In addition, newly trained individuals need to be given the opportunity to gain experience of working. In these cases, they must be in a process of obtaining the relevant competence and must be appropriately supervised by someone who is competent.
- 2.46 Anyone who appoints persons to carry out design work or building work must take reasonable steps to ensure that those they appoint meet the competence requirements for their roles. “Reasonable steps” will depend on the nature and complexity of the project, and the range and levels of the risks involved.

Principal Designer and Principal Contractor

- 2.47 We propose to set out the framework of duties for those who procure, design and undertake building work. In particular, the Principal Designer and Principal Contractor will have the overall responsibility and are pivotal to ensuring compliance with building regulations and building safety during design and construction.
- 2.48 The role of Principal Designer and Principal Contractor can be carried out by individuals or organisations. Those appointed to the role of Principal Designer and Principal Contractor must have the appropriate skills, knowledge, experience and behaviours and, if they are an organisation, the organisational capability, to fulfil their duties under these regulations. They may not accept an appointment unless they fulfil these conditions.
- 2.49 In many cases, the role of Principal Designer and Principal Contractor are expected to be carried out by an organisation. In these cases, the organisation will be responsible for fulfilling all their duties as the Principal Designer or Principal Contractor. In doing so, they will be relying on their organisational capability, including having in place a robust management system and a team of people with relevant competence. In practice, organisations will usually have individuals, with the relevant competence who lead, oversee and manage the project, supported by a team with a range of expertise. This should enable the organisation to fulfil its duties as the Principal Designer or the Principal Contractor for the design or building work included in the particular project.
- 2.50 We therefore propose that where the role is carried out by an organisation, reasonable steps must be taken to ensure the individual or individuals designated to fulfil the functions of the Principal Designer or the Principal Contractor for a specific project, have the appropriate skills, knowledge, experience and behaviours.

Question 2.33: Do you agree or disagree with the proposal for organisations appointed as the *Principal Designer* or *Principal Contractor* must take reasonable steps to ensure that the individual/s designated to manage the functions of the *Principal Designer* or *Principal Contractor* for that specific project have the relevant competence to do so?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.34: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Ceasing to be competent

2.51 It is important that individuals or organisations are aware of the limit of their own competence. They should not carry out work or ask others to carry out work on their behalf, which is beyond their skills, knowledge or experience. Where an individual or individuals do not have the necessary competence, they should seek advice and guidance from appropriate persons or organisations with the relevant competence for the particular tasks or functions.

2.52 We propose that building regulations require that where any person ceases to satisfy the competence requirements:

- If they are the Principal Designer or the Principal Contractor, they must notify the client;
- If they are a designer working on the design, they must notify the Principal Designer (or where the Principal Designer was not appointed, the client) and the person who asked them to carry out the design work;
- If they are a contractor undertaking building work, they must notify the Principal Contractor (or where the Principal Contractor was not appointed, the client) and the person who asked them to carry out the building work; and,
- If they are a Domestic Client, they must cease work and notify any other dutyholders
- In any other case, they must notify the person who asked them to carry out the work.

Question 2.35: Do you agree or disagree that regulations should include the requirement on individuals or organisations to notify the relevant dutyholders and those who appoint or ask them to carry out the work where they cease to satisfy the competence requirements?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.36: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

How dutyholders can demonstrate competence

2.53 There are a number of ways in which a person involved in the construction project can demonstrate that they meet the competence requirements for the role or tasks they are to undertake. As a minimum, those carrying out work will be expected to meet the standards set by their sector, for example, relevant training and qualifications recognised by accredited institutions, membership of an established trade or professional body, or relevant experience of the type of work they will undertake.

Additional dutyholder and competence requirements for higher-risk buildings

Additional dutyholder requirements for those working on higher-risk buildings

- 2.54 In addition to the requirements above that apply to all building work, dutyholders in higher-risk buildings will need to demonstrate to the Local Authority how they intend to comply with all their duties and how they will ensure that the building work to be undertaken will comply with all relevant building regulations requirements for higher-risk buildings throughout the building control approval process.
- 2.55 For higher-risk buildings, appointments by the client of the Principal Designer and Principal Contractor must be made before the building control application is made. The dutyholders will need to work together to provide information to the Local Authority before building work begins via a building control approval application with plans and new prescribed documents which accompany it.
- 2.56 This will include an obligation on the client to ensure that designers and contractors are aware that they are working on a higher-risk building project.
- 2.57 To ensure that dutyholders remain accountable for the building work they are undertaking we have included obligations to identify and share information

about the nature of the higher-risk building project to achieve compliance in particular with the proposed new regulations for higher-risk buildings.

- 2.58 As described elsewhere in this document, we are also proposing the introduction of a Golden Thread of record keeping relevant to any higher-risk building. Each dutyholder must take appropriate actions to maintain and develop Golden Thread documentation. The specific requirements are described in their own section of this document.

Question 2.37: Do you agree or disagree with the additional requirements proposed for dutyholders involved in work on higher-risk buildings?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.38: Please explain your answer. If you answered disagree, please outline what changes you think should be made.

- 2.59 We are proposing that where a client wishes to have higher-risk building work performed as part of a project, they must notify designers and contractors who would be involved in this work, making them aware that the project includes higher-risk building work and the nature of the higher-risk building work.
- 2.60 We are also proposing that clients should monitor and review the building work as the project advances so that if the work should become higher-risk building work they are able to notify any designers or contractors of the change.

Question 2.39: Do you agree or disagree with the requirement for clients to notify other dutyholders about any higher-risk building work, or a change to work that would make it higher-risk building work?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.40: Please explain your answer. If you answered disagree, please outline what changes you think should be made.

Competence checks on those working on higher-risk buildings

- 2.61 For higher-risk buildings, the Principal Designer and Principal Contractor will have the overall responsibility for, and are pivotal to, ensuring compliance with building regulations' requirements including building safety during design and construction. Therefore these roles may require enhanced competence, appropriate to the particular higher-risk building work in question.
- 2.62 In the interests of public safety, we are proposing that when conducting their assessments on competence (skills, knowledge, experience and behaviours) before appointing a person in relation to proposed higher-risk building work, the dutyholder making that appointment should be required:
- To ask any person it appoints whether that person has a serious infraction; and
 - To consider whether previous conduct of that person, in particular any serious infraction, might call into question their competence in relation to the work in question.
- 2.63 We propose that "serious infraction" should mean that within the 5 years before the appointment is being considered, the person or organisation in question has been subject to any of:
- The issue of a compliance notice in relation to contravention of Part A (structural failure) or B (fire safety) of Schedule 1 to the Building Regulations 2010;
 - The issue of a stop notice in relation to a contravention any requirement of, or imposed under, the building regulations;
 - The conviction for any offence under the Building Safety Act 2022, Building Act 1984 or the Regulatory Reform (Fire Safety) Order 2005;
 - The conviction of an offence under the Health and Safety at Work etc Act 1974 or the Construction (Design and Management) Regulations 2015;
 - A finding by a formal inquiry of behaviour that directly resulted in loss of life, the deliberate misleading of customers or amounted to the failure to meet regulatory requirements.
- 2.64 In relation to higher-risk building work, in addition to the general requirements on appointing a Principal Designer or Principal Contractor, we propose that the client and other dutyholders making appointments must keep a record of the steps they took to satisfy themselves that the proposed/appointed persons have the relevant competence for the roles. This must include the steps taken to determine whether the person has a serious infraction, and the detailed consideration of their previous conduct, in particular any serious infraction, which might call into question their competence in relation to the work in question, their reasons for appointing them nonetheless and the measures the dutyholder who made the appointment will take to mitigate any effects of the appointment.

- 2.65 When submitting a building control approval application for the creation of new higher-risk buildings, we propose the above information must be provided as part of the competence declaration, signed by the client or someone on their behalf, stating that the client has taken all reasonable steps and is satisfied that the Principal Designer (or sole or lead designer) and the Principal Contractor (or sole contractor) meet the competence requirements by having the necessary skills, knowledge, experience and behaviours, including consideration of previous conduct.

Question 2.41: Do you agree or disagree with the requirement on the client to record the steps they took to satisfy themselves that the appointed *Principal Designer* and *Principal Contractor* have the relevant competence for the role and include it with the competence declaration required with the building control approval application for higher-risk building work?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.42: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 2.43: Do you agree or disagree that anyone making appointments for building work on a higher-risk building should consider whether a serious infraction might call into question a person's skills, knowledge, experience and behaviours?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.44: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 2.45: Do you agree or disagree with the proposed meaning of serious infraction?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

Question 2.46: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 2.47: Do you agree or disagree that the consideration of serious infractions be limited to the last five years?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 2.48: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Dutyholder and competence requirements for non-notifiable work in all buildings and in higher-risk buildings

- 2.66 The government stated in its summary of responses to its [Safer Buildings in Wales consultation](#) that it will develop the dutyholder approach during design and construction in a way that is consistent with the Construction Design & Management (CDM) regulations.
- 2.67 Building regulations recognise the proportionate regulation of small-scale projects by, for example, providing for certain work to be covered by self-certification requirements through 'competent person schemes' (CPS), and for the type of work prescribed in Schedule 4 to the Building Regulations 2010 which does not need to be notified to a building control body. This type of work is mainly of a minor nature, where there is no significant risk to health, safety, water efficiency or energy-efficiency.
- 2.68 To be consistent with the proportionate approach taken in building regulations, we intend not to apply the dutyholder duties and competence requirements where the work consists only of work described in Schedule 4 to the Building Regulations 2010. Whilst there is no duty to notify the Local Authority about these works, the substantive requirements of the building regulations continue to apply.

Question 2.49: Do you agree or disagree that the dutyholders and competence regulations should not apply to work prescribed in Schedule 4 of the Building Regulations 2010?

- Agree
- Disagree

- Neither agree nor disagree
- Don't know

Question 2.50: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 2.51: Do you have any other comments in relation to the proposals?

3. Golden thread of information

- 3.1 In the white paper Safer Buildings In Wales the Welsh Government set out its intention to introduce a “golden thread” of information for higher-risk buildings following the recommendations of the Hackitt Review. The Golden Thread should have up-to-date information about the design and construction of the building, providing evidence to support the gateway process as well as the ongoing management of the building. Ensuring that all the information needed to understand a building’s design and construction and the future management of it is in one accessible place.

Golden thread principles

- 3.2 This section focuses on how the golden thread is stored and managed (the golden thread principles) to enable people to access, share and manage the information. In the white paper Safer Buildings In Wales the Welsh Government defined these principles as:
- Information is accurate and up-to-date – dutyholders will be required to collect, store and update data and information in a consistent way
 - Allows relevant dutyholders to use this information to inform their decisions, plans and actions
 - Provides reassurance to those with an interest in the building (whether that is residents, those managing the building, regulators or lenders) that information is available to those managing the building to make timely and effective decisions in relation to building safety.
 - Information supports openness and transparency
- 3.3 In the white paper it was also proposed that the golden thread should be kept in a digital form to ensure that those who need it most are able to access the information quickly and easily.
- 3.4 This section goes into further detail about how these are intended to be implemented.

Information is accurate and up to date

- 3.5 The consultation sections on building control approval, change control, building completion certificates, building work in existing buildings and mandatory occurrence reports set out the information and documents to be kept in the golden thread.
- 3.6 We propose that information and documents in the golden thread must be accurate at the time they are created and that the golden thread as a whole must be kept up to date.

- 3.7 The change control section of this consultation details information and documents that must be updated throughout the design and construction phase. However we propose that information and documents submitted to, or received from, local authorities in the gateway processes are held and not updated to keep a record of compliance at the hard stop points that the Hackitt Review recommended. These being the building control application approval stage and the completion certificate application stage.
- 3.8 This means that the golden thread should contain accurate and up to date information at any given point, as well as information about the building at specific points in time in the gateway process.

Question 3.1: Do you agree or disagree with the proposal to keep information related to the building control approval stage and completion certificate application stage as a point in time reference and not to update this information after the approval stage?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.2: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

- 3.9 The information in the golden thread needs to be understandable and consistent for the people who need to use the information. However we do not propose to mandate any specific standards to be used as this would likely restrict innovation and would be unlikely to suit all circumstances or projects.
- 3.10 Instead we propose that, as far as is practicable, terminology be consistent throughout the building's golden thread and appropriate for its intended uses and users.

Question 3.3: Do you agree or disagree with the proposal to set overarching requirements for language and consistency rather than defining specific standards?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.4: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Allows relevant dutyholders to use this information to inform their decisions, plans and actions

- 3.11 To allow relevant dutyholders to use the golden thread effectively as a living record of the building it must be able to be transferred and used between different systems whilst remaining a single reference point for information. Whilst change control, accuracy and relevance of information are covered elsewhere in this consultation, this section covers multiple users of the golden thread and transfer of information.
- 3.12 It is clear that different users may have different digital systems/solutions, including those that have yet to be developed. Similar to our proposed approach about what 'digital' means we do not intend to specify requirements for particular software or digital systems. This is because any such requirements are likely to become outdated and are unlikely to be suitable or proportionate across all projects.
- 3.13 However, we intend for requirements to align with standards and guidance already in use for digital information management in the built environment, and so propose the following:
- An information management process should be in place which sets out the process or steps that provides all those who need to give, modify or access information the ability to do so
 - This process will include ensuring that all relevant persons understand their responsibilities and relevant processes for information and document management
 - A digital solution that enables the information management process to work.

Question 3.5: Do you agree or disagree with the proposed approach for ensuring the golden thread can be accessed by different people and transferred between different systems?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.6: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

- 3.14 To achieve the principle that the golden thread must be available to relevant dutyholders it must be secure from unauthorised accessed. It is also likely that

documents stored in the golden thread may contain personal or sensitive information that should not be widely shared.

- 3.15 Therefore it is important that the golden thread be secure from unsanctioned access, both in general terms and for personal or sensitive information. This second point means that the golden thread can operate as a single source of information, without needing to be split.
- 3.16 However, there are different ways of achieving these aims and will depend on the organisations involved and the project in question. Therefore, we do not propose to require specific standards that should be applied. Instead we propose to require that the client has to ensure the golden thread is secure from unauthorised access, and allow organisations to decide on the solutions that suit their needs, and the needs of other users of the golden thread, best.

Question 3.7: Do you agree or disagree with proposed approach to ensure the golden thread is secure?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.8: Please provide an explanation for your answer. Please explain what changes should be made (if any).

- 3.17 To achieve the principles of the golden thread it needs to be accessible and organised in a structured manner to allow people to find, use and update the information they need to. There are many potential solutions for this though, so we do not propose to mandate specific requirements as they are unlikely to be suitable or proportionate for all projects.
- 3.18 Instead, we propose to set high-level requirements for the aims of accessibility and organisation and allow dutyholders to develop the solutions that fit their needs, and the needs of other users of the golden thread, best. These requirements for the dutyholders to ensure, as far as possible, that people who need to use the golden thread:
- Are able to access the golden thread
 - Are able to do this in a timely manner
 - Are able to navigate the golden thread to easily find the relevant information within it
 - Are able to access and use the information in a form that is useable for their purpose
 - Any supporting information required to understand data, such as keys or definitions, are held with the data in the golden thread

Question 3.9: Do you agree or disagree with proposed approach to ensure the golden thread is accessible and organised?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.10: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Provides reassurance to those with an interest in the building

3.19 The new regime for building work is, in part, to increase accountability for those designing, constructing and managing buildings. It is also important that those with an interest in buildings, from regulators to occupants, are reassured that processes are being followed and are leading to safer buildings.

3.20 We therefore propose the client will need to ensure that there is a change history record in the golden thread of who inputs or changes information and documents and who this change was approved by (where appropriate).

Question 3.11: Do you agree or disagree with the approach for ensuring accountability in the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.12: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Electronic storage and transfer

3.21 To ensure that dutyholders and others have information that is accessible and easy to update and transfer, the golden thread has to be digital. However, any definition of "digital" would likely become outdated and restrict innovation. Therefore, we do not propose to define this in regulations.

3.22 Instead we intend to issue guidance for what digital form of golden thread means in practice.

3.23 We do though propose to require that the golden thread be able to be transferred electronically.

Question 3.13: Do you agree or disagree with the proposal to not define digital in regulations whilst requiring electronic transfer?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.14: Please provide an explanation for your answer. Please explain what you think changes should be made (if any).

Dutyholder responsibilities for building new higher-risk buildings

3.24 The client is the person for whom the building work is done, and they have a major influence over the way a project is progressed. We propose to place responsibilities on the client for ensuring procedures are in place for the creation and management of the golden thread during building work, and its handover following completion of the work.

3.25 Specifically, in relation to the golden thread, we propose the client will be responsible for:

- Creation of golden thread for new buildings
- Ensuring the Principal Designer and the Principal Contractor's arrangements for managing the golden thread are in place and maintained
- Ensuring the golden thread is complete and kept up-to-date
- Ensuring there are arrangements in place for the handover of the golden thread to a new client if they should cease to be the client
- Handing over the golden thread to the responsible person upon completion or partial completion of the building work

Question 3.15: Do you agree or disagree with the proposed duties on the client in relation to the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.16: Please provide an explanation for your answer. Please explain what changes should be made (if any).

3.26 We propose that although the client has overall responsibility for ensuring the arrangements are in place to create and manage the golden thread through design and construction, the Principal Designer and Principal contractor will

have responsibility for management of the actual information in the golden thread.

3.27 We propose the Principal Designer will be responsible for updating and managing designs for the building work and sharing these with the client. We propose that they will be specifically responsible for:

- Managing and updating information for the golden thread during the design phase
- Collaborating with the client to ensure the information is stored in the golden thread and kept up to date
- Collaborating with the Principal Contractor to ensure any design work done during the construction phase is captured in the golden thread
- Cooperating and sharing information with other dutyholders as necessary

3.28 The Principal Contractor is responsible for managing the golden thread in the construction phase of the project and will be specifically responsible for:

- Managing and updating information for the golden thread throughout the construction phase
- Collaborating with the client to ensure the information is stored in the golden thread and kept up to date
- Collaborating with the Principal Designer to ensure any design work done during the construction phase is captured in the golden thread
- Cooperating and sharing information with other dutyholders as necessary

Question 3.17: Do you agree or disagree with the proposed duties on the Principal Designer and Principal Contractor in relation to the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.18: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

3.29 We propose that the client, Principal Designer and Principal Contractor are placed under a duty to ensure that the information and prescribed documents in the golden thread should be maintained and managed so that the golden thread remains relevant, useful and proportionate.

- 3.30 We have defined 'relevant' as supporting compliance with all applicable building regulations. This means that some information will need to be permanently kept and handed over on building completion, whilst other information may only be needed for a limited period. It is important that the information in the golden thread is reviewed regularly to ensure it is relevant and filing standards are kept to avoid disorganisation.

Question 3.19: Do you agree or disagree with the proposal that through the design and construction process there should be a duty on all dutyholders to review the information within the golden thread to ensure it remains relevant, useful, proportionate and supports compliance with building regulations?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.20: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Dutyholder responsibilities for building work on existing higher-risk buildings

- 3.31 When building work is carried out in an existing higher-risk building, we propose the responsibilities for dutyholders are the same as those outlined above. However, in the case of building work to an existing higher-risk building the client would need to have additional responsibilities:
- Determining with the responsible person for the building (as defined in Article 3 of the Regulatory Reform (Fire Safety) Order 2005) how existing golden thread information should be updated for the new building work.
 - Ensuring information is shared with the responsible person, Principal Designer and Principal Contractor to enable each to meet their responsibilities.
- 3.32 Where the client is a domestic client we propose the duties above would be carried out by the contractor responsible for the building work, or the designer as may be agreed in writing between the designer and contractor. The principle of this is covered in more detail in the 'Dutyholders' section of this consultation.
- 3.33 Where someone is carrying out work themselves on their own property, a 'DIYer', we propose they will be required to work with the responsible person to ensure that the work they are doing is recorded in the building's golden thread information.

3.34 Similarly, we propose that the Principal Designer and Principal Contractor would have the same responsibilities as above (in relation to the golden thread) but they would also be responsible for:

- Obtaining information about the existing building
- Ensuring information is shared with the responsible person, client, Principal Designer and Principal Contractor (as applicable) to enable each to meet their responsibilities.

Question 3.21: Do you agree or disagree with the proposed duties on the client, Principal Designer and Principal Contractor regarding building work in an existing higher-risk building in relation to the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.22: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Building control approval applications and the golden thread

3.35 We propose that all the information that the applicant has to submit as part of the building control approval application should be stored in the golden thread. This information is relevant as it evidences compliance with building regulations.

Question 3.23: Do you agree or disagree with the proposal that all the information to be submitted in a building control approval application should be stored in the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.24: Please provide an explanation for your answer. If you disagree please explain what information from a building control approval application should be stored in the golden thread (if any).

Information handover on completion of building work

3.36 It is important that building owners and/or responsible persons have the information they need to manage the building properly. This information must be handed to them in a useable condition, in terms of relevance, formatting and organisation.

3.37 We propose the client must handover the golden thread to the responsible person¹ for the building (as defined in Article 3 of the Regulatory Reform (Fire Safety) Order 2005) as part of the process for completion. We propose this must be confirmed in the application for a completion certificate.

3.38 For higher-risk buildings we propose that the client hands over to the responsible person:

- The information required to be submitted to the Local Authority in the application for a completion certificate
- The relevant information/evidence required to support the information submitted in the completion certificate application
- Completion certificate issued by the Local Authority
- Any further information that is relevant to the ongoing safety of the building and is not covered by the material above – this could include documents or information stored in the golden thread throughout the design and construction phase.

3.39 For buildings that are only in scope of the higher-risk building design and construction regime we also propose that the client extracts information related to fire safety, ventilation, the use of fuel and power, systems for on-site generation of electricity and overheating (part 8 of the Building Regulations 2010) and hands that over to the responsible person as standalone information. This is to ensure that information is easily accessible.

3.40 We also propose that the client and responsible person co-sign a statement confirming that a copy of the design and construction golden thread information was provided to, and received by, the responsible person.

Question 3.25: Do you agree or disagree that with the proposals for the golden thread information that should be handed over to the responsible person?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.26: Please provide an explanation for your answer. Please outline what changes you think should be made (if any).

3.41 We propose that the golden thread and information related to fire safety, ventilation, the use of fuel and power, systems for on-site generation of

¹ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

electricity and overheating should be handed over to the responsible person no later than the date of completion.

Question 3.27: Do you agree or disagree that for higher-risk buildings the golden thread and information related to fire safety, ventilation, the use of fuel and power, systems for on-site generation of electricity and overheating should be handed over to the responsible person no later than the date of completion?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.28: Please provide an explanation for your answer. If you disagree, please outline when you think the information should be handed over by.

Partial completion of building work and the golden thread

- 3.42 Partial completion certificates can be applied for where part of a building is complete and is to be occupied before the rest of the building is completed. This is in line with regulation 17A of the Building Regulations 2010).
- 3.43 To ensure that all parties have access to the information they need we propose that information required in the partial completion certificate application, should be handed over to the responsible person² by the client.
- 3.44 In addition, information related to the building work should be provided where it is related to fire safety, ventilation, the use of fuel and power, systems for on-site generation of electricity and overheating (part 8 of the Building Regulations 2010).
- 3.45 We propose this handover should be no later than the date the relevant part of the building is to be occupied.
- 3.46 This information will then be supplemented by further information if/when further partial completion certificate applications are made and approved by the Local Authority.
- 3.47 We also propose that there should be an ongoing duty to cooperate on the client and the responsible person, beyond handover and receipt of information. This is to ensure any issues relating to ongoing building work in an occupied building are dealt with properly.

² In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

Question 3.29: Do you agree or disagree with the proposal for information sharing and access to the golden thread between the client and the responsible person when a building goes through partial completion?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.30: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Question 3.31: Do you agree or disagree with the need for an ongoing duty to co-operate on the client the responsible person through the process of partial completion?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 3.32: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Question 3.33: Do you have any other comments in relation to the proposals?

4. Gateway processes for higher-risk building work

- 4.1 The Welsh Government intends to introduce a more stringent regulatory regime during design and construction for higher-risk buildings through secondary legislation. The Building Safety (Description of Higher-Risk Building) (Design and Construction Phase) (Wales) Regulations 2023 defines higher-risk buildings for the new design and construction regime as buildings which are at least 18 metres in height or have at least seven storeys and are of a description specified in Regulations. The Welsh Government has specified in the Regulations that only hospitals, care homes, children's homes or buildings containing at least one residential unit that meet the height threshold are higher-risk buildings.

Planning Gateway 1

Statutory consultation

- 4.2 In 2021, in response to recommendations of the Welsh Government's Building Safety Expert Group, and following the white paper Safer Buildings in Wales, Fire and Rescue Authorities in Wales were made statutory consultees on planning applications as part of the development management process.
- 4.3 Fire and Rescue Authorities are required to be consulted on full and outline applications at pre-application and application stage on the descriptions of development set out in Schedule 4 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.
- 4.4 The description of "development" was set following consultation with stakeholders including Fire and Rescue Authorities and encompasses development types that have higher fire risks. However, while the description is likely to capture most development that falls within the definition of higher-risk buildings which was subsequently set out in the Building Safety (Description of Higher-Risk Building) (Design and Construction Phase) (Wales) Regulations 2023, it may not cover some smaller hospital, care home or children's home development that now fall with its scope.
- 4.5 To fully implement the proposals in this consultation paper in a consistent way, that maintains the principle of a Golden Thread and encourages earlier consideration of fire safety issues in the design of higher-risk buildings, we propose to amend the statutory consultation requirements. We intend to add to paragraph (z) of Schedule 4 "development that creates, alters or extends

higher-risk buildings as defined in the Building Safety (Description of Higher-Risk Building) (Design and Construction Phase) (Wales) Regulations 2023:

- (a) (i) at least 18 metres in height, or
(ii) at least 7 storeys , and
- (b) contains :
 - (i) at least one residential unit,
 - (ii) a hospital that has at least one bed intended for use by a person admitted to the premises for an overnight stay,
 - (iii) a care home, or
 - (iv) a children’s home.”

Question 4.1: Do you agree that statutory consultation requirements for fire and rescue authorities should be extended to specifically include higher risk buildings?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.2: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

Fire statements

- 4.6 In addition to statutory consultation, the white paper Safer Buildings in Wales proposed a requirement for the submission of a fire statement. Responses generally welcomed the requirement, suggested additional content but also questioned the clarity of its purpose.
- 4.7 Since the publication of the white paper, fire statements have become a requirement for higher-risk buildings in England. Experience there has shown that, with the right technical expertise to advise local planning authorities, fire statements as part of a Planning Gateway 1 approach have helped avoid ‘locking in’ poor safety design at the planning stage.

4.8 This has involved looking at fire safety across the whole development, both at the buildings and crucially the layout around the buildings. Examples of the fire safety issues addressed at the planning stage have included:

- Access – adequate clearances and swept paths for fire appliances, lines of sight facilitated between appliances and buildings, and access to water
- Layout – the appropriate location of fire shafts, escape stairs, minimising travel distances for fire fighters and adequate space between buildings
- Use – ensuring mixed use buildings are designed to the most stringent of the individually applicable fire safety codes
- Landscaping – avoiding obstacles and ensuring hardstanding in appropriate places
- Car and cycle parking – addressing the risks associated with the location of car and cycle parking, particularly in relation to electric vehicles
- Appearance – the suitability of cladding external wall systems

4.9 Having considered the consultation responses to the white paper, we propose to require fire statements for all higher risk buildings. They would set out the fire safety design principles, concepts and standards that have been applied to the development. We propose to introduce this through a requirement in the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.

4.10 To improve the understanding of the information required to be provided and the consistency of the information supplied, we propose to publish a form. There would be a requirement to provide the particulars specified or referred to in the form, which would constitute the ‘fire statement’, and become a validation requirement.

Question 4.3: Do you agree that fire statements should require the same information currently requested in the Planning Gateway One fire statement form used in England? (see

<https://www.gov.uk/government/publications/planning-application-forms-templates-for-local-planning-authorities>)

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.4: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

Application types

- 4.11 The requirement to submit a fire statement would apply to:
- planning applications that involve the construction of one or more higher-risk buildings, including applications proposing the change of use to higher-risk buildings.
 - development within the curtilage of a higher-risk building - in order to ensure such development does not compromise adequate access to higher-risk buildings and to ensure access to and provision of adequate supply of water for fire-fighting purposes is retained.
 - development of an existing higher-risk building.
- 4.12 Fire statements will be required with an outline planning application. Article 3 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 sets out a minimum amount of information that must be included in outline applications. This minimum information is starting to 'lock in' the design of the development which will affect how fire safety design is taken forward through the detailed design. Local planning authorities will be expected to secure through conditions the submission of further detailed fire safety design information where it was not available at the outline stage.
- 4.13 Retrospective planning applications section 73A of the Town and Country Planning Act 1990 are submitted where development has proceeded 'at the developers own risk'. A fire statement will be required and already completed development will need to be altered where fire safety design requires it.

Question 4.5: Are there any other types of planning application involving higher risk buildings that should be accompanied by a fire statement? Please provide an explanation for your answer.

Expert advice

- 4.14 We have set out above our proposals for extending statutory consultation for Fire and Rescue Authorities, however we would also welcome your views on whether additional expert advice is required on planning applications where a fire statement is required.
- 4.15 In England the Building Safety Regulator role is held by the Health and Safety Executive. Through providing advice to local planning authorities at Gateway 1, they provide continuity of oversight into the Building Control Gateway 2 onwards. The Health and Safety Executive have created a dedicated team of

ex-fire and rescue staff to handle the pre-application and application stage workload.

- 4.16 In the white paper we noted the likely quantity of applications for higher-risk buildings in Wales is very small compared to England and does not justify the creation of a specific team to process this caseload. While the Fire and Rescue Authorities will be responding to applications with Fire Statements, we are interested in your views on whether there are aspects of fire design advice which Fire and Rescue Authorities may not be best placed to respond or whether another organisation could add additional value to the advice at the planning stage.

Question 4.6: Are there other organisations that should be a statutory consultee on applications with Fire Statements and on what issues would they advise?

Future safeguarding arrangements

- 4.17 One of the objectives of a fire statement is to identify the design elements within the layout of the development that are required for the safe operation of the higher-risk buildings. It follows, therefore, that should those design elements be removed or altered at a later date, the safety of the buildings will be compromised. To avoid this, we propose to introduce safeguarding arrangements that trigger the need for consultation when future development proposals affect the key design elements such as access routes.
- 4.18 Our proposal to require a Fire Statement for development proposals within the curtilage of higher-risk buildings will largely address the need for consultation where design elements required for the safe operation of the building may be compromised, such as assembly spaces and rendezvous points. There may however be design elements beyond the curtilage that require protection, such as access routes or marshalling areas. Also, building curtilages may have changed over time, resulting in design elements that need additional safeguarding arrangements.
- 4.19 We propose to introduce statutory consultation requirements at both pre-application and application stages for development that affects the design elements required for the safe operation of the higher-risk buildings located beyond their curtilage. Consultation will be with the Fire and Rescue Authority, any additional consultee on Fire Statements identified subsequent to this consultation, and the building owners and management organisation.
- 4.20 There are a number of ways in which the relevant design elements could be identified. One option could be to require their clear identification within the

Fire Statement and then use that statement as the reference point to trigger future consultation. This would need the Fire Statement to be sufficiently available to the public to refer to when preparing future development proposals for pre-application consultation. Alternatively, the consultation requirement could be triggered through reference to a plan deposited with the local planning authority by the Fire and Rescue Authority (similar to the arrangements in paragraph (q)(ii) of Schedule 4 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012).

- 4.21 We would be grateful for your views on how the safety critical design elements are identified so they can trigger future consultation arrangements with statutory consultees.

Question 4.7: Do you agree design elements such as fire access routes should be safeguarded from amendments by future development proposals through additional consultation with statutory consultees? Please provide an explanation for your answer.

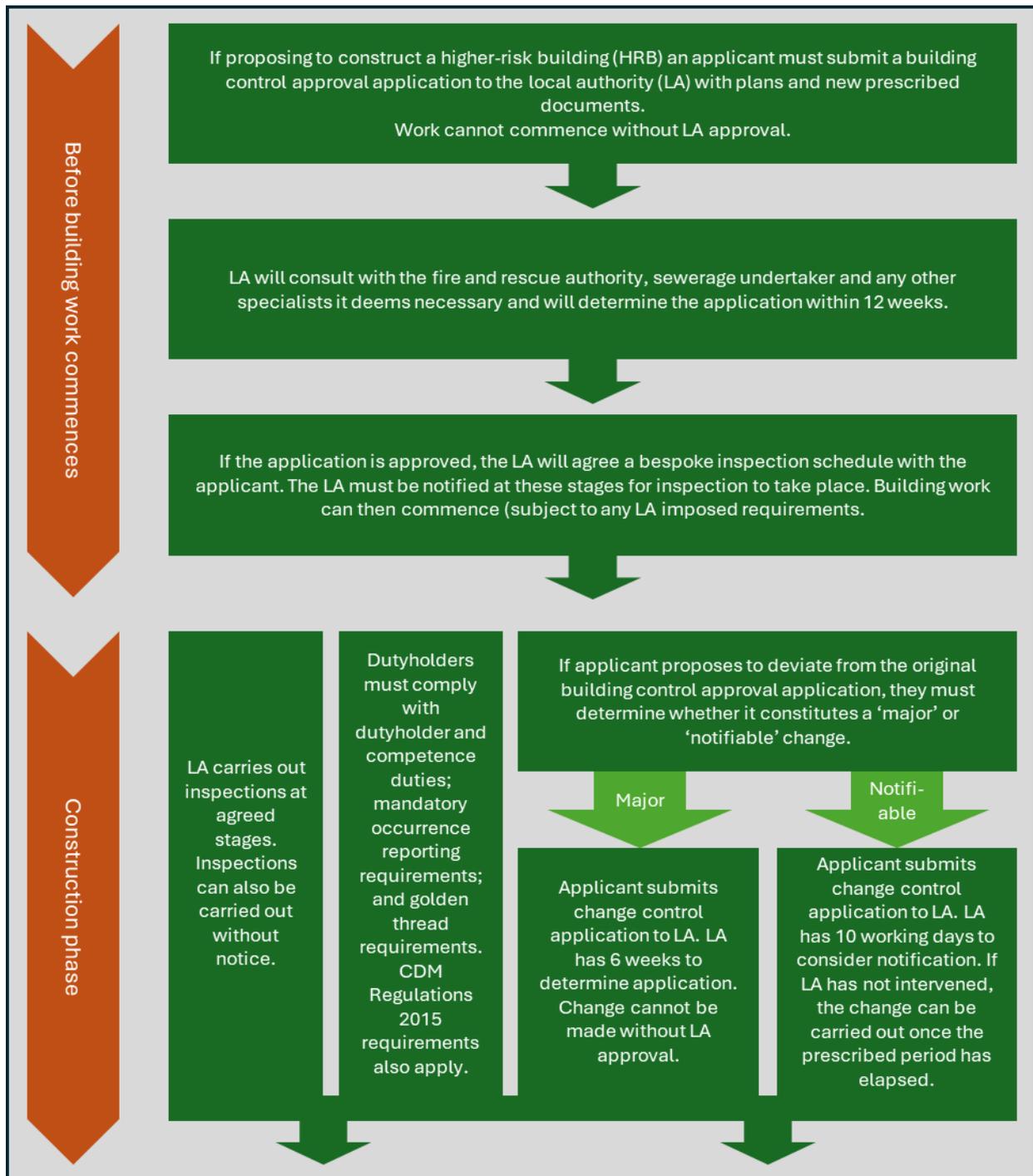
Question 4.8: How should safety critical design elements surrounding higher-risk buildings be identified so they can trigger safeguarding consultation arrangements?

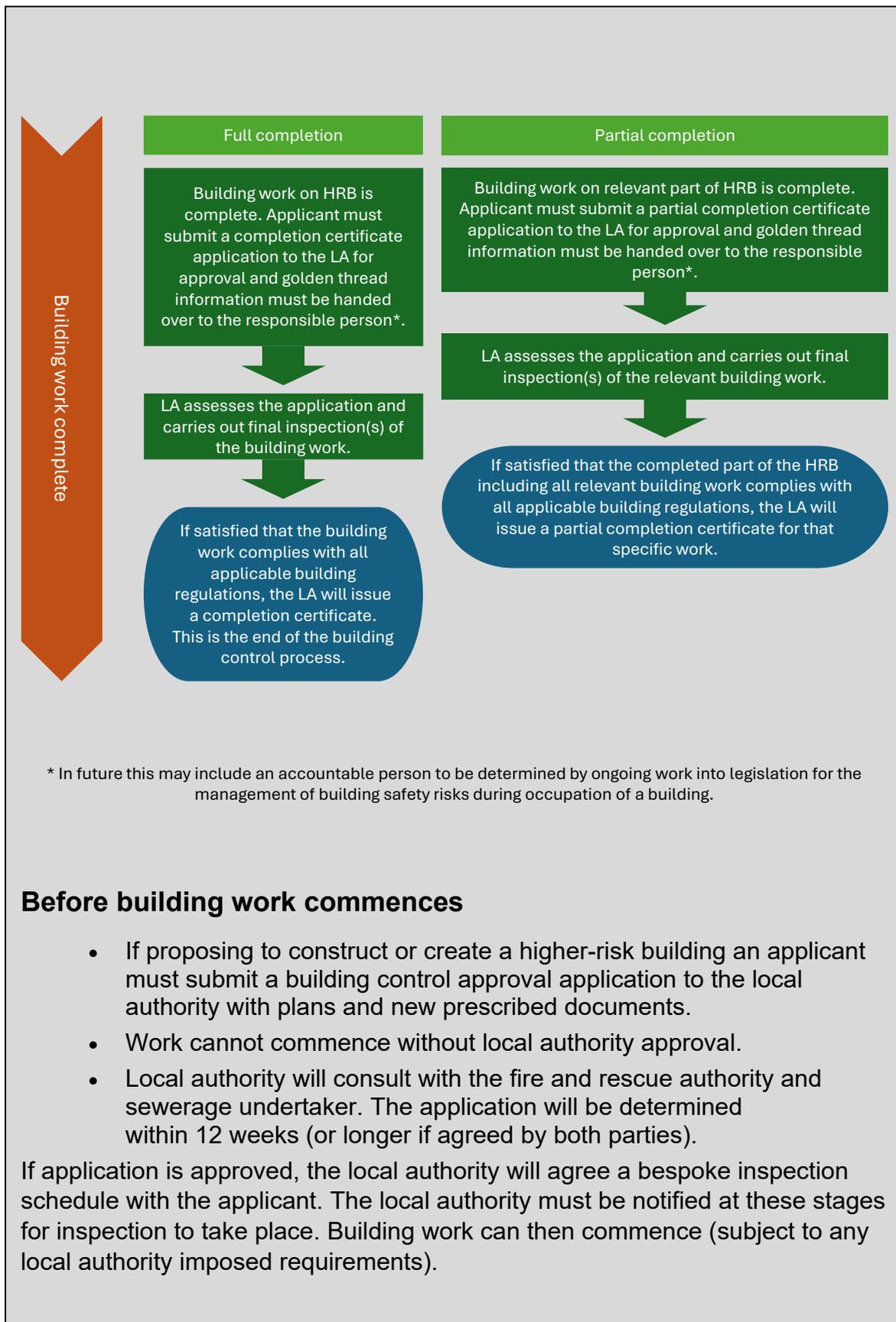
Application for Building Control approval (Gateway 2)

- 4.22 Since April 2024 it has only been local authorities that can be the building control body for higher-risk building work in Wales. Our proposed regulations will contain the detailed provisions setting out the building control procedures which will apply to:

- The construction of a new higher-risk building (e.g. new build);
- Building work to an existing higher-risk building such that it continues to be a higher-risk building on completion of the work (e.g. refurbishment of a residential building at least seven storeys in height);
- Building work to a non-higher-risk building such that it becomes a higher-risk building (e.g. converting a five-storey residential building to a seven-storey residential building);
- Material change of use of an existing out-of-scope building such that it becomes a higher-risk building (e.g. an office to residential conversion); or,
- Building work to a higher-risk building or proposed higher-risk building such that it becomes a non-higher-risk building.

- 4.23 These building control procedures will provide strengthened regulatory oversight and rigorous inspection of building regulations requirements before, during, and on completion of building work, ensuring that building regulations compliance is considered by dutyholders at each stage of design and construction. Along with the new dutyholder requirements which place firm responsibilities on those carrying out the work and include a strong focus on skills, knowledge, experience and behaviours (including past building regulation compliance), these requirements will encourage culture change by giving the construction industry the clear framework it needs to deliver more high-quality, safe homes and liveable buildings, with clear responsibilities on those undertaking design and construction work.
- 4.24 The new building control process for creating higher-risk buildings will operate as follows:





Before building work commences

- If proposing to construct or create a higher-risk building an applicant must submit a building control approval application to the local authority with plans and new prescribed documents.
- Work cannot commence without local authority approval.
- Local authority will consult with the fire and rescue authority and sewerage undertaker. The application will be determined within 12 weeks (or longer if agreed by both parties).

If application is approved, the local authority will agree a bespoke inspection schedule with the applicant. The local authority must be notified at these stages for inspection to take place. Building work can then commence (subject to any local authority imposed requirements).

Construction phase

- Local authority carries out inspections at agreed stages. Inspections can also be carried out without notice.
- Dutyholders must comply with dutyholder and competence duties; mandatory occurrence reporting requirements; and golden thread requirements.
- If applicant proposes to deviate from the original building control approval application, they must determine whether it constitutes a 'major' or 'notifiable' change.
 - Major: Applicant submits change control application to local authority. Local authority has six weeks to determine application. Change cannot be made without local authority approval.
 - Notifiable: Applicant submits change control notification to local authority. The local authority has 10 working days to consider the notification. If the local authority has not intervened, the change can be carried out once the prescribed period has elapsed.

Building work complete

Full completion

- Building work on higher-risk building is complete. Applicant must submit a completion certificate application to the local authority for approval and golden thread information must be handed over to the responsible person¹.
- Local authority assesses the application and carries out final inspection/s of the building work. If satisfied that the building work complies with all applicable building regulations, the local authority will issue a completion certificate. This is the end of the building control process.
- The responsible person¹ may then submit an application to register the building. This is separate to the building control process.

¹ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

Partial completion

- Building work on relevant part of higher-risk building is complete. Applicant must submit a partial completion certificate application to the local authority for approval and golden thread information must be handed over to the responsible person¹.
- Local authority assesses the application and carries out final inspection/s of the relevant building work.
- If satisfied that the completed part of the higher-risk building including all relevant building work complies with all applicable building regulations, the local authority will issue a partial completion certificate for that specific work.
- The responsible person¹ may then submit an application to register the building. Only the part of the building for which there is a completion certificate, can be occupied.
This is separate to the building control process.
 - Building work on other parts of the building continues. The above completion certificate application process applies each time higher-risk building work is complete on a new part of the building.
 - Regulatory Reform (Fire Safety) Order 2005 and responsible person's¹ duty to assess and manage building safety risks apply once occupation commences. The Construction (Design and Management) Regulations 2015 requirements continue to apply.

Building control application procedure for creating new higher-risk buildings (Gateway 2)

- 4.25 As part of the new building control regime for creating new higher-risk buildings, we propose that applications for building control approvals ('gateway two' application) will replace the current 'deposit of full plans' stage under the Building Regulations 2010 and take place before building work begins.
- 4.26 At this stage, an application for building control approval with plans and new additional documents must be submitted to the local authority as the building control authority for higher-risk buildings in Wales. Regulation 11 of the Building Safety Act 2022 (Commencement No. 4, Transitional and Saving

¹ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

Provisions) (Wales) Regulations 2024 makes clear new higher-risk building work must be overseen by local authorities, so it will not be possible for dutyholders to choose which building control body oversees higher-risk building work.

- 4.27 As part of their building control function, local authorities will work with fire and rescue authorities (including other fire safety enforcing authorities where appropriate), and other external technical experts as necessary.
- 4.28 The requirement to submit a building control approval application will be a 'hard stop' as it will be an offence for dutyholders to start building work without approval from the relevant local authority. This requirement will apply to building work that creates a new higher-risk building such as constructing a new build or converting a non-higher-risk building into a higher-risk building, such as conversion of an office to a residential building.
- 4.29 The requirement to seek building control approval from the local authority where building work is being undertaken on a higher risk building will apply irrespective of whether planning permission is required or not, as planning permission and building control are two entirely separate statutory regulatory regimes.

How building control approval applications should be submitted for higher-risk building work

- 4.30 The application for building control approval must be submitted to the local authority in writing and signed by the applicant. As dutyholders will be required to cooperate with each other, coordinate their work, and communicate and provide information to each other, the client can be assisted by other dutyholders such as the Principal Contractor and Principal Designer in preparing the application and may ask one of them to submit the application on their behalf.
- 4.31 Prior to submitting a building control approval application, we would encourage dutyholders to engage with the local authority early to discuss the development including draft plans and documentation they intend to submit to the local authority formally. This early engagement would be beneficial to both the dutyholders of the development and the local authority as design approaches can be discussed before the application is formally submitted. We are keen that the new hard stop gateway process should not slow down build

plans and so early dialogue between the local authority and the dutyholders is crucial.

- 4.32 All applications for higher-risk buildings, including all plans, documents and information, should be submitted to the relevant local authority via whatever system(s) they choose to have in place.

Question 4.9: Do you agree or disagree that the client, Principal Contractor or Principal Designer should be able to submit the required building control approval application to the local authority for higher-risk building work, but that it must be signed by the client?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.10: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

Building control approval application ('gateway two application') information requirements for higher-risk buildings

- 4.33 Under the new regime for higher-risk buildings, we propose to require applicants to submit a building control approval application to the local authority with plans and new additional documents.
- 4.34 The proposed list of information to be submitted to the local authority as part of an application for building control approval includes:
- **Contact Information:** The name, address, telephone number and (if available) an email address of the client, principal contractor (or sole contractor) and the principal designer (or sole or lead designer).
 - **Statement:** A statement confirming that the application for building control approval is made under specified regulations.
 - **Description of an existing building:** Where the higher-risk building work consists of work to an existing building, the applicant must include a description of the existing building. This description should include the details of the current use of the building as well as the current use of each storey, the height of the building, the number of storeys and the number of flats, number of residential rooms and commercial units.
 - **Description of the proposed building work:** The applicant must provide a description of the proposed higher-risk building work. This should include:
 - The details of the intended use of the higher-risk building and the intended use of each storey;

- The height of the higher-risk building;
 - The number of storeys in the higher-risk building;
 - The number of flats, number of residential rooms and commercial units in the higher-risk building;
 - The provision to be made for the drainage of the higher-risk building;
 - Any required precautions to be taken in the building over a drain, sewer or disposal main to comply with applicable building regulations;
 - The steps to be taken to comply with any local enactment that applies; and
 - A statement setting out when the work should be regarded as commenced (please see the relevant section of this consultation for more information about commencement).
- **Plan:** We propose the applicant must provide a plan to a scale of not less than 1:1250. The plan must outline the size and position of the building and its relationship to adjoining boundaries, the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage of the building, and the width and position of any street on or within the boundaries of the curtilage of the building. The applicant should also provide such other plans as is necessary to show that the higher-risk building work would comply with all applicable requirements of the building regulations.
 - **Prescribed Documents:** As part of the building control approval application the applicant will be required to provide the following prescribed documents (further detail on prescribed documents can be found below:
 - A competence declaration confirming that the client is satisfied that their Principal Designer and Principal Contractor are competent to carry out their roles; and written records of the steps the client has taken to be satisfied of their competence;
 - A building regulations compliance statement setting out the design principles and building standards applied;
 - A fire and emergency file setting out fire and structural safety information about the proposal;
 - A construction control plan describing the strategies for managing building work to maintain building regulations compliance;
 - A change control plan setting out how changes during construction will be considered, recorded and when the local authority should be notified or consulted;
 - A description of the mandatory occurrence reporting framework; and,
 - A partial completion strategy (where the applicant proposes occupation of part of the building before completion of the higher-risk building work).

Question 4.11: Do you agree or disagree with the proposed information requirements for building control approval applications for new higher-risk buildings?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.12: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Prescribed documents for building control approval applications for higher-risk buildings

- 4.35 The proposed requirement for dutyholders to submit a building control approval application with plans and new prescribed documents will support dutyholders to meet their dutyholder duties and carefully consider how the proposed building work will comply with building regulations' requirements. This includes the requirement on dutyholders to demonstrate to local authority building control how their proposals are realistic for the building when it is used. A dutyholder will be required to explain their assumptions about the management and maintenance of the building once in use, as well as the behaviours and characteristics of residents or other users, such as whether there are likely to be mobility impaired residents who may have difficulties in escaping a building unescorted in an emergency. This approach should support industry culture change by encouraging dutyholders to move away from seeing building regulations compliance as a 'tick box' exercise, towards an outcomes focused approach.
- 4.36 The comprehensive building control approval application proposed for building work in a higher-risk building under the new regime will help dutyholders meet these duties by ensuring:
- Clients have assessed and are content that their Principal Designer and Principal Contractor have the necessary competence to discharge their responsibilities effectively;
 - Dutyholders have considered how each applicable building regulation requirement will be met before construction starts;
 - Appropriate consideration has been given to building safety once the building is in use through the development of fire and structural safety information about the proposal;
 - Dutyholders have defined strategies in place for managing building work during construction to ensure compliance with applicable building regulations is maintained; and,

- Dutyholders have a framework in place for mandatory occurrence reporting during construction.

Competence declaration

- 4.37 We propose that the new building regulations relating to dutyholders and competence should require the Principal Designers, Principal Contractors and anyone carrying out any design or building work to be competent for their roles. They would also place a duty on those who appoint them to take reasonable steps to ensure that the people they appoint meet this requirement. For higher-risk building work, the regulations would require the client to record the steps taken to consider whether the Principal Designer and Principal Contractor are competent for their roles.
- 4.38 To support these requirements, we intend to require a signed declaration from the client, or someone on behalf of the client, at the building control approval application stage that they have assessed and are content that the Principal Designer and Principal Contractor has the necessary competence to discharge their responsibilities effectively. The declaration must be accompanied by documentation setting out the step the client has taken to satisfy themselves of the competence of the Principal Designer and Principal Contractor. This must include the steps taken to determine whether the person has a serious infraction, and the detailed consideration of their previous conduct, in particular any serious infraction, which might call into question their competence in relation to the work in question, their reasons for appointing them nonetheless and the measures the dutyholder who made the appointment will take to mitigate the effects of the appointment.
- 4.39 The signed declaration will confirm that the client is content that the Principal Designer (or sole or lead designer) and Principal Contractor (or sole contractor) fulfils the dutyholder requirements.
- 4.40 The local authority will check that this statement is in place as part of the determination of the building control approval application. The local authority will be able to, but not be required to, assess the competence of the dutyholders independently. It is important that the dutyholders take responsibility for their own competence and that of people working for them.
- 4.41 The local authority will be able to approve building control approval applications subject to specific requirements placed on dutyholders; require that dutyholders do not cover up certain work for a period of time during the construction phase so it can carry out a bespoke and targeted inspection regime. The local authority will also be able to carry out additional inspections, where deemed necessary, and require access to information such as change control logs maintained by dutyholders. These proposed powers will enable

the local authority to increase their scrutiny on higher-risk building work where the competence of an appointed individual has been called into question.

- 4.42 In addition, during the construction phase, where the local authority finds building work not to be in compliance with relevant building regulations, the local authority will be able to issue compliance notices and/or stop notices, if it is deemed necessary. For more information on these notices please see the relevant section of this consultation.

Question 4.13: Do you agree or disagree with the proposed information that must be contained within a competence declaration?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.14: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 4.15: Do you agree or disagree with the proposed approach to competence declarations and local authority validation of competence?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.16: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Building regulations compliance statement

- 4.43 The purpose of the proposed building regulations compliance statement is to encourage dutyholders to carefully consider how compliance will be achieved for each applicable building regulation requirement before construction starts. As part of the building regulations compliance statement, they will be required to set out whether they intend to follow any guidance to meet the building regulations requirements (e.g. Approved Documents, British Standards, Design Codes, etc.).
- 4.44 We consider this vital as following Approved Documents is a common means to try to ensure building work complies with building regulations and whilst this approach may be entirely appropriate for typical building work scenarios, it

does not guarantee compliance, as the Approved Documents are not relevant to all situations. It is therefore important that dutyholders carefully consider their approach to complying with building regulations and whether it is appropriate for their specific project.

- 4.45 The building regulations compliance statement will also enable the local authority to determine a building control approval application more easily by clearly demonstrating the proposed approach to compliance with building regulations, including where alternative approaches are being taken, and whether they are suitable for the proposed building.
- 4.46 We propose that a building regulations compliance statement must set out the approach taken in designing the higher-risk building and the building standards to be applied, in particular:
- The approach taken in relation to each element of the building to ensure compliance with all applicable requirements of the building regulations and why it is appropriate;
 - Where compliance is not intended to be achieved by following an approach specified in an approved document, the reasons for adopting an alternative approach to compliance together with an explanation of why the alternative approach is appropriate for the building and how it ensures compliance with all applicable requirements of the building regulations; and,
 - An individual statement signed by the principal designer that the above information is accurate and that all reasonable steps have been taken to ensure that, if built as designed, on completion the building will comply with applicable building regulations.
- 4.47 The statement to be signed by the principal designer is a recommendation made in the Grenfell Tower Inquiry's Phase 2 report and is intended to help ensure that proper care is exercised in the design phase. This statement is similar to the statement proposed to be provided as part of the Completion Certificate application confirming that the building complies with applicable building regulations.

Question 4.17: Do you agree or disagree with the inclusion and wording of the statement to be signed by the principal designer?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.18: Please provide an explanation for your answer. Please explain what changes should be made (if any).

Question 4.19: Other than the statement to be signed by the principal designer, do you agree or disagree with the proposed list of information that must be contained within a building regulations compliance statement?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.20: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Fire and emergency file

4.48 The purpose of the proposed fire and emergency file is to ensure that building safety risks are appropriately considered before construction starts and that assumptions behind the designs and how the building will be used are realistic and carefully considered, with a clear rationale behind those assumptions. Dutyholders will need to set out fire and structural safety information about the proposal and provide assurance that occupants would be safe in the event of an emergency, and that they could be safely evacuated.

4.49 We propose that a fire and emergency file must explain:

- The matters that were considered when assessing how the building safety risks identified during design and construction could impact the proposed building when in use;
- The proposals adopted and approach taken in relation to designing the proposed building to ensure compliance with the applicable requirements of the building regulations relating to the building safety risks and why it is appropriate;
- The measures, strategies and policies it is proposed the building owner/responsible person³ should adopt in order to manage and maintain the proposed building once in use to ensure residents and users can be safely evacuated in an emergency. This should include any assumptions made as to the intended occupiers of the building and their likely characteristics and behaviours; and,

³ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

- The proposed fire strategy demonstrating compliance with functional requirements A3 and B1 to B5 of Schedule 1 to the Building Regulations 2010.

4.50 It is recognised that assumptions will need to be made that may not be based on complete information, such as the characteristics of future occupants. However, assumptions made should be realistic and have clear rationale.

Question 4.21: Do you agree or disagree with the proposed list of information that must be contained within a fire and emergency file?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.22: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Construction control plan

4.51 The purpose of the proposed construction control plan to be submitted as part of a building control approval application is to ensure that, before construction even starts, dutyholders have clear strategies in place to ensure compliance with all applicable building regulations will be maintained during building work. This includes setting out how compliance with building regulations will be evidenced by dutyholders, which will in turn support them to meet their design and construction golden thread information requirements.

4.52 We propose that the strategies within the construction control plan should focus on cooperation, coordination, communication and competence and that a construction control plan must set out:

- The strategies, policies and procedures the client has adopted for planning, managing and monitoring the higher-risk building work so as to ensure compliance with:
 - The applicable requirements of the building regulations and to record evidence of that compliance; and,
 - Which dutyholder is responsible for meeting the dutyholder duties.
- The strategies, policies and procedures the client has adopted to identify, assess and keep under review the competence of the persons carrying out the higher-risk building work or involved in the design of the higher-risk building. This must include the steps taken to determine whether the person has a serious infraction, and the detailed

consideration of their previous conduct, in particular any serious infraction, which might call into question their competence in relation to the work in question, their reasons for appointing them nonetheless, and the measures the dutyholder who made the appointment will take to mitigate the effects of the appointment.

- The strategies, policies and procedures the client has adopted to support co-operation between designers, contractors and any other persons involved in the higher-risk building work, including the sharing of all necessary information;
- A schedule giving the name of each person who at the date of the application was appointed by the client, the Principal Contractor (or sole contractor), and the Principal Designer (or sole or lead designer) to work on the project and a summary of their responsibilities. Where the named dutyholders are companies, the company names and the name of the individual designated to manage their functions; and,
- The policies the client has adopted to review the construction control plan.

4.53 The construction control plan will set out the strategies and arrangements the client will put in place to ensure building regulations compliance and to record evidence of that compliance. We propose that this requirement will include the need to maintain and manage the golden thread information.

Question 4.23: Do you agree or disagree with the proposed list of information that must be contained within a construction control plan?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.24: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 4.25: Do you agree or disagree that the Construction Control Plan should set out plans for how the client will maintain and manage the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.26: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Change control plan

- 4.54 There should be a clear change control process during construction to ensure there is an accurate record of changes; that the impact of changes is carefully considered and discussed with other parties as required; and those changes are subject to appropriate regulatory oversight.
- 4.55 The purpose of the proposed change control plan is, therefore, to ensure that dutyholders carefully consider the implications of changes from their original building control approval plan before they are made, and that all controlled changes are recorded to ensure that plans and prescribed documents are updated to reflect the building work 'as built' rather than 'as-designed'. Maintaining accurate records during construction will also be vital to ensuring that the golden thread contains up-to-date information about the building work, which will be particularly important when it is handed over to the responsible person⁴ on completion of the building work.
- 4.56 We propose that the change control plan should include:
- The strategies, policies and procedures adopted to ensure any controlled change takes place in accordance with change control requirements, and to log each controlled change in accordance with record-keeping requirements. This must explain:
 - How proposed changes will be identified and to whom they must be reported;
 - How the impacts of proposed changes are identified and considered;
 - How and at what level in your organisation the impact of controlled changes will be assessed;
 - How changes are recorded;
 - The procedure to identify which changes require notification to the local authority and which changes require a change control application to the local authority before the change can occur; and,
 - How the effectiveness of the change control strategy will be reviewed by dutyholders.
- 4.57 We also propose that the change control plan should include a change control log. The change control log will include the following information:

⁴ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

- The name of the individual recording the change;
- A description of the proposed change;
- An explanation of the reason why the change has been proposed;
- Whether the change is a recordable change, a notifiable change or a major change (further information on this can be found in the section on change control);
- A list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed change and a brief summary of any advice provided;
- An assessment of which agreed document is affected by the proposed change and confirmation that a revised version has been produced; and,
- An explanation, in relation to the proposed change, of how— (i) the higher-risk building work will, after the proposed change is carried out, meet all applicable building regulations, and (ii) the strategies, policies and procedures in relation to the higher-risk building work (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) will, after the proposed change is carried out, meet relevant requirements.

Question 4.27: Do you agree or disagree with the proposed list of information that must be contained within the change control plan, including the information requirements in the proposed change control log?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.28: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Description of the mandatory occurrence reporting system

4.58 As part of the new, more stringent building safety regime, we propose to introduce mandatory reporting of safety occurrences during the design and construction stages of higher-risk buildings. Mandatory occurrence reporting will require dutyholders to report certain fire and structural safety issues ('safety occurrences') to the local authority. This will enable the local authority to capture any risks that could have a potential impact on fire and structural safety. Periodically, each local authority will be required to send the reports to Welsh Government, who will collate the information. From this information, Welsh Government will produce an annual report which will help drive intelligence led enforcement, promote safety-conscious culture change and

improve fire and structural safety standards and best practice across the industry.

- 4.59 Dutyholders will need to establish and operate an effective mandatory occurrence reporting system to enable those on the site or in the building to report safety occurrences to the dutyholders; and report safety occurrences to the local authority in a required manner. Dutyholders will be required to provide a statement describing their mandatory occurrence reporting system as part of a building control approval application to ensure they have arrangements in place before construction starts.
- 4.60 You can find further information in the later section on mandatory occurrence reporting.

Question 4.29: Do you agree or disagree that a statement describing their mandatory occurrence reporting system should be required as part of a building control approval application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.30: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 4.31: Is there any information set out in the prescribed documents that would not be possible to provide before building work commences?

- Yes
- No
- Don't know

Question 4.32: Please provide an explanation for your answer. If you have answered yes, please outline what information it would not be possible to provide.

Building control approval applications for new higher-risk buildings following a staged approach

- 4.61 For most types of building work on a higher-risk building, we expect to see dutyholders endeavouring to provide all the information required in a building

control approval application upfront before building work commences. We recognise that this will require industry culture change but consider that it will encourage dutyholders to consider their building work projects holistically, with an outcomes-focused approach.

- 4.62 We recognise that there may be legitimate scenarios where some information required for building control approval of a higher-risk building is unavailable and waiting for it could delay construction, such as, in complex builds. In these scenarios, we propose that the local authority will be able to allow a 'staged approach' to building control approval for construction, where it is satisfied that all the information cannot be provided upfront but that the proposed building work will comply with all applicable building regulations' requirements.
- 4.63 Where a staged approach is proposed, dutyholders must still provide a comprehensive building control approval application with plans and all prescribed documents, as well as a staged work statement providing a detailed description of the proposed stages of the work, including an estimate of the time when each stage of the work will commence. This will enable the local authority to assess the building work holistically when determining the application.
- 4.64 The difference with the staged approach, is that the plans included in the building control approval application would need to show how the work up to the specified stage would comply with all applicable building regulations requirements. The building regulations compliance statement would need to set out the design principles and building standards to be applied to the work up to that specified stage. The detailed plans and building regulations compliance statement covering work up to the specified stage must, however, be accompanied by outline plans for the whole building. This is to ensure that dutyholders take a holistic approach to building work and consider how compliance with building regulations' requirements will be achieved. It will also ensure that the local authority does not have to consider each stage of building work in isolation.
- 4.65 A staged approach will still represent a 'hard stop' but will be managed through 'hard stops in stages' which are bespoke to the specific higher-risk building project. Building control approval will be strictly limited to the approved detailed plans and stages of work the local authority has approved. It will be an offence to proceed with building work beyond a specified stage and the local authority will have enforcement powers to deal with such a breach.
- 4.66 In order to approve an application where a staged approach is proposed, we envisage the local authority will approve the building control application subject to requirements such as that the work does not proceed beyond a certain stage until it has approved a particular plan, such as plans covering

the next stage of work, or other prescribed documents such as the updated building regulations compliance statement. If such requirements cannot be agreed with the developer, the application may be rejected by the local authority. In a staged approach, to move onto the next stage of construction, the local authority would need to have inspected any agreed building work and the dutyholder would need to have submitted plans and a building regulations compliance statement for the next stage/s of work and obtained approval from the local authority to commence work on those stages.

Question 4.33: Do you agree or disagree that the specific requirements for an applicant proposing to build a higher-risk building in stages are sufficient for ensuring dutyholders demonstrate how they will comply with all applicable building regulations requirements?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.34: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 4.35: Should there be any additional modifications (beyond those proposed for plans and the building regulations compliance statement) to the prescribed documents where the applicant has provided a “staged work” statement?

- Yes
- No
- Don't know

Question 4.36: Please provide an explanation for your answer. If you've answered yes, please explain what changes you think should be made.

Question 4.37: Do you agree or disagree with the additional notification requirements imposed on dutyholders constructing a new higher-risk building in stages?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.38: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Partial completion

- 4.67 Many new high-rise residential buildings are currently completed and occupied in phases, while building work continues elsewhere in the same building. Equally in the case of large developments, occupation might begin in one building while building work continues on other buildings within that site.
- 4.68 As outlined in the response to the Safer Building In Wales consultation⁵, the Welsh Government intends to permit staged occupation for higher-risk buildings. However, it is clear that the intention to occupy a higher-risk building in phases must never come at the expense of resident safety and that it must not introduce greater risk than only allowing occupation once all building work is complete.
- 4.69 We are also proposing to introduce the following further stringent safeguards for partial completion in higher-risk buildings to ensure that residents are safe and feel safe in their homes when parts of their building remain under construction.

Partial Completion Strategy

- 4.70 We propose that where a dutyholder intends to occupy a higher-risk building in phases, a partial completion strategy should be provided at the building control approval stage before building work commences or as part of an application for a major change (please see relevant section of this consultation). This is to ensure dutyholders think ahead to the safety of residents in the occupied building and how they make sure residents are safe whilst building work continues on other parts of the building. We propose that a Partial Completion Strategy must explain the following:
- The proposals adopted in designing for occupation of each part of the proposed building to be completed to ensure compliance with the applicable requirements of the building regulations;
 - How any risks to each completed part that could be caused by the continuing building work are to be managed and mitigated;
 - How safety features, such as sprinklers, will work in the completed parts to be occupied regardless of remaining building work; and
 - Any assumptions made in those measures, strategies and proposals as to the intended occupiers of each part of the proposed building and the

⁵ [Safer buildings in Wales | GOV.WALES](#)

intended management or maintenance of each part of the proposed building.

Question 4.39: Do you agree or disagree with the proposed list of information that should be contained within a partial completion strategy?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.40: Please provide an explanation for your answer. If you've answered disagree, please explain what changes you think should be made.

Assessing building control approval applications

4.71 Under the proposed regime, the local authority, will within a reasonable timeframe (see below), assess the application for building control approval against all applicable requirements of the building regulations. In line with existing practice we would expect the local authority to notify the applicant that their application has been received and will be assessed.

Consultation with relevant enforcing authorities

4.72 Before determining an application for building control approval, we intend to require that the local authority consults relevant enforcing authorities when determining building control approval applications, building on existing practice. For buildings that are, or will be covered, by the Regulatory Reform (Fire Safety) Order 2005, there are currently requirements for the relevant enforcing authority under the Regulatory Reform (Fire Safety) Order 2005 (usually the fire and rescue authority) to be consulted by building control bodies on plans for building work. Similar requirements are made for building control bodies to consult the relevant sewerage undertaker, where it is appropriate to do so. We intend to build on these existing requirements, however, for higher-risk buildings the local authority will be the building control authority.

Fire Safety Enforcing Authorities

4.73 In line with existing requirements for other applications we propose that for higher-risk buildings the local authority must consult with the relevant fire

safety enforcing authority, usually the fire and rescue authority, before making its decision on an application for building control approval.

- 4.74 In consulting the fire and rescue authority, the local authority will need to provide the fire and emergency file and sufficient plans to show whether the higher-risk building work would, if carried out in accordance with those plans, comply with the requirements of the Regulatory Reform (Fire Safety) Order 2005. In providing this requirement in Building Regulations, the remit of the consultation process should be unequivocally clear for fire and rescue authorities and the local authority. As discussed in subsequent sections, the Welsh Government intends to prescribe in regulations exactly when the local authority should consult fire and rescue authorities. This will be before determining an application for building control approval, before determining a change control application and before determining a partial completion or completion certificate application. This proposal aims to clarify the consultation process for all relevant parties and ensure that fire and rescue authorities are consulted at key times during the design and construction of higher-risk buildings.
- 4.75 We intend to impose statutory timeframes for fire and rescue authorities to provide advice to local authorities for all instances where a local authority is required to consult with them, not just those related to higher-risk buildings. In line with other regulations related to consultation with the fire and rescue authority, such as those that apply to Registered Building Control Approvers, we propose that the local authority must not determine an application for building control approval before 15 working days after the date on which the plans were provided to the fire and rescue authority has passed, or until the fire and rescue authority has provided its response (if sooner than the 15 working days).
- 4.76 However, it is clear that this may not be enough time for the plans to be properly considered, such as in the case of higher-risk and/or complex buildings. Therefore, we also intend that the provisions allow for these timescales to be varied should either party consider they need more time to consider the application before a decision can be made.

Question 4.41: Do you agree or disagree that the local authority should consult the fire and rescue authority on compliance with the Regulatory Reform (Fire Safety) Order 2005 on building control approval applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.42: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made including what else you consider the fire and rescue authority should be consulted on.

Question 4.43: Do you agree or disagree that a building control approval application must not be determined before 15 working days after the date on which the plans are given to the fire and rescue authority?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.44: Please provide an explanation for your answer. If you have answered disagree, what do you consider a reasonable timeframe?

- 4.77 Article 45 of the Regulatory Reform (Fire Safety) Order 2005 currently sets requirements for when local authorities must consult with the enforcing authority in relation to building work. The Building Safety Act 2022 includes provision to omit Article 45 with the intention of moving its provisions into the Building Regulations.
- 4.78 Currently one of the situations that a local authority must consult is when there is a “structural alteration” to a building. This is contrasted with the equivalent circumstance for Registered Building Control Approvers to consult when there is a “material alteration” to a building.
- 4.79 We therefore propose to move the Article 45 requirements into the Building Regulations but revise the circumstances under which local authorities must consult where there is an alteration to a relevant building from “structural alteration” to “material alteration”.
- 4.80 This is to ensure consistency between Building Control Bodies and be more in-line with expectations for what an enforcing authority would expect to look at. This is because it encompasses more alterations to a building that may impact fire safety than ‘structural’ alteration would cover. An alteration is a

‘material alteration’ if the proposed building work would make a building less safe structurally, more at risk from fire or less accessible for disabled people.

- 4.81 Other than the 15 working day timescale proposals above we intend to replicate the other requirements from Article 45 as they currently are, with only small updates to the terminology used for building control applications.

Question 4.45: Do you agree or disagree with the proposal to change when a local authority must consult with an enforcing authority from when there is a “structural alteration” to a building to when there is a “material alteration” to a building?

- Agree
- Disagree
- Neither agree nor disagree
- Don’t know

Question 4.46: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Sewerage undertaker

- 4.82 In line with existing practice, we propose that the local authority will also need to consult with the sewerage undertaker where currently required under regulation 15 of the Building Regulations 2010 where building work affects a drain, sewer or disposal main. In these cases, the local authority will need to consult the sewerage undertaker by providing sufficient plans to show whether the higher-risk building would, if carried out in accordance with those plans, comply with the requirements of paragraph H4 of Schedule 1 to the Building Regulations 2010.

- 4.83 We do not propose to change the existing 15 working day timescale for the sewerage undertaker to respond. However, in line with proposals above for consultation with the fire safety enforcing authority, we also intend that the provisions allow for these timescales to be varied should either party consider they need more time to consider the application before a decision can be made.

Question 4.47: Do you agree or disagree that the local authority should consult the sewerage undertaker on Part H of Schedule 1 of the Building Regulations when determining building control approval applications?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

Question 4.48: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 4.49: Do you agree or disagree that an application must not be determined until at least 15 working days after the date on which the plans are given to the Sewerage Undertaker?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.50: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Local authority decisions

- 4.84 Following consultation with relevant enforcing authorities, we propose the local authority will be able to approve a building control approval application (with or without requirements – see below) or reject it⁶.
- 4.85 Where a building control approval application is successful the proposed effect is that from the date of the local authority's notice confirming that the application has been approved, the building control approval for the building work is granted and the application, including the plans and prescribed documents are approved.
- 4.86 We also propose that the local authority should be able to approve an application subject to specific requirements. For example:
- A requirement to provide the local authority with a particular document, or revised version of a particular document by a certain date. For example, if some relatively minor details were missing from the building control approval application, the local authority will have the option to approve the application on the basis that the additional information is provided by a certain date.
 - A requirement that building work does not proceed beyond a specified stage until a particular document, or revised version of a particular document has been approved by the local authority. For example, if a

⁶ The local authority also already has powers from sections 8 to 10 of the Building Act 1984 (as amended by the Building Safety Act 2022) to dispense with or relax specific building regulations requirements, following an application, if it considers the operation of a requirement would be unreasonable in relation to a specific development. There are no proposed changes to those provisions in this consultation.

dutyholder has opted for the staged approach, the local authority may require that building work does not proceed beyond a specified stage such as laying the foundations until the dutyholder has provided detailed plans and a building regulations compliance statement covering the superstructure.

- 4.87 This power will ensure that the local authority does not have to automatically reject building control approval applications where relatively minor details are missing. In these situations, the local authority could first request information and identify requirements that enable an application to be approved, rather than reject the application straightaway.

Question 4.51: Do you agree or disagree with the proposed types of requirements which can be imposed by the local authority when approving an application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.52: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

- 4.88 Where an application for building control approval has been granted subject to a requirement that a particular document must be revised and provided to the local authority by a certain date, we propose that the effect would be that the original plan or document is not approved. The plan or document would not be considered approved until it has been updated and formally accepted by the local authority in accordance with the requirement. Furthermore, the client must ensure that building work does not commence until the revised document is provided to the local authority.

Question 4.53: Do you agree or disagree with the proposal to enable the local authority to prohibit building work from commencing until a requirement of a type described above has been met by the applicant?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.54: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

4.89 Under the proposed regime, where an application for building control approval has been granted subject to a requirement that building work does not proceed beyond a specified point, we propose that the client must notify the local authority when that stage has been reached. The local authority will have the power to determine when the client must notify them and also whether further work can proceed. They can also require that the client does not cover up certain work for a specified period to ensure it is able to carry out inspections of specific building work during the construction phase. It would be an offence for a dutyholder to contravene any requirement imposed by the local authority and it may issue compliance notices or stop notices depending on the type of contravention.

4.90 In addition to being able to approve an application (with or without requirements), the local authority will be able to reject applications where necessary. We propose the following grounds for rejection:

- An application does not comply with the requirements for submitting the application or prescribed documents;
- An application is not sufficiently detailed to enable the local authority to determine whether the proposed building work would contravene any applicable building regulations requirements;
- An application shows that the building work would contravene any applicable building regulations requirements; or,
- An application shows the strategies, policies and procedures in relation to the building work (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) would contravene or would be likely to contravene relevant building regulations.

Question 4.55: Do you agree or disagree with the proposed grounds for rejecting a building control approval application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.56: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

- 4.91 After assessing an application and coming to a decision, we propose that the local authority provides notice of its decision in writing, setting out any requirements it has imposed where applicable, or the grounds for rejection.

Question 4.57: Do you agree or disagree with the proposed approach outlined for local authorities to provide notice of a decision to applicants?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.58: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Time limit for local authority decisions

- 4.92 In line with existing practice, the local authority will have to decide an application for building control approval within a statutory time-limit. We propose a prescribed timescale of 12 weeks to provide sufficient time for the local authority to carefully consider building control approval applications for higher-risk buildings, including the new prescribed documents we are proposing, whilst avoiding unduly delaying projects. We propose that the 12-week time limit should also apply to building control approval applications made under the 'staged' approach.
- 4.93 Under the proposed regime, the local authority and applicant will be able to agree an extension to the prescribed timescale, providing flexibility where needed such as for complex proposals or where the local authority requires further information from the applicant before being able to determine the application. If an extension is not agreed, and the local authority has not decided an application within the prescribed timescale, the applicant can opt to use the non-determinations procedure under section 30A of the Building Act 1984 to secure a decision. This procedure is explained in more detail in Compliance and Stop notices section of this consultation.
- 4.94 Where the local authority has not reached a decision within the prescribed timescale and the applicant has not taken action – either by agreeing to an extension or submitting their application to the Welsh Ministers under the section 30A non-determinations procedure, we propose to provide in the regulations that the application will be deemed refused. This represents a

significant shift from the current regime and will ensure that proposals that have not been subject to appropriate regulatory oversight are not approved by default and that the 'hard stop' before building work commences intended by Dame Judith Hackitt is always implemented.

Question 4.59: Do you agree or disagree that 12 weeks is an appropriate timeframe to require the local authority to determine a building control approval application for a new higher-risk building?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.60: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe.

Use of Competent Person Schemes when creating a new higher-risk building

- 4.95 Under the existing regime, certain types of building work can be carried out under an authorised competent person scheme (as specified in Schedule 3 to the Building Regulations 2010), where the incidence of risk of these types of building work is considered low. Such persons can be used in relation to standalone building work, or as part of wider building projects for which building control oversight is required.
- 4.96 Competent person schemes allow a consumer to select an authorised installer to self-certify that the work complies with building regulations. It removes the burden from installers and consumers of having to notify the work to a building control body in advance and automatically having the work checked by them when completed.
- 4.97 The person carrying out the work must, however, within 30 days of its completion give the occupier a certificate and must also issue the local authority with the certificate, or a notice to that effect. Local authorities then have the option to inspect such building work from a building control perspective should they wish.
- 4.98 In addition to using such installers to carry out standalone building work, we propose that it should be possible for them to be used as part of wider building work for which a building control approval application to the local authority is required – for example, if a developer is building a higher-risk building and

commissions a competent person scheme installer to install all the gas boilers in flats and then self-certify that specific work.

4.99 For higher-risk buildings we are proposing that the competent person scheme work should be included in the building control approval application. This would encourage dutyholders to consider building work projects holistically, rather than consider individual elements in isolation, and this in turn would give the local authority oversight of all building work to be carried out. We envisage that the process would be as follows:

- **Before building work commences** – the applicant would submit a building control approval application to the local authority which would cover all the building work including the work to be carried out under self-certification. For example, the plans would include the gas boilers to be fitted by a competent person scheme installer, and electrical work to be carried out by another such installer. The local authority would consider the work proposed to be carried out by installers as part of its assessment of the overall building control approval application. The local authority and applicant will also agree an inspection schedule bespoke to the project. As part of this, the local authority will decide whether to inspect the work to be carried out by a competent person scheme or omit such work from the planned inspection schedule as it will be subject to self-certification (although it will be able to carry out inspections without warning when deemed appropriate). The local authority's decision to inspect may be based upon different matters such as mandatory occurrence reports, previous non-compliance from an installer, or emerging concerns about a particular type of building work. The local authority will have enforcement powers where breaches of the building regulations are identified, including where work has been carried out by a competent person scheme.
- **During construction** – all dutyholders including designers and contractors will need to work together to plan, manage and monitor the design work and the building work, ensure they cooperate and communicate with each other, coordinate their work and have systems in place to ensure that building work, including design work, complies with all relevant building regulations. Dutyholders will also need to have the right skills, knowledge, experience and behaviours to undertake work and ensure that those they appoint (including competent person scheme) are also competent. The building work will also be subject to the statutory change control process, an inspection schedule and mandatory occurrence reporting requirements.
- **On completion of all the building work or stages of building work** – the applicant must submit a completion certificate application to the local authority which reflects the as-built, rather than as-designed building work (see the Gateway 3 section of this consultation). The local authority must assess the application, carry out a final inspection of the building work and if satisfied, issue a completion certificate. The local authority will need to decide whether to inspect any work carried out under a competent person scheme as part of its final inspection. The installer would equally issue a notice/certificate to the local authority within 30 days of completing the work and the local authority would not issue a

completion certificate for the whole building work until all such notices/certificates had been received.

Question 4.61: Do you agree or disagree that competent person scheme work should be reflected in building control approval applications where such work forms part of a wider higher-risk building work project?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.62: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Commencement notices

4.100 Once building control approval has been granted, we propose that in line with existing practice, the client, or someone on their behalf, must give notice to the local authority that they intend to commence higher-risk building work. This is to ensure that the local authority is aware of the commencement of work and can begin its operational oversight of the construction phase.

4.101 Currently this notification must be given at least two days before the work can begin. We are considering whether this period should be increased for higher-risk building work. It is noted, for example, that for higher-risk building work in England notification to the Building Safety Regulator, who are the building safety authority in England for higher-risk building work, must be given at least five days in advance of commencement of work.

Question 4.63: How many days in advance should notice of planned commencement of higher-risk building work be given to the local authority?

- Two days as is currently the case
- Five days as is the case for higher-risk building work in England
- A different number of days (please explain below)
- No notification of commencement is necessary

Question 4.64: Please provide an explanation for your answer. If you have answered 'a different number of days', please state how many days you believe would be appropriate.

Site inspections during construction

- 4.102 The local authority will run a bespoke inspection and enforcement regime for higher-risk buildings during the design and construction stage.
- 4.103 We do not intend to mandate particular stages of work for inspection in legislation as this will be project specific and will depend on the scope and complexity of the proposed works. We, instead, expect the local authority and applicant to work together to agree an inspection schedule tailored to the individual higher-risk building project when the building control approval application is approved.
- 4.104 In addition, we intend to provide the local authorities with the power to require a client, by notice in writing (or agreed procedure e.g. e-mail), to notify the local authority when a specified stage or point of the higher-risk building work has been reached and to not cover up specified work for a specified period of time. It will also be able to carry out additional inspections at its discretion, including without notice, for example, based on mandatory occurrence reports. These powers will enable the local authority to implement a robust inspection regime during construction and will equally apply where the staged approach is taken.
- 4.105 While an inspection schedule during construction will be project-specific, the Welsh Government proposes to require the local authority to arrange the final inspection or inspections of the completed higher-risk building work before determining a completion certificate application. The purpose of the final inspection is to assess whether the building work complies with all applicable requirements of the building regulations, not just fire and structural aspects, and reflects the information contained in the completion certificate application before the local authority (if satisfied) issues a completion certificate. Further details on this can be found later in this consultation.

Question 4.65: Do you agree or disagree with the proposed approach to site inspections of higher-risk building work, including the requirement for the local authority to inspect completed higher-risk building work before determining a completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.66: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 4.67: Do you have any other comments in relation to the proposals?

Building work carried out in existing higher-risk buildings

- 4.106 Dame Judith Hackitt identified in her final report, the need for a continued and determined focus on driving improvements in fire safety in the existing housing stock. Not only is it fundamental that we have a robust gateways process for the design and construction of higher-risk buildings, it is equally important that we have stringent processes in place for building work (as defined in regulation 3 of the Building Regulations 2010) carried out in existing higher-risk buildings (e.g. alterations and refurbishments). This means having appropriate building control oversight to ensure that the building is considered holistically, taking account of initial construction and any other works that have been undertaken. It is also necessary to ensure the safety of residents, and that they feel safe, during building work as residents will often occupy the building whilst building work is carried out.
- 4.107 We are therefore introducing a new, more stringent building control regime for building work in existing higher-risk buildings to ensure such work is subject to appropriate regulatory oversight.
- 4.108 Building work in existing buildings follows different building control routes depending on the work that is being carried out. A lot of building works are carried out by a person certified under a competent person scheme (CPS). These works are carried out by a certified person and the local authority is notified of the work; notifiable building work that is carried out under this route is sent to a building control body for approval. We propose to take a similar approach for higher-risk buildings.

Building work as defined in regulation 3 of the Building Regulations 2010 is to be carried out. Applicant must determine which route to follow based on the nature of the proposed building work.

Schedule 3 work – can be carried out under a competent person scheme (CPS).
If work is proposed by a resident, they must notify the responsible person* of their intention.

Non-schedule 3 work – building control application must be submitted.
If work is proposed by a resident, they must notify the responsible person* of their intention.

Work can be carried out by a CPS installer (although applicant can choose to submit a building control approval application).

Applicant must submit application with plans and prescribed documents reflecting the 'category' of work'. Please see hierarchy of proposed building work section.

If application is approved, the local authority (LA) will agree a bespoke inspection schedule with the applicant.

Notification sent to the local authority and issued to the occupier. Local authority can decide whether to inspect.

During building work, LA carries out inspections at agreed stages, and without notice, if necessary.
Dutyholders must comply with the dutyholder and competence duties; mandatory occurrence reporting requirements; statutory change control requirements (including 'major' and 'notifiable' changes) and golden thread requirements.
Construction (Design and management) Regulations 2015 (CDM), Fire Safety Order and responsible person's* duty to assess and manage building safety risks also separately apply.

Building work is complete. Applicant must submit a completion certificate application to the LA for approval and golden thread information must be handed over to the responsible person*.
LA assesses the application and carries out final inspection(s) of the building work. If satisfied that the building work complies with all applicable building regulations, the LA will issue a completion certificate.

* In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

Building work as defined in regulation 3 of the Building Regulations 2010 is to be carried out. Applicant must determine which route to follow based on the nature of the proposed building work

Schedule 3 work – can be carried out under a competent person scheme

- If work is proposed by a resident, they must notify the responsible person of their intention
- Work can be carried out by competent person scheme installer (although applicant can choose to submit building control approval application)
- Notification sent to the local authority and issued to occupier. Local authority can decide whether to inspect

Non-schedule 3 work – building control application must be submitted

- If work is proposed by a resident, they must also notify the responsible person of their intention
- Applicant must submit application with plans and prescribed documents reflecting the 'category' of work. Please see hierarchy of proposed building work section.
- If application is approved, the local authority will agree a bespoke inspection schedule with the applicant.
- During building work, the local authority carries out inspections at agreed stages, and without notice, if necessary.
- Dutyholders must comply with dutyholder and competence duties; mandatory occurrence reporting requirements; statutory change control requirements (including for 'major' and 'notifiable' changes) and golden thread requirements.
- Construction (Design and Management) Regulations 2015 (CDM), Regulatory Reform (Fire Safety) Order 2005 and responsible person's duty to assess and manage building safety risks also separately apply.
- Building work is complete. Applicant must submit a completion certificate application to the local authority for approval and golden thread information must be handed over to the responsible person.
- The local authority assesses the application and carries out final inspection/s of the building work. If satisfied that the building work complies with all applicable building regulations, the local authority will issue a completion certificate.

Competent person schemes

Competent person schemes for building work in a higher-risk building

- 4.109 Under the current system, most notifiable building work is undertaken by installers from authorised competent person schemes. Certain types of building work (as specified in Schedule 3 of the Building Regulations 2010) can be carried out under competent person schemes. This allows a consumer to select an authorised installer to self-certify that the work complies with building regulations and removes the burden of having to notify the work to a building control body in advance and automatically having the work checked by them when completed.
- 4.110 The installer must within 30 days of its completion, give the occupier a certificate evidencing that the requirements of regulations 4 (Requirements relating to building work) and 7 (Materials and workmanship) of the Building Regulations 2010 have been satisfied, and they must also issue the local authority with the certificate, or a notice to that effect. Local authorities can then inspect the work from a building control perspective should they deem this necessary.
- 4.111 Welsh Government considers the use of competent person schemes in higher-risk buildings to be a proportionate approach to specified types of building work because the incidence of risk is considered low whilst the high volume of work carried out under competent person schemes means that mandating building control involvement would potentially divert building control resource from areas of high risk.
- 4.112 Unlike for new builds, where we are seeking views on including the competent person schemes under the building control approval application, to ensure proportionality and to align with the existing approach to competent person schemes, we propose that it will not be a requirement to submit a building control application seeking permission to carry out such building work in a higher-risk building in advance. We propose to build on existing practice and require that where building work is carried out under a competent person scheme in a higher-risk building, the installer must issue a certificate to the occupier, and separately notify or provide a copy of the certificate to the local authority within 30 days of completion of the building work. Given the requirements in relation to dutyholders and competence we expect that the competent person should be aware that they are working on a higher-risk

building. The person requesting the work – either the responsible person⁷ or a resident – should also make them aware.

- 4.113 The local authority will then be able to decide whether to inspect the building work as it has enforcement powers if the work contravenes the building regulations.
- 4.114 Under the new regime, an installer operating under an approved competent person scheme will have duties to plan, manage and monitor the building work they undertake to ensure compliance with all relevant aspects of the building regulations. They must also have the right competence for the work to be undertaken and cooperate with the client, other contractors and designers (including the Principal Designer and the Principal Contractor) to the extent necessary to ensure the work complies with all relevant requirements.
- 4.115 For work carried out under competent person schemes we propose that it will be for the responsible person(s) for the building⁸ to consider whether the building work changes their assessment of building safety risks and how they manage those risks. We propose that the responsible person(s) for the building will be able to request further information from the person who has commissioned the building work and to store this information in the golden thread. The level of information requested will depend on the nature of the building work. For example, if a resident has commissioned building work through a competent person scheme, the responsible person for the building will decide whether to request a copy of the certificate issued by the competent person scheme installer on completion of the building work and store this in the golden thread.

Question 4.68: Do you agree or disagree with the proposals on the information about building work through competent person schemes to be stored in the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.69: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

⁷ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

⁸ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

Building control approval applications for building work in an existing higher-risk building

4.116 We propose that where building work in an existing higher-risk building is not going to be carried out under a competent person scheme, the applicant will be required to submit a building control approval application to the local authority as it is vital that the building control process for building work in an existing higher-risk building is as rigorous as the process for creating new higher-risk buildings. Our proposed approach to such building work in an existing higher-risk building will therefore largely be the same as the gateways process for creating new higher-risk buildings, but with a few variations that reflects the versatility of the work as outlined below:

Similarities with gateways building control process

Building control approval application must be submitted to the local authority before building work commences (see paragraph on statutory timescales below).

Offence to commence building work without local authority approval (hard stop).

The local authority will consult as necessary when determining building control applications.

Statutory timescales for the local authority to determine building control approval applications apply (although the timescale for determining an application for work in an existing higher-risk building will be eight weeks), and extensions can be agreed where necessary.

Same grounds for approving (with or without requirements) or rejecting an application.

Section 30A (non-determinations) procedure will apply.

Where a time extension has not been agreed and the applicant has not taken action, applications will be deemed refused, rather than approved, once the prescribed period has passed.

A bespoke site inspection schedule agreed by the local authority and applicant and statutory change control process will apply.

Dutyholder and competence requirements will apply to all design work and building work. This will include golden thread information requirements, and dutyholders will also need to ensure there is an effective mandatory occurrence reporting system.

Reviews and appeals procedures will apply.

Enforcement provisions will apply.

Completion certificate application submitted on completion of building work and final inspection carried out by the local authority.

A completion certificate will only be issued if the local authority is satisfied that as far as it has been able to determine, the building work, complies with all applicable building regulations' requirements.

Differences from gateways building control process

Scale of the work could vary significantly from the replacement of a gas boiler to adding storeys to the building. Requirements must be proportionate.

The minimum requirements for information and documents to be included in the building control approval application will depend on the category of building work.

Using a power in the Building Safety Act 2022, the local authority can require that an applicant provides additional prescribed documents (beyond minimum requirements) where necessary and reject an application if they are not provided.

Differences between gateways and building work in an existing higher-risk building processes and requirements

4.117 As outlined above, as building work in an existing higher-risk building varies significantly in scale and impact and can be commissioned by different parties, a one-size-fits-all approach is not suitable. For example, building control approval applications could be made by:

- A resident or occupant such as a leaseholder or buy-to-let landlord who wishes to make alterations to a flat they own such as having a new gas boiler installed; changing their front door; having their kitchen replaced; or changing the layout within their flat such as knocking down a wall between their kitchen and lounge so that it is open plan;
- A responsible person⁹ who wishes to carry out extensive work to the common parts of the building such as adding storeys; adding flats; or replacing the building's external wall system; or
- A responsible person¹⁰ who wishes to make improvements to the specific part of the building they are responsible for (where there are multiple responsible persons) such as upgrading active fire safety systems on the floors they have responsibility for.

4.118 We therefore need to ensure building control requirements are appropriate to the scale and nature of the building work and propose to introduce a building

⁹ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

¹⁰ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

control regime which strikes a balance between setting out minimum expectations for building control approval applications for different types of building work whilst giving the relevant local authority and dutyholders the flexibility to go beyond these minimum requirements on a case-by-case basis as needed.

4.119 We propose to create a hierarchy of categories of building work in an existing higher-risk building and outline the prescribed documents needed as a minimum requirement in a building control approval application for each category. This will help provide certainty to local authorities and industry about the information requirements for different types of building work carried out in an existing higher-risk building, while recognising that a one-size-fits-all approach is not appropriate and that requiring all prescribed documents for all types of building work would not be proportionate. Please see the proposed hierarchy of building work below and mandatory information requirements for each category:

Proposed hierarchy of categories of building work

Category A building work

This should generally be considered as work that has the potential to affect people in more than one residential unit in the building. We propose that this includes:

- Change in external dimensions to the overall building including change in number of storeys (including adding or removing a gallery floor and/or underground storeys).
- Change in number of residential units (flats as defined in regulation 2 of the Building Regulations 2010).
- Change in the number and/or the location/positioning and/or widths of corridors and/or staircases (including exit passageways) as escape routes.
- Certain work to the external wall excluding work or materials of a description specified in regulation 7(3) of the Building Regulations 2010
- Changes to the internal layout of the building
- Work which affects the passive fire safety measures in common areas of the building or which can affect the compartmentation of a residential unit
- Work which affects the active fire safety measures that are providing protection to more than one residential unit or common areas
- Work which affects the common parts of the building (including the external wall), but is not already specified above

Category A minimum prescribed documents required in building control approval application

- Plans and structural calculations (where appropriate)
- Competence Declaration

- Construction Control Plan
- Change Control Plan
- Mandatory Occurrence Reporting Plan
- Building Regulations Compliance Statement
- Fire and Emergency File
- Partial Completion Strategy (if applicable)
- Where an application is made by someone on behalf of the client, a statement signed by the client confirming that they agree to the application being made

Category B building work

This should generally be considered as work that only affects a single residential unit and is not category A work. For example, any building work that does not affect compartmentation or structural safety for another unit/common area or external part of the building.

This does not apply to building work listed in Schedule 3 of the Building Regulations 2010.

Category B documents required in building control approval application

We propose not to prescribe a minimum number of required documents, it will be down to the applicant to determine which of the above documents are necessary for the application, based on the nature and complexity of the work.

4.120 The applicant must ensure they choose the correct category of work for their building control approval application. Choosing category A, when work actually falls under category B, will place a burden on the local authority to review unnecessary documents. Choosing category B, when work actually falls under category A, will result in the local authority needing to request missing documents. Both scenarios have the potential to cause delays with approval. If an applicant is unsure of the category, then early engagement with the local authority for advice would be recommended to avoid delays.

Question 4.70: Do you agree or disagree with the proposed categories of building work, the type of building work included in them, and the proposed information requirements for each proposed category?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.71: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made, and whether there are additional categories of work that should be listed.

4.121 Statutory timescales for the local authority to determine building control approval applications apply. We propose that the timescale for determining an application for work in an existing higher-risk building will be eight weeks, and extensions can be agreed where necessary.

Question 4.72: For applications for work on existing buildings, do you agree or disagree with the prescribed period of eight weeks for the local authority to determine building control approval applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.73: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

4.122 As mentioned above, even where a prescribed document is not listed as a minimum requirement for a prescribed type of building work, we propose the local authority will be able to request additional prescribed documents and refuse applications where they are not provided, using powers under paragraph 1B(5) of Schedule 1 to the Building Act 1984. We consider that this strikes an appropriate balance between ensuring information requirements are proportionate and tailored to different types of building work whilst enabling the local authority to request the information it needs to determine a building control application on a case-by-case basis. Where such information is not provided and the local authority is unable to determine whether the proposed work would contravene building regulations' requirements, we propose it will be able to reject the application (hard stop).

4.123 We propose that the information and prescribed documents required in an individual building control approval application for building work in an existing higher-risk building for a particular project should be stored in the golden thread.

Question 4.74: Do you agree or disagree with the proposals about the information about building work in an existing building to be stored in the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.75: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 4.76: Do you have any other comments in relation to the proposals?

Stronger change control process for higher-risk buildings

4.124 In her Independent Review of Building Regulations and Fire Safety Final Report, Dame Judith Hackitt called for a 'stronger change control process' during design and construction, more stringent record-keeping, and a requirement to have 'permission' before significant changes are made in recognising that what is built often does not reflect what was originally planned.

4.125 We therefore propose to introduce a robust statutory change control process for higher-risk building work that dutyholders must follow if they intend to deviate from their original building control approval application. This new process will apply when building work requiring a building control approval application to the local authority is carried out in existing higher-risk buildings as well as when building work is carried out to create a new higher-risk building through the gateways process. All changes during construction, such as a change to cladding material, will have to be recorded, evaluated and evidenced to show that they comply with all applicable building regulations' requirements.

Types of changes to building control approval applications

4.126 We agree with Dame Judith's recommendation that there needs to be appropriate regulatory oversight of changes to the original building control approval application and that the approach should be proportionate to the expected impact of an individual change. We consider that this will enable the

local authority to focus on changes that have the greatest impact on compliance with all applicable building regulations' requirements (not just structure and fire safety).

4.127 We therefore propose to introduce two categories of work requiring oversight from the local authority – 'major' and 'notifiable' changes. Where a change is deemed 'major', applicants will need to submit a change control application to the local authority and the change cannot be made without approval (hard stop). Major changes could have an impact on compliance with all applicable building regulations' requirements to a great extent.

4.128 We are also proposing the creation of a class of changes called 'recordable changes'. These are where an agreed document specifies the use of a construction product or building element that falls within a specified class, and there is a change to a different product that falls within the same design specification.

4.129 These will form part of the change control log (discussed earlier in this consultation) but do not need to be notified to the local authority.

'Major changes'

4.130 We propose that the following changes in relation to higher-risk building work or a stage of higher-risk building work, in a proposed or existing higher-risk building, should be categorised as major:

- A change which is a material change of use to any part of a proposed/existing higher-risk building;
- A change of the proposed/existing use of any part of the building so that after the change the part of the building is to have use, or ceases to have use, as a car park (whether the car park is for the occupiers of the building or otherwise);
- A change which increases or decreases the external height or width of a proposed/existing building;
- A change to the number of storeys in a proposed/existing higher-risk building (including adding or removing a mezzanine or gallery floor);
- A change to the structural design or structural loading of the building;
- A change to the number or width of the staircases in a proposed/existing higher-risk building, or a change to the length of any other escape route, or the number or width of any escape route (including evacuation lift) within the proposed/existing building;
- A change to the external wall of a proposed/existing higher-risk building including a wall tie, wall restraint fixing or support system in the wall;
- A change to any part of the active fire safety measures or passive fire safety measures in a proposed/existing higher-risk building referred to in the fire and emergency file;
- A change to the layout or dimensions of common parts within a proposed/existing higher-risk building;

- A change to any construction product or building element to be used in or on a proposed/existing higher-risk building such that its replacement is of a lower classification under the reaction to fire classification¹¹;
- A change to any assumptions made in the design of a proposed/existing higher-risk building, or works to an existing higher-risk building, as set out in the Building Regulations compliance statement;
- A change proposing occupation of any part of a proposed higher-risk building before all the work is completed, or, where an existing building or part of an existing building is not occupied during the work, a change proposing occupation before all the work is completed;
- A change to the number of flats, residential rooms or commercial units contained in a proposed/existing higher-risk building;
- A change specified in a notice given by the local authority as a major change.

Question 4.77: Do you agree or disagree with the list of major changes?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.78: Please provide an explanation for your answer. Are there additional changes that you think should be added to the list?

4.131 Where a change is major, the applicant will need to submit a change control application to the local authority and the change cannot be made without its approval. We propose that the local authority will need to determine the application within six weeks, or within a longer period if agreed with the applicant. The local authority will consult as needed when determining the application and where no decision has been given by the local authority and no further action has been taken by the applicant in the relevant time period, the application will be deemed refused.

Question 4.79: Do you agree or disagree with the prescribed period of six weeks for the local authority to determine change control applications for major changes?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

¹¹ Within the meaning in regulation 2(6) of the Building Regulations 2010

Question 4.80: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe.

‘Notifiable changes’

4.132 In addition, we also propose that there should be a category of ‘notifiable’ changes where such changes could have an impact on compliance with all applicable building regulations’ requirements, but to a lesser extent than ‘major’ changes. The level of regulatory oversight will therefore be proportionate to the types of change reflected in this category.

4.133 Where a change is ‘notifiable’, we propose that the applicant must submit a notification to the local authority so that it is aware of the proposed change and can intervene where it deems necessary. It will not be possible for applicants to carry out notifiable changes before a certain period has passed to ensure the local authority has had the opportunity to assess the notification. We propose that the following changes will be categorised as notifiable for both proposed and existing higher-risk buildings:

- A change to the construction control plan other than a change to the schedule of appointments contained within it;
- A change to the control plan;
- A change to the layout of a flat or a residential room in a proposed/existing higher-risk building;
- A change to the number or dimensions of any openings in any wall, ceiling or other building element for any pipe, duct or cable;
- A change to the wall tie, wall restraint fixing or support system in any wall or proposed wall (excluding an external wall);
- A change of construction product or building element to be used in or on a proposed higher-risk building (or to be used as part of works to a higher-risk building) where its replacement is of the same or higher classification¹²;
- Any other change to the fire and emergency file or the fire safety compliance information;
- A change specified in a notice given by the local authority as a notifiable change;
- A change to the partial completion strategy;
- A change to a staged work statement or a subsequent stages statement.

Question 4.81: Do you agree or disagree with the list of notifiable changes?

- Agree

¹² Within the meaning in regulation 2(6) of the Building Regulations 2010

- Disagree
- Neither agree nor disagree
- Don't know

Question 4.82: Please provide an explanation for your answer. If you have answered disagree, please explain whether there are any additional changes that you think should be added to the list.

4.134 We propose that the notification period where a change cannot be made should be 10 working days¹³, or within a longer period if an extension is agreed with the notification. This will provide the local authority with the opportunity to assess the proposed change and there are different scenarios as to how this might work:

- The local authority does not have any concerns with the proposed change. It is not required to take any action and the applicant can make the change once the prescribed period of 10 working days has passed;
- The local authority does not have sufficient information upon which to determine the proposed change so requests further information from the applicant (the 10-working day period will start again when the information is provided); and
- The local authority considers the proposed change to be major in this circumstance. It advises the applicant that a change control application is needed. The proposed change cannot then be made without approval from the local authority.

Question 4.83: Do you agree or disagree with the prescribed period of 10 working days for notifiable changes before the change can be made?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.84: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe.

¹³ Excluding bank holidays, Christmas Day and Good Friday

Change of client

New client: notification

4.135 To ensure the golden thread of information is not undermined and that clients are aware of their responsibilities, we intend to place duties on the outgoing client and the new client.

4.136 We propose that where practicable, the outgoing client must provide the new client with the following information:

- A copy of the golden thread of information
- Information including plans, drawings and other documents, that is sufficient to define the work comprised in the project
- A document explaining the arrangements made to ensure compliance with requirements of the Building Regulations 2010, and
- A statement signed by the outgoing client which provides the date that they ceased to be the client, and confirms that they have fulfilled their client duties (under part 2A of the Building Regulations 2010), confirms they have provided a copy of the golden thread to the new client, and also confirms that, as far as they are aware, the design work and building work that had been completed by the time they ceased to be the client, complied with all applicable requirements of the building regulations.

4.137 We are proposing that the outgoing client must provide the above to the new client within 14 days of them ceasing to be the client.

4.138 We are also proposing to make it an offence under section 35 of the Building Act 1984 for an outgoing client to fail to share the above information with the new client.

Question 4.85: Do you agree or disagree with the information detailed above that the outgoing client must provide to the new client?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.86: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Question 4.87: Do you agree or disagree that 14 days is a reasonable time limit for the outgoing client to provide the new client with the prescribed information?

- Agree

- Disagree
- Neither agree nor disagree
- Don't know

Question 4.88: Please provide an explanation for your answer. If you have answered disagree, please explain what you think the time limit should be.

4.139 We propose that the new client will be responsible for providing a notification to the local authority which will include, as a minimum, the following information:

- A statement of when they became the client and when the outgoing client ceased to be the client
- Confirmation that they have received the golden thread of information and other supporting information such as plans, drawings and documents
- Confirmation that they are aware of the requirements imposed on them by the building regulations, and
- A copy of the statement provided by the outgoing client

4.140 We also propose that the new client will be responsible for ensuring that a record is made in the change control log of the change of client and that the construction control plan is revised accordingly.

4.141 Where the new client is not able to provide any of the prescribed information, we propose that they must explain the reasons for this as part of their notification to the local authority.

4.142 The proposed timeframe for the new client to provide the notification to the local authority is 28 days from the date that they became the client.

Question 4.89: Do you agree or disagree with the content of the notification detailed above that the new client must provide to the local authority?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.90: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Question 4.91: Do you agree or disagree that 28 days is a reasonable time limit for the new client to provide the notification to the local authority?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.92: Please provide an explanation for your answer. If you have answered disagree, please explain what you think the time limit should be.

4.143 We acknowledge that there are other possible scenarios, and some of these maybe relatively temporary scenarios, where there will be a change of client. These could be for example:

- A trustee has been appointed in the case of bankruptcy
- A client has become insolvent and/or their property (or part of it) has been placed in the possession of a liquidator
- A deputy has been appointed by the Court of Protection in relation to the client's property and financial affairs
- A person has power of attorney in relation to the client's property and they intend to act in the capacity of the client
- The original client has died or become incapacitated

4.144 In these cases, we propose that the regulations will place similar requirements on the client, representative, or new client to notify the local authority of the change(s) that have occurred in relation to the client role, but the requirements will be tailored to the specific circumstances. The key theme throughout will be to ensure the golden thread of information is passed from the original client to the new client, that the new client is aware of their responsibilities, and that the local authority is kept informed. This is to ensure the local authority is aware from a building control perspective that the client is in financial trouble, or has died or become incapacitated, and that the higher-risk building work they have commissioned may be paused, handed over to a new client, or stopped entirely.

4.145 For cases of insolvency, we propose that the client will need to notify the relevant local authority and to provide prescribed information. Where the client has more than one project affected by the insolvency proceedings, and these projects are located within different local authorities, they must provide a notification to each relevant local authority. They will need to do this within 14 days of becoming aware of the insolvency circumstances. Where a person is appointed in relation to the client, they will also have a duty to notify the local authority and to provide prescribed information, within 14 days of their

appointment. We propose that this requirement will not apply to a domestic client.

Question 4.93: Do you agree or disagree with the requirement for the client and/or appointed person to notify the local authority in the cases of insolvency?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.94: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Question 4.95: Do you agree or disagree that 14 days is a reasonable time limit for the client and/or appointed person to provide the insolvency notification to the local authority?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.96: Please provide an explanation for your answer. If you have answered disagree, please explain what you think the time limit should be.

4.146 Where, in relation to insolvency, a property is being disclaimed, we propose that the person disclaiming the property must give a copy of the notice of disclaimer to the relevant local authority and that they must do this within 28 days of the disclaimer taking effect.

Question 4.97: Do you agree or disagree with the requirement for the local authority to be notified if a person is disclaiming a property?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.98: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Question 4.99: Do you agree or disagree that 28 days is a reasonable time limit for the person disclaiming the property to provide a copy of the notice of disclaimer to the local authority?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.100: Please provide an explanation for your answer. If you have answered disagree, please explain what you think the time limit should be.

Question 4.101: Would you like to make any additional comments in relation to a change of client, such as circumstances that have not been mentioned above that need to be considered?

Change of principal contractor or principal designer etc: notification

4.147 We also propose that if a client appoints a new Principal Contractor or Principal Designer for higher-risk building work, then unless the client is a domestic client, the client must notify the local authority so that it is aware from a building control perspective. We propose that this notification should be made within 14 calendar days of the appointment and include:

- The name, address, telephone number and (if available) an email address of the person appointed;
- A statement that the client is satisfied that the principal contractor or principal designer has the necessary competence;
- A record of the steps the client took to satisfy itself with the competence of the principal designer or principal contractor; and,
- A compliance declaration that they have complied with their dutyholder duties signed by the person who previously was the principal contractor or principal designer, and where that person is unable to give a compliance declaration to the client, a statement explaining why a compliance declaration for that person has not been provided, for example, because they have died or are incapacitated.

Question 4.102: Do you agree or disagree that a notification with the information outlined above must be made to the local authority where there is a change of Principal Designer or Principal Contractor for a higher-risk building project?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.103: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Question 4.104: If you answered agree to the question above, do you consider 14 days to be a reasonable timeframe for this notification?

- Yes
- No
- Don't know

Question 4.105: Please provide an explanation for your answer. If you've answered no, please explain what you deem to be an appropriate timeframe.

4.148 In the case of a domestic client, as they are typically not familiar with communicating with the local authority building control team, we propose that the outgoing dutyholder should provide the domestic client with a declaration that they have fulfilled their duties towards the domestic client. The domestic client will provide this declaration to the person they appoint, and it will be the responsibility of the appointed person to notify the local authority, update the change control log and the construction control plan. We propose that the declaration from the outgoing dutyholder should be provided to the domestic client within 5 days of the date their appointment ends, and the notification to the local authority should be made within 14 calendar days of the new appointment.

Question 4.106: Do you agree or disagree with the method of notification to the local authority where there is a change of principal dutyholder and the client is a domestic client?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

Question 4.107: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Question 4.108: Do you consider 5 days to be a reasonable timeframe for the outgoing dutyholder to provide the declaration to the domestic client?

- Yes
- No
- Don't know

Question 4.109: Please provide an explanation for your answer. If you've answered no, please explain what you deem to be an appropriate timeframe.

Question 4.110: Do you consider 14 days to be a reasonable timeframe for the new dutyholder to provide the notification to the local authority?

- Yes
- No
- Don't know

Question 4.111: Please provide an explanation for your answer. If you've answered no, please explain what you deem to be an appropriate timeframe.

Question 4.112: Do you have any other comments in relation to the proposals?

Higher-risk building regularisation

4.149 Regularisation is a process currently available in building control that allows an applicant to seek approval from the local authority for work that has been carried out without prior approval. Under regulation 18 of the Building Regulations 2010, it may be possible to obtain a regularisation certificate from the local authority where unauthorised building work has already been carried out, however, there is no obligation on the local authority to give a certificate even if the work complies with the appropriate regulations.

- 4.150 Welsh Government is proposing to allow applications for Higher-Risk Building work regularisation to allow for scenarios where building work was not notified when it should have been. This process should only be used for the few scenarios where it would not have been possible to get building regulations approval beforehand and must not be used to undermine the normal building regulations application process.
- 4.151 Some examples of where a regularisation application may be acceptable are:
- Where there have been emergency repairs or replacement following damage to a building such as additional services or re-wiring, replacement or removal of linings, fire doors or fire protective finishes, revised sanitary or kitchen fittings, changes to ventilation, changes to internal layouts or structural components, new penetrations through fire walls or compartmentation and the like.
 - Where a relevant accountable person or other persons who may report to the relevant accountable person has identified unauthorised building work in an existing higher-risk building when carrying out their safety case review
 - Where work is mistakenly not carried out in accordance with the new more stringent regulations.
- 4.152 We propose that the local authority will have the discretion to determine whether to issue a regularisation certificate, and / or whether to take enforcement action. We would not expect the local authority to permit regularisation for significant works such as creating a new higher-risk building, adding to or removing floors from a building, or carrying out works that would be considered a material change of use. We expect that with regards to the new building regime, dutyholders such as a client, Principal Designer and Principal contractor should be aware of the need to notify the local authority before carrying out these types of work.
- 4.153 Work will need to comply with building regulations that were in force at the time that it was carried out. Proof of when the undertaking the unauthorised works should be provided to the local authority by the person(s) who undertook those works, otherwise the local authority reserve the right to make a fair and reasoned decision as to the age of the unauthorised works as presented and confirm the same in writing to the persons that undertook the work or those now in residence and/or ownership and/or positions of accountability.
- 4.154 We are also proposing that if the local authority identifies that additional work is required to be able to comply with the appropriate regulations, then the application for regularisation should be rejected and the applicant must make an application for building control approval instead.

Question 4.113: Do you agree or disagree with the proposal to reject an application for regularisation if additional work is required to be able to comply with the appropriate regulations?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.114: Please explain your answer. If you have answered disagree, please explain what changes you think should be made.

4.155 Where a regularisation certificate is issued, we propose that the applicant must, no later than 5 days after the certificate has been received, give the building work information and a copy of the certificate to the person who is responsible for the part of the building to which the work relates, so that they can keep the building information up to date.

Question 4.115: Do you agree or disagree that the applicant must give the building work information and a copy of the certificate to the responsible person within 5 days of receiving it?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.116: Please explain your answer. If you have answered disagree, please explain what changes you think should be made.

Question 4.117: Do you have any other comments in relation to the proposals?

Completion of higher-risk building work (Gateway 3)

4.156 Under the current system, upon completion of higher-risk building work a local authority would take all reasonable steps to ensure the work complies with relevant building regulations before issuing a completion certificate. This process also includes the handing over of fire safety information to the responsible person that has control of the building (under Regulation 38 of the Building Regulations 2010).

- 4.157 In order to provide a hard-stop checkpoint upon completion of building work and before occupation of a higher-risk building, we intend to introduce a new completion certificate process – Gateway 3.
- 4.158 This new process will strengthen oversight and help ensure compliance with building regulations. It will introduce a final assessment of the building’s compliance with building regulations as it has been built, rather than as it was designed.
- 4.159 Further detail is below, but in short, the proposed process upon full completion of higher-risk building work is:
- Applicant/client submits a completion certificate application to the local authority for approval
 - Applicant/client submits a completion certificate application to the local authority for approval
 - The local authority assesses the application and makes any final inspections of the work it deems necessary.
 - Once satisfied the building complies with applicable building regulations, as far as it is able to determine, the local authority issues a completion certificate.
- 4.160 This ends the design and construction phase and the building is, from a building control perspective, ready to enter its Occupation phase. Requirements for the Occupation phase in Wales will be detailed in forthcoming proposals.
- 4.161 Partial completion of higher-risk building work where a building is to be occupied in phases is covered below.

When to apply for a completion certificate

- 4.162 Building work must be completed before an application for a completion certificate is made to enable the local authority to properly assess compliance. However, it is recognised that after this point there may be some work that needs to be re-done, usually referred to as snagging. We propose therefore that the completion certificate application should be made once all notifiable work is completed. It is clearly important though that any snagging to be completed after the completion certificate is applied for should be work that is outside of building regulation requirements.

Question 4.118: Do you agree or disagree with the proposal that completion certificates can be applied for once all notifiable work is completed and any snagging work to be completed after this must be work outside of building regulation requirements?

- Agree
- Disagree

- Neither agree nor disagree
- Don't know

Question 4.119: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Information to be submitted with a completion certificate application

4.163 We propose that the client, or someone on their behalf, must make a completion certificate application to the local authority upon completion of higher-risk building work. An application for a completion certificate must be signed by the client regardless if they make it or it is made on their behalf.

4.164 We propose this application should contain certain information, which will also be part of the Golden Thread of building information given to the responsible person¹⁴. Please see the relevant section of this consultation for more detail on the Golden Thread and handover of information. We propose the application for a completion certificate should include the following:

- Contact information: The name, address, telephone number and (if available) an email address of the client, principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
- Regulatory statement: A statement confirming that the completion certificate application is made under the new regulations;
- Description of the higher-risk building work that includes:
 - The location of the higher-risk building;
 - The details of the intended use of the higher-risk building and the intended use of each storey;
 - The height of the higher-risk building;
 - The number of storeys in the higher-risk building;
 - The number of flats, number of residential rooms and commercial units in the higher-risk building;
 - The provision made for the drainage of the higher-risk building;
 - Any required precautions taken in building over a drain, sewer or disposal main to comply with applicable building regulations; and,
 - The steps taken to comply with any local enactment that applies.
- Compliance statements:
 - A statement, signed by the client, confirming that to the best of their knowledge the higher-risk building work, as built, complies with applicable building regulations requirements.

¹⁴ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

- Statements from, and signed by, each principal, or sole, contractor or designer that they have fulfilled their duties under the building regulations. See the relevant section for proposals on Dutyholder responsibilities.
- If a designer or contractor is unable to provide such a statement, the client should include a statement explaining why this is the case.
- **Golden thread statement:** A statement, signed by both the client and the responsible person¹⁵, confirming that a copy of the golden thread and any other required information was appropriately provided to the responsible person and the responsible person has received all of the information.
- **Plan:** The applicant must provide a plan to a scale of not less than 1:1250. The plan must:
 - outline the size and position of the building and its relationship to adjoining boundaries;
 - the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage of the building;
 - the width and position of any street on or within the boundaries of the curtilage of the building.
- The applicant should also provide such other plans as is necessary to show that the higher-risk building work would comply with all applicable requirements of the building regulations.
- **Prescribed documents:** As part of the completion certificate application the applicant will be required to provide updated prescribed documents reflecting the building 'as-built' and a list of all the written mandatory occurrence reports submitted to the local authority (please see further details below).
- **Change control log:** The log showing all changes made to the project. See the section on Gateway 2 for more detail on change control.
- **Delegation statement:** Where the application is being made on behalf of the client, a statement, signed by the client, that the client agrees to the application being made and that the information in the application is correct.

Prescribed documents

4.165 In order that the application reflects the building 'as built' rather than 'as designed' we propose the application should contain updated versions of the prescribed documents for the original building control approval application. In particular, we propose the following be included:

- Construction control plan;
- Change control plan;
- The mandatory occurrence reporting plan;

¹⁵ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

- Fire and emergency file.

4.166 These documents should be updated for any relevant changes recorded in the change control log.

Question 4.120: Do you agree or disagree with the proposed documentation to be included with a completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.121: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Local authority consultation on completion certificate applications

4.167 In order to be in line with controls proposed for building control approval applications and change control applications we propose that local authorities be required to consult with the relevant enforcing authority, such as the fire and rescue authority, when determining a completion certificate application.

4.168 In line with the current procedures, we also propose that where the work affects a drain, sewer or disposal main, local authorities be required to consult with the sewerage undertaker when determining a completion certificate application.

Question 4.122: Do you agree or disagree that the local authority be required to consult with the enforcing authority, such as fire and rescue authority, and when relevant, the sewerage undertaker, when determining a completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.123: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Determining a completion certificate application

4.169 When determining the application the local authority will carry out any final inspections of the work that it deems necessary and, after taking all reasonable steps, assess whether the application meets the following criteria:

- The higher-risk building work is complete and complies with applicable building regulation requirements

- The information required to be submitted with the application is complete and accurate
- The information required to be in the golden thread is complete and has been provided to the responsible person¹⁶.

4.170 If the local authority is satisfied these criteria have been met then it must approve the application and issue a completion certificate. We do not intend to change the position that a completion certificate is “evidence but not conclusive evidence” of compliance with the building regulations.

4.171 If the local authority is not satisfied the acceptance criteria have been met it should reject the application and provide its reasons for doing so in writing.

Question 4.124: Do you agree or disagree with the criteria for a local authority to accept a completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.125: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Question 4.126: Do you agree or disagree with the proposed approach for local authorities determining a completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.127: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

4.172 As is standard we intend to prescribe a time-limit within which the local authority must make a decision on a completion certificate application. We propose a time limit of 8 weeks.

4.173 We also propose that the local authority and the applicant be able to agree an extension, in writing, should it be necessary. For example, rather than reject

¹⁶ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

an application out-right this would allow an applicant to provide further information that the local authority may need to satisfy itself that it can accept the application.

4.174 If necessary, the applicant can use the procedure under Section 30A of the Building Act 1984 to apply to the Welsh Ministers for a decision on their application. Please see the relevant section of the consultation for more detail on this.

4.175 As detailed in the section on the Golden Thread, once a completion certificate has been issued the client should ensure a copy of the completion certificate, and the application for it, is provided to the responsible person¹⁷.

Question 4.128: Do you agree or disagree with the 8 week time-limit for a local authority to determine an application for a completion certificate?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.129: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Partial completion of higher-risk building work

4.176 Where it's intended that a higher-risk building is occupied before all work on it is completed, we propose to introduce additional requirements to help ensure the building is safe to occupy.

4.177 We propose that the local authority should be able to permit partial occupation in higher-risk buildings before all building work is complete, but only where it is satisfied that specific requirements have been met. This ensures that the hard-stop checkpoint of Gateway 3 is still in place during phased occupation.

4.178 Further detail is below, but in short, the proposed process where the building is intended to be occupied before the higher-risk building work is fully complete is:

- Building work on the relevant part of the higher-risk building is complete.

¹⁷ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

- Applicant must submit a partial completion certificate application to the local authority for approval and golden thread information must be given to the responsible person¹⁸.
- The local authority assesses the application and carries out final inspection/s of the relevant building work.
- If satisfied that the completed part of the higher-risk building including all relevant building work complies with all applicable building regulations, as far as it can be determined, the local authority will issue a partial completion certificate for that specific work.
- Only the part of the building for which there is a completion certificate, can be occupied.

4.179 In cases where there are multiple-phases of occupation before full completion of building work the above completion certificate application process applies each time higher-risk building work is complete on a new part of the building.

Submitting a partial completion certificate application

4.180 Where it's intended for a building to be occupied before building work is fully complete, we propose that the client, or someone on their behalf, must submit an application for a partial completion certificate. This must only be where the notifiable building work on the area(s) of the building to be occupied is complete.

4.181 We propose this be largely similar to the new completion certificate application process proposed above, with some changes to account for the different circumstances of partial completion. The proposed requirements are below in full, with differences between completion and partial completion applications highlighted in **bold**.

4.182 We propose the application for a partial completion certificate should include the following:

- Contact information: The name, address, telephone number and (if available) an email address of the client, principal contractor (or sole contractor) and the principal designer (or sole or lead designer);
- Regulatory statement: A statement confirming that the **partial** completion certificate application is made under the new regulations;
- **A statement containing a detailed description of the proposed stages of work, including an estimate of the date each stage will start;**
- Description of the higher-risk building work at the date of occupation that includes:
 - The location of the higher-risk building;

¹⁸ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

- The details of the intended use of the higher-risk building and the intended use of each storey;
- The height of the higher-risk building;
- The number of storeys in the higher-risk building;
- The number of flats, number of residential rooms and commercial units in the higher-risk building;
- The provision to be made for the drainage of the higher-risk building;
- Any required precautions taken in building over a drain, sewer or disposal main to comply with applicable building regulations;
- The steps taken to comply with any local enactment that applies; and,
- **Date of occupation to which the application relates**
- **Description of the higher-risk building work that remains to be completed after this application is submitted**
- Compliance statements:
 - A statement, signed by the client, confirming that to the best of their knowledge the higher-risk building work, as built, complies with applicable building regulations requirements. **This must only cover the completed work to which the application relates.**
 - Statements from, and signed by, each principal, or sole, contractor or designer that they have fulfilled their duties under the building regulations. See the relevant section for proposals on Dutyholder responsibilities.
 - If a designer or contractor is unable to provide such a statement, the client should include a statement explaining why this is the case.
- Golden thread statement: A statement, signed by both the client and the responsible person¹⁹, confirming that a copy of the golden thread and any other required information was appropriately provided to the responsible person and the responsible person has received all of the information. **This must only cover the information collected to that point.**
- Plan: The applicant must provide a plan to a scale of not less than 1:1250. The plan must:
 - outline the size and position of the building and its relationship to adjoining boundaries;
 - the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage of the building;
 - the width and position of any street on or within the boundaries of the curtilage of the building.

¹⁹ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

- **A plan that shows the part of the building that is to be occupied indicating the intended use of that part and locations of any dwellings that are intended to be occupied.**
- The applicant should also provide such other plans as is necessary to show that the higher-risk building work would comply with all applicable requirements of the building regulations.
- Prescribed documents: As part of the completion certificate application the applicant will be required to provide updated prescribed documents reflecting the building 'as-built' and a list of all the written mandatory occurrence reports submitted to the local authority (please see further details below).
- Change control log: The log showing all changes made to the project. See the section on Gateway 2 for more detail on change control.
- **Partial completion strategy: An updated version of the partial completion strategy should be included. See the Gateway 2 section of this consultation for more details on what should be included in the strategy.**
- Delegation statement: Where the application is being made on behalf of the client, a statement, signed by the client, that the client agrees to the application being made and that the information in the application is correct.

Prescribed Documents

4.183 As with the completion certificate application, we propose the following documents be included with a partial completion certificate application:

- Construction control plan;
- Change control plan;
- The mandatory occurrence reporting plan;
- Fire and emergency file.

4.184 These documents should be updated for any relevant changes recorded in the change control log.

Question 4.130: Do you agree or disagree with the variations to the proposed completion certificate application to account for partial completion and phased occupation?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.131: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Local authority consultation on partial completion certificate applications

4.185 As with full completion certificate applications, we propose that the local authority must consult the relevant enforcing authority, such as the fire and rescue authority, and the sewerage undertaker before determining a partial completion application.

Question 4.132: Do you agree or disagree that the local authority must consult with the enforcing authority, such as the fire and rescue authority, and sewerage undertaker for a partial completion certificate in the same manner as proposed for a completion certificate?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.133: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Determining a partial completion certificate application

4.186 As with the proposed process for a completion certificate application we propose that when determining the application the local authority will carry out any final inspections of the work that it deems necessary and, after taking all reasonable steps, assess whether the application meets the following criteria:

- The completed part of the higher-risk building, including all relevant building work, is complete and complies with applicable building regulation requirements
- The information required to be submitted with the application is complete and accurate
- The information required to be in the golden thread is complete and has been provided to the responsible person²⁰.

4.187 If the local authority is satisfied these criteria have been met then it must approve the application and issue a completion certificate. We do not intend to change the position that a completion certificate is “evidence but not conclusive evidence” of compliance with the building regulations.

4.188 If the local authority is not satisfied the acceptance criteria have been met it should reject the application and provide its reasons for doing so in writing.

²⁰ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

Question 4.134: Do you agree or disagree with the criteria for a local authority to accept a partial completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.135: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Question 4.136: Do you agree or disagree with the proposed approach for local authorities determining a partial completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.137: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

4.189 In line with our proposal for completion certificate applications we propose a time limit of 8 weeks during which the local authority must determine the application, unless an extension is agreed in writing between the local authority and the applicant. This allows, for example, an applicant to provide further information that the local authority may need to satisfy itself that it can accept the application.

4.190 As with completion certificate applications, if it is necessary, the applicant can use the procedure under Section 30A of the Building Act 1984 to apply to the Welsh Ministers for a decision on their application. Please see the relevant section of the consultation for more detail on this.

4.191 As detailed in the section on the Golden Thread, once a partial completion certificate has been issued the client should ensure a copy of the partial completion certificate, and the application for it, is provided to the responsible person²¹.

Question 4.138: Do you agree or disagree with the 8 week time-limit for a local authority to determine an application for a partial completion certificate?

²¹ In future this may include an accountable person to be determined by ongoing work into legislation for the management of building safety risks during occupation of a building.

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 4.139: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

Question 4.140: Do you have any other comments in relation to the proposals?

5. Mandatory occurrence reporting

- 5.1 As part of the new building safety regime, we propose to introduce mandatory reporting of safety occurrences during the design & construction phase of higher-risk building work. The requirement will be to report certain fire and structural issues ('safety occurrences') to the building control team at the local authority. Periodically, each local authority will send a summary of all safety occurrences received to Welsh Government, who will collate the data. This information will support intelligence led enforcement and will be used to drive up safety standards and best practice across the industry.
- 5.2 We propose the mandatory occurrence reporting regime during the design and construction (or refurbishment) of higher-risk buildings will place duties on the Principal Designer and the Principal Contractor after the building control approval application stage:
- To establish and operate a mandatory occurrence reporting system to enable those undertaking design work or building work to report safety occurrences to the dutyholder(s); and,
 - To report safety occurrences to the relevant local authority in a required manner.
- 5.3 Dutyholders will be required to provide a statement describing their mandatory occurrence reporting system as part of a building control approval application to ensure they have arrangements in place before construction or refurbishment starts.
- 5.4 We intend to place a duty on the client to ensure they take all reasonable steps to satisfy themselves that the Principal Contractor and Principal Designer appointed can fulfil the mandatory occurrence reporting requirements and have a mandatory occurrence reporting system in place. However, in our proposal the client will have no responsibility themselves for establishing, maintaining or operating the system.
- 5.5 We further propose that the principal dutyholders take reasonable steps to ensure each reporting person is provided with adequate instruction and information on the system established and the incidents or situations that must be reported by the reporting person throughout the system. In addition, we intend to require that the Principal Contractor and Principal Designer must ensure that there is an appropriate frequency of inspections of higher-risk building work for safety occurrences throughout the construction phase.
- 5.6 We intend to leave it to the dutyholders to determine how exactly they will implement, operate and maintain a reporting system. However, we propose that the principles of an effective reporting system should:

- Be known to, understood by, and accessible to dutyholders;
- Form an ongoing, integral, and regular part of the design and construction safety management process;
- Maintain an approach which facilitates urgent reporting of occurrences
- Identify and capture mandatory occurrences; and,
- Allow mandatory occurrences to be formally reported to the local authority as soon as is practicably possible and within the mandated time.

5.7 Where the dutyholder becomes aware of a safety occurrence, we intend to require that they notify the local authority of the safety occurrence without undue delay and provide the local authority with a written report containing required information within 10 calendar days of becoming aware of the occurrence.

5.8 If a dutyholder contravenes this requirement, we propose that they will have a defence if they believe another dutyholder has already notified the local authority, or they have already provided the local authority with a written report.

Question 5.1: Do you agree or disagree that, when a dutyholder has become aware of an occurrence they must report the occurrence to the local authority without undue delay and provide a written report within 10 calendar days?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 5.2: Please provide an explanation for your answer. If you disagree, please explain what changes you think should be made.

5.9 Welsh Government will produce guidance detailing the circumstances of safety occurrences which should be reported to the local authority during the design and construction process. However, this will not be a definitive list and the dutyholder will need to use its own judgement to determine whether an incident meets the definition as detailed below.

5.10 Under the proposed regime, a safety occurrence is defined as:

- In relation to a design, an aspect of the design relating to the structural integrity or fire safety of a higher-risk building that would, if built, meet the risk condition;
- Otherwise, an incident or situation relating to the structural integrity or fire safety of a higher-risk building that meets the risk condition.

- 5.11 In our proposed definition of “safety occurrence”, the proposed definition of the “risk condition” is that use of the building in question without the incident or situation being remedied would be likely to present a risk of a significant number of deaths, or serious injury to a significant number of people.
- 5.12 We have intentionally left some room for interpretation with the definition. The intention of mandatory occurrence reporting is to drive a proactive safety and reporting culture and to capture serious incidences which may be indicative of a larger systemic issue across fire and structural building safety.

Question 5.3: Do you agree or disagree with the proposed definitions of safety occurrence and risk condition?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 5.4: Please provide an explanation for your answer. If you disagree, please explain what changes you think should be made.

- 5.13 We want people to be able to report safety occurrences without the fear of repercussions. We are therefore proposing that information provided by a person under the reporting system will not be admissible in evidence against that person in court proceedings. It is necessary that there are some exceptions to this. We propose that these will be:
- in proceedings for an offence under section 35 of the Building Act 1984 relating to breach of the duty in relation to following the reporting procedure
 - in proceedings for an offence of perverting the course of justice
 - if in court proceedings, the person who reported the safety occurrence gives evidence inconsistent with the report
 - if in court proceedings, evidence as to the information that was provided, is cited, or a question related to it is asked, by or on behalf of the person.

Question 5.5: Do you agree or disagree with the proposed exceptions to information provided not being admissible in evidence in court proceedings?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 5.6: Please provide an explanation for your answer. If you disagree, please explain what changes you think are required.

- 5.14 Welsh Government intends to collate information on mandatory occurrence reports from all the local authorities on a quarterly basis. Welsh Government will then use the collated information to identify trends and to produce an anonymised annual report, which would be made available to all the local authorities and other regulatory bodies. By collating and sharing information, the intention is to prevent the same issues occurring on potentially unconnected sites and to drive up the safety culture in the construction industry.
- 5.15 We propose that each local authority will be able to implement its own reporting procedure to facilitate the submission of information about safety occurrences by dutyholders. However, to enable the onward sharing of information to Welsh Government, we propose that every local authority must record the same information. This information will be:
- The date and time of the safety occurrence;
 - The address of the site at which the occurrence happened;
 - The name, address, telephone number and (if available) an email address of the principal dutyholder making the report;
 - The type and details of the occurrence (including the nature of the risk);
 - The details of remedial measures or mitigation carried out.

Question 5.7: Do you agree or disagree that the proposed information required when reporting a safety occurrence is appropriate?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 5.8: Please provide an explanation for your answer. If you disagree, please explain what changes you think should be made.

Question 5.9: Do you have any other comments in relation to the proposals?

6. Compliance and Stop notices

- 6.1 The Building Safety Act 2022 is giving building control authorities stronger enforcement powers. This will help ensure those responsible for non-compliance with Building Regulations are held accountable and provide a strong deterrent against non-compliant action.
- 6.2 This takes forward Dame Judith Hackitt's and the Welsh Government's Building Safety Experts Group's recommendation of stronger enforcement measures during the design and construction of buildings to underpin the new regulatory regime.
- 6.3 The following enforcement measures have been included in the Building Safety Act 2022 to be used during the design and construction of buildings:
- The penalty for a breach of building regulations under section 35 of the Building Act 1984 has been increased to a maximum of an unlimited fine and/or two years in prison (amended by section 39 of the Building Safety Act 2022);
 - Section 35 of the Building Act 1984 has been expanded so that it applies not only to breach of provisions of building regulations, but also to breach of individual requirements imposed under building regulations (amended by section 39 of the Building Safety Act 2022). For example, this will mean that where local authorities impose requirements at the time of granting building control approval (such as a requirement to provide more plans before a particular stage of work begins), then breach of those requirements will also be an offence under section 35;
 - Section 36 of the Building Act 1984 has been amended to extend the time limit to take action to correct non-compliant work under this section to ten years (amended by section 39 of the Building Safety Act 2022).
 - Local authorities can issue compliance and stop notices against non-compliant work. Compliance notices will require work to be corrected by a certain date and stop notices will require non-compliant work to be stopped until the non-compliant action has been addressed. Failure to comply with either notice will be a criminal offence, with a maximum penalty of up to two years in prison and an unlimited fine (inserted by section 38 of the Building Safety Act 2022).
- 6.4 We are now proposing the procedural and administrative requirements around the use of compliance and stop notices. We are also setting out options concerning existing building regulations which are exemptions to enforcement action. We will do this using the powers in sections 35, 35B, 35C and 35D of the Building Act 1984 (as inserted or amended by the Building Safety Act 2022).

Enforcement: service and content of compliance and stop notices

- 6.5 Compliance and stop notices will be available for local authorities to use for the design and construction of both non-higher-risk and higher-risk buildings.
- 6.6 It is important that where notices are issued, they are served with the correct information and to the relevant individuals. This will help ensure notices are complied with and are not disregarded on the basis that the notices are misleading or confusing.

Compliance notices

- 6.7 We propose that Compliance notices should contain the following information:
- The date the notice is issued on to set out the period of appeal
 - Name or description of the recipient
 - A statement setting out the consequences of failing to comply with the notice
 - A statement that it is a compliance notice under section 35B of the Building Act 1984
 - A description of the work where the breach has occurred
 - A description of the issue to which the notice relates
 - The provision of building regulations, or the requirement imposed by virtue of the building regulations which has been, or is likely to be, contravened
 - Details of the nature of the contravention or likely contravention
 - A statement that the notice may be withdrawn by the local authority
 - A statement that the recipient may apply for an extension
 - A statement that the recipient may appeal; and,
 - Details of the route of appeal
- 6.8 A compliance notice must only be issued against one contravention of building regulations, or one requirement imposed under building regulations. This means that where there are multiple contraventions of building regulations, a compliance notice must be served for each contravention of a building regulation or requirement imposed under regulations.

Stop notices

- 6.9 We propose that Stop notices should contain the following information:
- The date the notice is given on and whether the notice applies immediately, or where it does not apply immediately, the date when it applies
 - Name or description of the recipient
 - A statement setting out the consequences of failing to comply with the notice
 - A description of the issue to which the notice relates
 - A statement that it is a stop notice under section 35C of the Building Act 1984

- A statement making it clear whether the stop notice is being issued under s35C(1)(a), (b) or (c) i.e., against a contravention of specific building regulations, breach of a compliance notice or a contravention of building regulations which has led to or will lead to serious harm
- Details of the nature of the contravention, including which provision of building regulations has been contravened, or which compliance notice the stop notice relates to, or which requirement imposed by the building regulations the stop notice relates to, and where relevant, a description of the serious harm that is anticipated
- A statement that the recipient may appeal and that the appeal must be made within 21 relevant days of the date the notice is given, and,
- Details of the route of appeal and how to apply to suspend the notice so it has no effect during appeal proceedings

6.10 As mentioned above, new section 35C of the Building Act 1984 states that a stop notice can only be issued against: a) a contravention of specific building regulations; b) a contravention of a compliance notice or c) a contravention of building regulations which can cause serious harm (this means that there is a risk of serious harm to people in or around a building if the contravention is not corrected).

6.11 As is for compliance notices, a stop notice must only be issued for one contravention. Where there are multiple contraventions on a single site that are grounds for issuing a stop notice, then multiple stop notices must be issued.

6.12 Under section 35C(1)(a), contravention of specific building regulations, we are proposing that stop notices can only be issued against the contravention of the following building regulations:

- Starting work or a stage of work on a new higher-risk building before the local authority has approved a building control application with plans
- In relation to higher-risk building work or a stage of higher-risk building work, proceeding beyond a point specified in a requirement without the necessary approval from the local authority - both in relation to creating a new higher-risk building or when carrying out building work in an existing higher-risk building (refurbishment).
- Starting certain building work on an existing higher-risk building before the local authority has approved a building control application with plans for the building, and
- Carrying out a 'major' change before a change control application is granted, or proceeding beyond a point specified in a requirement for a major change without the necessary approval from the local authority – both in relation to creating a new higher-risk building or when carrying out building work in an existing higher-risk building (refurbishment).

- 6.13 Under section 35C(1)(b) or (c), local authorities will be able to issue stop notices in relation to any provisions of building regulations where there is a risk of serious harm or a compliance notice for the same work has been contravened, not just those mentioned in the paragraph above.
- 6.14 Compliance and stop notices must be served in accordance with section 94 of the Building Act 1984.
- 6.15 Notices may include directions on how to remedy the breach, however this will be at the discretion of the local authority. It will not be a requirement; they could just state in general terms that the contravention must be remedied. Local authorities must stay within their remit, ensuring they do not give directions that are the responsibility of a designer.

Question 6.1: Do you agree or disagree with the contents of compliance notices detailed above?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.2: Please explain your answer. If you have answered disagree, please explain what changes you think should be made.

Question 6.3: Do you agree or disagree with the contents of stop notices detailed above?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.4: Please explain your answer. If you have answered disagree, please explain what changes you think should be made.

- 6.16 For the purposes of section 35D(3) of the Building Act 1984, we propose the following persons/bodies should be notified after a compliance or stop notice is issued:
- the Client, Principal Contractor and Principal Designer, as they have an active interest in the building's construction and should be aware of an act of non-compliance on the premises
 - the relevant fire safety enforcing authority for the area in question where the contravention specified in the notice relates to Part B (fire safety) of Schedule 1 of Building Regulations 2010, to make sure that fire and

rescue authorities are aware of fire safety breaches in their capacity as the regulator for fire safety

- local housing authority where a notice is issued and the client is a private landlord
- the responsible person where they are not the client and the notice is issued in relation to refurbishment work in their part of the building as they have an interest in this construction work.

Question 6.5: Do you agree or disagree that the persons/bodies mentioned above should be notified after a compliance or stop notice is issued?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.6: Please explain your answer. Please explain whether any other bodies/persons should be notified after a compliance or stop is issued.

- 6.17 We want building control authorities to be able to withdraw compliance or stop notices at any time, even when an appeal is pending. The ability to withdraw notices at any time will simplify legal proceedings for the local authority, recipient and the Magistrate's court. If the building control authority wants to amend or extend notices they can withdraw and issue a new notice.

Question 6.7: Would you like to provide any comments on our proposed approach for withdrawing compliance and stop notices?

Exceptions to enforcement action

- 6.18 Under regulation 47 of the Building Regulations 2010, contravention of regulations 17, 17A, 25A, 27, 27A, 37, 41, 42, 43 and 44 of the Building Regulations 2010 are currently exempt from prosecution under section 35 of the Building Act 1984. These regulations set out administrative procedures, such as CO₂ emission rate calculations (regulation 27) and sound insulation testing (regulation 41).
- 6.19 We are proposing to refine the exempted regulations listed above, so that only the paragraphs of the regulations that relate to building control bodies are exempt, rather than whole regulations, where this is possible. We also propose that similar exclusions should be introduced for section 35B (compliance notices) and 35C (stop notices).

- 6.20 Currently, duties on local authorities and Registered Building Control Approvers in building regulations are exempt from prosecution under section 35 of the Building Act 1984. These duties are set out in the Building (Registered Building Control Approvers) (Wales) Regulations 2024 (except regulation 17), Building (Local Authority Charges) Regulations 2010 and regulations 17 and 17A of the Building Regulations 2010.
- 6.21 We do not propose to remove the exemption on the duties of local authorities or Registered Building Control Approvers. We propose that any new procedural provisions of local authorities in the new regulations will be added to this list.

Question 6.8: Do you agree or disagree with the proposed changes to exemptions to enforcement action?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.9: Please explain your answer. If you disagree, which regulations should be exempt?

Dutyholder and competence requirements – Enforcement

- 6.22 We propose that breach of the dutyholder's duties and the competence requirements will be a criminal offence.
- 6.23 In Wales, enforcement of these duties will be by the appropriate local authority, both for higher-risk and non-higher-risk building work.
- 6.24 For non-higher-risk building work, we expect the local authority building control teams to take a risk-based approach, in a way that is proportionate to the nature and scale of the project, and the level of risks involved. Registered building control approvers will also be required to use the tools that are available to them, such as cancelling initial notices in certain circumstances.
- 6.25 Our intention is that both private and public sector inspectors/approvers should play a crucial part in checking compliance of these regulations. We expect that the implementation of these duties will occur through a reactive approach to regulations, which includes observations made during site inspections undertaken by building control, the collation of evidence, referrals, reversions, complaints from within a local authority by their Trading Standards colleagues etc. Where it is clear that the dutyholder cannot demonstrate that they are meeting the dutyholder or competence requirements, local authorities can use a range of enforcement tools, from giving verbal advice, serving of a

compliance notice, or ultimately prosecution under section 35 of the Building Act 1984.

- 6.26 Where building control supervision is done by Registered Building Control Approvers, we expect them to hold dutyholders to account with regard to their duties and the competence requirements. Breaches of the dutyholder and competence requirements should be dealt with in the same way as other breaches of the building regulations, through the route laid out in section 52(1)(c) and section 52(2) of the Building Act 1984, and regulation 16 of the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024. The Registered Building Control Approvers will be expected to give notice of contraventions to the person carrying out the work that they intend to cancel the initial notice for the building work unless the contravention of the requirement is remedied within the time provided in the notice. If contraventions are not remedied, Registered Building Control Approvers will have the method of cancelling the initial notice, and the work will revert back to the local authority building control for enforcement, who will have the enforcement mechanisms previously mentioned available to them.
- 6.27 Regulation 16 of the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024 refers to work which has been carried out in contravention of requirements of the building regulations. However, it is not clear that this could apply to breaches of the dutyholder or competence requirements. We therefore propose to amend regulation 16 of the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024, so it also refers to a breach of the dutyholder's duties or the competence requirements. This will enable a notice of contravention to be given requiring remedial action to the arrangements for carrying out the work to rectify the breach. We also propose to keep the period within which the person carrying out the work, or as the case may be, the client, is to remedy the contravention as three months, beginning with the day on which the notice is given.

Question 6.10: Do you agree or disagree with the enforcement approaches proposed for non-higher-risk buildings, similar to other contraventions under Regulation 16?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.11: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Approach to appeals

Appeals against a refusal to consider an application on the grounds it is higher-risk building work - Section 101A appeals

- 6.28 Since the introduction of the new building control regime in April 2024, it has not been possible for a Registered Building Control Approver to make an application to perform building control functions on projects where all or part of the work is higher-risk building work.
- 6.29 While there are limited circumstances under transitional provisions whereby Registered Building Control Approvers can continue to provide building control functions for higher-risk building projects already in progress, these organisations and local authorities are aware that new initial notices for work that is wholly or partly higher-risk building work cannot be submitted and must not be approved.
- 6.30 Outside of these circumstances, only local authorities can perform building control functions relating to higher-risk building work.
- 6.31 It is possible that a Registered Building Control Approver might submit an initial notice for new work, or an amendment notice that a local authority decides pertains to higher-risk building work, and thus cannot be considered. Where this is the case, section 101A of the Building Act 1984 provides Registered Building Control Approvers with a method to contest a local authority's decision not to consider an application if they believe that none of the work in the application is higher-risk building work.
- 6.32 The process involves an application to the Welsh Ministers to consider the initial notice or amendment notice and make a determination about whether the notice involves higher-risk building work.
- 6.33 Section 101A permits us to make provision about appeals made and we are proposing to create regulations detailing the process of making an appeal.
- 6.34 We are proposing that appeals must be made in writing to the Welsh Ministers, and that the appellant must notify that local authority who originally refused to consider the notice, to inform them of the appeal.
- 6.35 We are proposing that where a local authority is notified of an appeal under section 101A they must provide the Welsh Ministers with any information they generated that led them to decide the affected notice may contain higher-risk building work, or any decisions made to refuse to consider the application.
- 6.36 We are proposing a prescribed period of 28 days during which the person intending to carry out the work must appeal to the Welsh Ministers, beginning

from the date that the local authority refused to consider an application if the application is higher-risk building work.

- 6.37 We are proposing that the Welsh Ministers may designate an agent with sufficient competence to determine the application where this is needed.
- 6.38 We are proposing that the Welsh Ministers will publish the procedure used in the determination of the appeal.
- 6.39 We are proposing that the appeal must be made in writing, signed by the appellant and contain the following information:
- Name, address, telephone number and email address of the appellant,
 - A statement explaining why the appellant considers the proposed work does not include higher-risk building work
 - Where the appellant is not the client, a statement confirming that the client agrees to the appeal being made.
- 6.40 In addition to the above information, we are proposing that the appeal must be accompanied by:
- A copy of the original application or notice given to the local authority
 - The information provided to the local authority in relation to the application or notice
 - Correspondence with the local authority in relation to the application or notice
- 6.41 We are proposing to prescribe a period of 28 days beginning from the date that the Welsh Ministers (or their agent) notify the appellant of their final decision regarding the appeal. If the appellant or local authority wish to challenge the Welsh Ministers decision, it must be appealed to the High Court during this period.

Question 6.12: Do you agree with our proposal to allow applications to be made to the Welsh Ministers and the timeframes and processes described above?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.13: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 6.14: Do you agree with the information required to be submitted by the appellant?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.15: Please provide an explanation for your answer. If you have answered disagree, please explain what information you think should be included.

Review of decisions and appeals

Review of decisions

- 6.42 We are proposing to create regulations using powers from paragraph 11 from Schedule 1 of the Building Act 1984 to permit appeals and applications under certain conditions to be made to the magistrate's courts instead of to the Welsh Ministers.
- 6.43 The situations we intend to cover with these regulations are:
- Appeals under section 39A(1) or (5) of the Building Act 1984 in relation to compliance notices or stop notices;
 - Applications under section 39A(3) in relation to extending the specified period in a compliance notice; and,
 - Applications under section 39A(6) in relation to stop notices where the application seeks a direction over the stop notice, or to vary its intent.
- 6.44 When a person wishes to appeal against the issuing of a compliance or stop notice, we intend to prescribe a period of 21 days for the appeal to be made, beginning with the date the compliance notice is given, or within 21 days beginning with the date the stop notice is given.
- 6.45 For applications for an extension to a compliance notice we intend to prescribe a period of 21 days beginning with the date the compliance notice is given.

Question 6.16: Do you agree with our proposal to allow appeals and applications to be made to the magistrate's courts under the conditions listed?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.17: Please provide an explanation for your answer. If you have answered disagree, please explain what circumstance should allow for applications and appeals to the magistrate's court.

Question 6.18: Do you agree with the proposed periods for applications and appeals to be made?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.19: Please provide an explanation for your answer. If you have answered disagree, please explain what you think the reasonable period should be and your reasons.

Determination of certain applications by the Welsh Ministers - Section 30A applications

Introduction to section 30A prescribed applications

6.46 In the event that a local authority fails to determine a prescribed application relating to higher-risk building work within the statutory timescale, section 30A of the Building Act 1984 makes provision for applicants to make a non-determinations application to the Welsh Ministers. We propose that this option will be available for all applications which fall under the following prescribed applications (whether in relation to gateways or refurbishment applications):

- Building control approval applications
- Change control applications
- Completion certificate applications
- Partial completion certificate applications

6.47 This process is needed to ensure that applications relating to building control are not halted unnecessarily; delays on large projects could incur significant expenses and there aren't currently protocols in place to allow industry to resolve the matter.

6.48 At present, the process, timeframes and other matters relating to this application have not been set in regulations. We are proposing to develop regulations to address the matter.

Question 6.20: Do you agree or disagree with the proposed list of applications for which a section 30A application can be made?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.21: Please provide an explanation for your answer. If you have answered disagree, please explain which applications you think a section 30A application should apply to.

Section 30A applications: procedure

- 6.49 We propose that a section 30A application must be made electronically to the Welsh Ministers by the person who made the original application. This must be done within six weeks (starting the day after the expiry of the period for determining the application), or a longer period if agreed in writing between the Welsh Ministers and applicant.
- 6.50 We propose the application must be made on a form published by the Welsh Ministers, together with the following documents:
- A copy of the original application given to the relevant local authority (including all documentation that accompanied the application)
 - All information provided to the relevant local authority in relation to the original application by the applicant
 - All correspondence between the applicant and the relevant local authority in relation to that application
 - A copy of the notice sent to the relevant local authority as described below.
- 6.51 We propose that at least two working days before submitting the section 30A application, the applicant must give notice to the relevant local authority of their intention to do so. This will ensure that resources of the relevant local authority are not unnecessarily spent on continuing to determine the application and to allow the relevant local authority to prepare to provide documents to the Welsh Ministers. Further, we propose that this notice to the relevant local authority must not be given before the expiry of the period for determining the original prescribed application.

Question 6.22: Do you agree or disagree with the proposed procedure for applications made under section 30A of the 1984 Act?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.23: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 6.24: Do you agree or disagree that an application made under section 30A of the 1984 Act must be made in writing to the Welsh

Ministers within six weeks (starting with the day after the expiry of the period for determining the relevant application)?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.25: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 6.26: Do you agree or disagree with the proposed document requirements for section 30A applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.27: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 6.28: Do you agree or disagree that an applicant should notify the relevant local authority of their intention to make a section 30A application at least two working days before doing so?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.29: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Section 30A applications: electronic submissions

6.52 We are proposing that Section 30A non-determination applications will be made to the Welsh Ministers via email. In exceptional circumstances, an applicant will be afforded the option of making an application in paper form containing the same information as required by email.

6.53 We propose where an applicant submits a section 30A application electronically, they are taken to have consented to the use of electronic

communications for all purposes relating to the section 30A application that are capable of being carried out electronically, that is any correspondence in relation to the application. This deemed consent may be revoked by the applicant giving the Welsh Ministers two weeks' notice in writing specifying that the notice is given under this regulation.

Question 6.30: Do you agree or disagree with the proposed approach taken on electronic submissions for section 30A applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.31: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Section 30A applications: determinations

- 6.54 We propose that before a section 30A application is determined the Welsh Ministers must give the relevant local authority the opportunity to make written representations, and may give any other person an opportunity to make written representations.
- 6.55 We propose that the Welsh Ministers may, by notice in writing, require the relevant local authority to provide specified information, or provide copies of specified documents, by the date specified in the notice (that date must be no fewer than 14 days after the date the notice is given).
- 6.56 We propose that before determining a section 30A application, the Welsh Ministers may:
- Hold any meeting with the applicant, the relevant local authority or any other person
 - Undertake any site visit, testing, or inspection, as the Welsh Ministers consider appropriate.
- 6.57 The Welsh Ministers' decision in relation to a section 30A application must be given in writing to the applicant. A copy of the Welsh Ministers' decision must be sent to the relevant local authority.

Question 6.32: Do you agree or disagree with the proposed process for determining a section 30A application?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

Question 6.33: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 6.34: Do you agree or disagree that where the Welsh Ministers require the relevant local authority to provide specified information, or provide copies of specified documents, the date specified in the notice for providing this must be no fewer than 14 days after the date the notice is given?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.35: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Section 30A applications: appointed persons

6.58 We propose that the Welsh Ministers may appoint a person to determine a section 30A application instead of the Welsh Ministers and that at any time before a person appointed under this regulation has determined the application the Welsh Ministers may:

- Revoke that person's appointment
- Appoint another person to determine the application instead.

6.59 We propose that where a new appointment is made the consideration of the application must be started afresh. This does not require any person to be given an opportunity to make fresh representations or modify or withdraw representations previously made.

6.60 We propose that a person appointed under this regulation has the same powers and duties in relation to determination of a section 30A application as the Welsh Ministers. Where an application is determined by a person appointed under this regulation their decision is to be treated as the decision of the Welsh Ministers. The particular person or body appointed by the Welsh Ministers to make decisions on non-determinations applications is still under consideration, however, it will be of the highest importance that they are independent of both the applicant and the relevant local authority, and that they have no conflict of interest.

Question 6.36: Do you agree or disagree with the proposed approach for appointing persons to determine a section 30A application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.37: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Deemed refusal of applications

6.61 For the prescribed applications relevant to section 30A applications, if the period of six weeks in which an applicant can apply to the Welsh Ministers has transpired without a section 30A non-determinations application being made, the original application will be deemed refused by the relevant local authority. This will also be the case if the relevant local authority does not determine the original application before the expiry of this six-week period.

Question 6.38: Do you agree or disagree that the original application should be treated as refused by the relevant local authority in the proposed circumstances outlined above?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 6.39: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 6.40: Do you have any other comments in relation to the proposals?

7. Local Authority Higher-Risk Building Work

- 7.1 In the document ‘A road map to safer buildings in Wales’²² our Building Safety Expert Group identified perceived conflicts of interest when a local authority carries out higher-risk building work that it is overseen by its own building control team.
- 7.2 Section 91ZD of the Building Act 1984 allows for regulations to make provision for cases where a local authority is carrying out higher-risk building work in its own area. In particular, that the Welsh Ministers may designate building control functions for that work to an alternate local authority.
- 7.3 It is proposed that where the local authority is a dutyholder for higher-risk building work, that work should be overseen by an alternate local authority. Further, we intend that this be applicable whether the work is a new build or on an existing building, including where the building is an existing higher-risk building or will become one as a result of the work. Please see the relevant section of this document for a description of dutyholders.

Question 7.1: Where a local authority is carrying out higher-risk building work in their own area do you agree or disagree that there is a need for an alternate local authority to oversee that work?

- Agree
- Disagree
- Neither agree nor disagree
- Don’t know

Question 7.2: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you would make or if there are other methods you think we should consider for mitigating the perceived conflicts of interest.

- 7.4 We propose that when a local authority, the “host local authority”, is intending to carry out any higher-risk building work in their area they will be required to notify the Welsh Ministers as soon as practicable and, in any case, prior to the work commencing.
- 7.5 To ensure this happens we propose to restrict local authorities from determining an application for building control approval where the local authority is a dutyholder for the building work detailed in the application.

²² www.gov.wales/sites/default/files/publications/2019-04/building-safety-expert-group-road-map_0.pdf

Question 7.3: Assuming that the process is required at all, do you agree that a local authority should notify the Welsh Ministers of any higher-risk building work they are carrying out?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 7.4: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

- 7.6 It is proposed that this notification include the following information:
- The nature of the work including whether it is to an existing higher-risk building, or will make an existing building become an higher-risk building
 - The location of the work
 - Estimated start date of the work
 - Whether there is non-higher-risk building work connected to the higher-risk building work that the host local authority is carrying out and, if there is, a description of that work.
- 7.7 It is proposed the Welsh Ministers be given the power through regulations to require the host local authority to provide further information, as may reasonably be required for the Welsh Ministers to complete their functions, set out below.
- 7.8 Following receipt of a notification from a local authority that they are carrying out higher-risk building work, the following process is proposed to be followed:
- Welsh Government Officials will confer with potential alternate local authorities to check for capacity to oversee the work.
 - Once at least one alternate local authority has agreed to take on the building control functions for the work in question, officials will notify the local authorities in writing of the designation of building control functions for the work in question. These will include the host and alternate local authorities, and any other local authority that agreed to take on the work but is not being designated functions.
 - The written notification of designation will confirm the details of the designation, including the work for which the alternate local authority will act as the building control authority and any limitations on the designation.
 - It is intended that the designation be written and notifications sent to relevant parties within 28 days of the initial notification being received from the host local authority.

- 7.9 It is proposed that the regulations allow the designation to be revoked if necessary.
- 7.10 It is recognised that there may be non-higher-risk building work that is on the same site and has the same principal contractor as the higher-risk building work in question. Therefore, it may be appropriate and convenient to enable the alternate local authority to provide the building control function for the non-higher-risk building work as well. It is therefore proposed that the host and alternate local authorities can agree this as part of the process above and this be confirmed in the designation agreement whenever possible.
- 7.11 In cases where an agreement cannot be reached, or where the host local authority choose, oversight of any building work that is in addition to the notified higher-risk building work will remain with the host local authority.
- 7.12 In addition, it may not always be possible for agreement on non-higher-risk building work to be in advance of the designation. Therefore we propose to allow the host and alternate local authorities to agree any such additional work in writing once the designation is already in place.

Question 7.5: Assuming that the process is required at all, do you agree with the proposed procedure above?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 7.6: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 7.7: Assuming that the process is required at all, do you agree with the proposed timescale for the Welsh Ministers to follow the process?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 7.8: Please provide an explanation for your answer. If you have answered disagree, please explain what timescale you think would be reasonable.

- 7.13 The host local authority will be required to pay fees for the performance of the building control function by the alternate local authority. These will be as

determined by that alternate local authority in accordance with the Building (Local Authority Charges) Regulations 2010.

- 7.14 It is proposed that all building control functions to be completed by the host local authority would be designated to the alternate local authority for the work included in the designation agreement. This would include enforcement where required such as the issuing of compliance notices, stop notices and Section 36 notices for removal or alteration of offending work.
- 7.15 Whilst all building control functions are proposed to be completed by the alternate local authority, it is recognised that local knowledge of buildings, ground conditions, etc is very important. Therefore we expect that local authorities involved ensure that relevant local information is both communicated and fully considered when a designation is agreed.

Question 7.9: Assuming that the process is required at all, do you agree that all local authority building control functions should be designated to the alternate local authority?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 7.10: Please provide an explanation for your answer. If you think not all building control functions should be designated, please explain what changes you think should be made.

Question 7.11: If the proposal above was to be adopted please explain if you foresee issues of a practical, financial, regulatory, or other nature.

Question 7.12: Do you have any other comments in relation to the proposals?

8. Wider changes to building regulations

Application for non-higher-risk building work building regulation approval

New procedures for building control approval applications with full plans for buildings that are not higher-risk buildings

- 8.1 The Building Safety Act 2022 contains provisions to repeal section 16 (deposit of plans) of the Building Act 1984 and replace it with a power to make building regulations which provide for applications for building control approval. We propose that instead of depositing full plans, applicants intending to carry out non-higher risk building work²³, and to use the local authority to oversee the work, will need to submit a building control approval application with full plans to the local authority prior to commencing building work. The building control approval application must demonstrate how the proposed building work complies with all applicable building regulations' requirements.
- 8.2 Proposals must not rely on unrealistic assumptions as to how the building will be maintained and used during occupation. This includes assumptions about the management and maintenance of the building once in use. This approach should support industry culture change by encouraging dutyholders to move away from seeing building regulations compliance as a 'tick box' exercise, towards an outcomes focused approach.
- 8.3 We propose that the general requirements for a building control approval application for a building that is not a higher-risk building should be as consistent as possible with the requirements for a higher-risk building in terms of the minimum information required. We also propose to introduce changes related to proposals in this consultation, such as provision of dutyholder details. However, in general we do not intend to deviate too far from the existing provisions for the deposit of plans under section 16 of the Building Act 1984. We therefore propose that a building control approval application for a building that is not a higher-risk building will include:
- **Contact Information:** The name, address, telephone number and (if available) an email address of the client, the Principal Designer (or sole or lead designer) and Principal Contractor (or sole contractor) (if known at this stage);
 - **Statement:** confirming that the application for building control approval is made under specified Regulations;

²³ 'non-higher risk building work' is building work that is on a building that is not a higher-risk building already and will not become one as a result of the building work.

- **Statement:** confirming whether or not the application is in relation to a building to which the Regulatory Reform (Fire Safety) Order 2005 applies, or will apply after the completion of the building work;
- **Statement:** Where application is made on behalf of the client a statement, signed by the client, confirming they agree to the application being made and that the information in the application is correct.
- **Description of an existing building:** Where the building work consists of work to an existing building, the applicant must include a description of the existing building. This description should include the details of the current use of the building as well as the current use of each storey, the height of the building and the number of storeys.
- **Description of the proposed building work:** The applicant must provide a description of the proposed building work. This should include:
 - The details of the intended use of the building and the intended use of each storey;
 - The height of the building and the number of storeys after the intended work is completed;
 - The provision to be made for the drainage of the building;
 - Any required precautions to be taken in the building over a drain, sewer or disposal main to comply with applicable building regulations;
 - The steps to be taken to comply with any local enactment that applies; and
 - A statement setting out when the work should be regarded as commenced (please see the relevant section of this consultation for more information about commencement)
- **Plan:** We propose the applicant must provide a plan to a scale of not less than 1:1250. The plan must outline the size and position of the building and its relationship to adjoining boundaries, the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage of the building. The applicant should also provide such other plans as is necessary to show that the building work would comply with all applicable requirements of the building regulations, including Part B (fire safety) i.e. full plans.

8.4 The key difference between building control approval applications for buildings that are not higher-risk buildings and higher-risk buildings is that additional new prescribed documents will also be required in the case of the latter, in recognising that they are in scope of the new more stringent regulatory regime.

8.5 We propose that in line with existing practice, the local authority must provide a substantive assessment of the building control approval application and give a notice to the applicant as to whether the application is approved or rejected within five weeks. We propose that where necessary, for example for complex developments, the local authority and applicant should be able to agree an

extension to this five-week period, and that this agreement must be set out in writing.

- 8.6 We do not intend to prescribe in legislation a timeframe for extensions to give local authorities and applicants the flexibility to determine the approach that is most suitable for both parties on a case by case basis. A building control approval application is not to be considered as either approved or rejected until the local authority has given its notice to the applicant. This means that it should not be deemed as automatically granted should the local authority not issue its decision within five weeks.
- 8.7 Where an applicant commences work without approval, the work will be deemed 'at risk', as is currently the case, and those proceeding on this basis should be aware that the local authority could require them to uncover their work and/or carry out remedial work if it has concerns that the building work does not, or will not on completion, comply with all applicable building regulations' requirements. Applicants are therefore strongly encouraged to await building control approval before commencing work.

Question 8.1: Do you agree or disagree with approach described above for applications for building control approval for non-higher-risk building work?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 8.2: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Lapse of building control approval

- 8.8 As part of the new regime, we intend to introduce a number of wider changes to building regulations as it is important that we have legislation that works for all building work, not just for higher-risk building work. This includes specifying that building control approvals, and notices which have been given, lapse automatically after three years if work has not started, and revises the current requirement of depositing full plans with a requirement to submit a building control approval application with full plans before commencing non-higher-risk building work. We also propose that where a building notice involves multiple

buildings, it is only the individual buildings that have been commenced that will benefit from the three-year period, not the entire site.

- 8.9 Section 36 (Lapse of building control approval etc.) of the Building Safety Act 2022 amends sections 32 and 53A of, and Schedule 4 to, the Building Act 1984 (Lapse of Building Control Approval). The following references to lapse of building control approval under section 32 include lapse of building control approval under section 53A and Schedule 4 as if references to applications for building control approval were references to initial notices and public body's notices.
- 8.10 This will mean that any application for building control approval made after the new regulations come into force, will have three years to start building work from the date the application was made (provided the application was approved by the relevant local authority). If building work has not commenced by the end of three years from that date, the amendments to section 32 have the effect of automatically treating that building control approval as lapsed. Should a developer wish to commence the building work after the building control approval has lapsed, they will need to re-apply for building control approval and the building regulations which have effect at the date of that new application will apply to the building work.
- 8.11 The intention has always been that building control approvals should lapse where work has not commenced within three years. Principally, because over time building regulations requirements are updated, for example, the uplift to energy efficiency standards, improved ventilation and the requirement for automatic fire suppression systems. Under the current building control regime, approval does not however lapse automatically, instead after three years, the local authority has the power to issue a notice if the work has not commenced but in the absence of proactive action from the local authority to issue such a notice, the approval would continue indefinitely.
- 8.12 This new provision remedies this and will ensure that building control approvals, initial notices, plans certificates and public body's notices, plans certificates, and building notices all lapse automatically three years after the date of issue if all construction has not commenced rather than requiring a local authority to take proactive action to declare that approval has no effect, or to cancel the notice.
- 8.13 In addition, under the current regime, if work starts on one building in a multi-building development, all the buildings in the development can benefit from the three-year period. This enables other buildings within that same project to

be built to old regulatory standards, even where work has not commenced on those buildings.

- 8.14 In response to the possibility of gaming the system, when introducing energy efficiency, ventilation and overheating amendments to the building regulations in 2022, Welsh Government strengthened the three-year period ('transitional provisions') in Circular guidance to specify that commencement was related to each individual building or building work, not at a site level, by adding the following guidance:

*In some cases, applications will be in respect of a number of buildings on a site, for example a number of houses. In such cases, it is only those **individual** buildings for which work is commenced which can take advantage of the transitional provisions.*

- 8.15 We are now going further and making it clear in law that such arrangements apply only to individual buildings within a multi-building development. Section 36 of the Building Safety Act 2022 provides that where work relates to more than one building, and the work relating to one or more of the buildings has not commenced within the three-year time limit, that the building control approval for those specific buildings which have not commenced will automatically lapse, even if work on the remainder of the site has commenced.

Definition of commencement of work

- 8.16 To ensure this works effectively, both industry and building control bodies need to have the same understanding of when work is determined as commenced. In Wales, the definition is currently set out in guidance in Circular WGC 007/2016. It reads as follows:

Building Control bodies should ensure that sufficient work has been undertaken so that the building work can properly be considered as having been commenced.

Commencement of building work is the point at which the project requires building control input and without such control would be a case for enforcement. The work should be permanent in the sense that it will be incorporated into the completed building.

In order to provide clarity, building work which is carried out in accordance with a relevant notice or building plans can be said to have been commenced upon completion of such work as:

- excavation for strip or trench foundations or for pad footings;
- digging out and preparation of ground for raft foundations;
- vibrofloatation (stone columns) piling, boring for piles or pile driving

We consider that the following types of work would **not** be likely to constitute the commencement of building work:

- removal of vegetation;
- demolition of any previous buildings on the site;
- removal of top soil;
- removal or treatment of contaminated soil;
- excavation of trial holes;
- dynamic compaction;
- general site servicing works (e.g. roadways)

8.17 Commencement of work is also relevant to transitional periods under the building regulations. When a change to the building regulations is introduced, plans where building work has not commenced within a certain period are subject to the new uplifted requirements.

8.18 Welsh Government is aware that the current approach to setting out what may or may not constitute commencement in a circular letter is too open to interpretation and therefore there may be gaming of the system whereby developers only need to meet minimum requirements to demonstrate that work has 'commenced', for example excavating only a small area of footings. In addition, as the approach to defining what may or may not constitute commencement is set out in guidance, rather than legislation, it is potentially difficult for building control authorities to enforce, even where they have concerns that the threshold for commencing work has not been met.

- 8.19 We intend to address this issue by defining commencement of work in regulations. This will help ensure that a consistent approach is adopted and that local authorities can enforce the lapse of building control approval after three years (or under transitional provisions where the new definition is applied in future) where they do not consider the definition has been met.
- 8.20 We propose that one definition will apply to all types of work, including new buildings, extending existing buildings, replacing an external wall system, refurbishment and work in relation to a material change of use. Our proposed definition is:

Where the building work consists of any type of new building or horizontal extension to an existing building to which the Building Regulations apply, work is to be regarded as commenced in relation to that building when the foundations supporting the building and the finished structure of the lowest floor level (which may also be a new basement level where present and including foul and surface water drainage beneath the footprint of the building where present) is completed. The applicant shall evidence such completion to the Local Authority in writing where requested.

With regard to buildings where construction beyond completion of the foundations supporting the building and the finished structure of the lowest floor level (which may also be a new basement level where present and including foul and surface water drainage beneath the footprint of the building where present) is delayed for whatever reason, the progression towards completion of the remaining building structure must make a commencement within 3 years of the evidenced completion of the foundations and supporting structures and drainage works mentioned above.

Where the work consists of any other building work then it is to be regarded as commenced when it reaches the point at which the project requires building control input and without such control would be a case for enforcement. The work should be permanent in the sense that it will be incorporated into the completed building.

Note: The above proposed definition for Wales is different to that adopted in England (SI 2023/911 Reg. 46A) : [The Building Regulations etc. \(Amendment\) \(England\) Regulations 2023](#)

Question 8.3: Do you agree with the definition of commencement?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 8.4: If you disagree please state what you think should or should not be included in the definition.

Question 8.5: Do you agree with the use of one definition of commencement to cover all types of building work?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 8.6: If you disagree please state what types of work require a different definition of commencement.

Notification of commencement of work

- 8.21 The Building Regulations currently prevent a person from commencing work unless they have given a notice to the local authority that they intend to commence work, and at least two days have elapsed since the end of the day on which the notice was given.
- 8.22 In section 4 of this consultation, we have asked you to consider whether the notification period prior to the commencement of higher-risk building work should be longer than two days.
- 8.23 We are proposing that no more than two days after work has commenced, the person carrying out the work must give the local authority notice that the work has commenced. This will apply to non-higher-risk building work and higher-risk building work.

Question 8.7: Do you agree or disagree that the person carrying out the work should notify the local authority that work has commenced, within two days of work commencing?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 8.8: If you disagree please state what you think the period should be, or if you think that there is no need for the notification, please explain why this is.

- 8.24 Where a person has submitted a notification of commencement to the local authority, we propose that within 5 working days, the local authority must acknowledge receipt of the notification. The acknowledgement should inform the notifier that the local authority will consider the notification and has the right to reject it.
- 8.25 Where a local authority is not satisfied that work is to be regarded as commenced, we are proposing that they must give the person carrying out the work a notice to that effect (“rejection notice”) so that there is a formal record. They must do this within four weeks of the date that they received the notice informing them that work had commenced. The rejection notice must give the reasons for rejection and indicate what work needs to be completed on the specific project for it to be accepted as commenced.
- 8.26 Where a rejection notice is received, we propose that the applicant will be able to appeal to the Magistrates’ Court and that they must do this within 21 days beginning the day after the date on which the local authority gave the notice. The grounds for appeal would need to be that the notice is erroneous in fact, wrong in law, unreasonable or procedurally flawed.
- 8.27 Where four weeks expires following the local authority receiving a notice that work has commenced, and no rejection notice is issued, then the work will be regarded as commenced.

Question 8.9: Do you agree or disagree with the timescales proposed for the local authority to acknowledge receipt of notification (5 days) and to determine the notice (4 weeks)?

- Agree
- Disagree
- Neither agree nor disagree
- Don’t know

Question 8.10: If you disagree please state which timescale you disagree with and what period you think is appropriate.

Question 8.11: Do you agree or disagree that the local authority must issue a rejection notice when they are not satisfied that work is commenced?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

Question 8.12: If you disagree please state why this is.

Question 8.13: Do you agree or disagree that the rejection notice should state the reason(s) for rejection?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 8.14: If you disagree please state why this is.

Question 8.15: Do you agree that the rejection notice should indicate what work needs to be completed for the project to be accepted as commenced?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 8.16: If you disagree please state why this is.

Invalid forms

Updating Forms

Background

- 8.28 In January 2025 the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024 came into force. These restated changes made in April 2024 to Schedule 1 of the Building (Approved Inspectors etc.) Regulations 2010. Changes included introducing new forms and modifying existing forms to reflect the needs and protocols of the building control regime to reflect the concept of higher-risk building work and the move towards Registered Building Control Approvers replacing Approved Inspectors as private building control bodies.
- 8.29 At present, all initial notices, amendment notices, plans certificates and final certificates that a local authority receives are considered and approved or rejected depending on whether they meet the relevant criteria. We are aware of circumstances where a form may be submitted to a local authority which cannot be passed as the application was not allowed to be made (for example, if a Registered Building Control Approver submitted an initial notice for work that included Higher-Risk Building work when submitting such a notice is not currently permitted), yet the local authority must still consider the form and then decide to reject the application.
- 8.30 We are considering introducing a prescribed form which a local authority must use to declare a submitted form invalid to be processed.

Question 8.17: Do you agree or disagree that a form should be prescribed that local authorities must use to declare a received form invalid?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 8.18: If a form permitting local authorities to declare a received form invalid was prescribed, what reasons should be permissible to consider a form invalid? (Please select any that apply)

- Work described in the form relates partially or fully to higher-risk building work
- The form was submitted in breach of section 53D(5) of the Building Act 1984
- Any other reason (please specify)

Public Bodies

Background

- 8.31 Under section 54 of the Building Act 1984 and regulation 24 of the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024, specified public bodies may be designated by Welsh Ministers as able to perform building work where that work would be supervised by its own servants or agents. Public bodies approved this way could perform building work, including higher-risk building work, without involvement from Registered Building Control Approvers or Local Authorities.
- 8.32 Such bodies could use forms PB1(W) to PB4(W) from Schedule 1 of the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024 to notify local authorities of their intent to conduct building work, and to certify that work as complete.
- 8.33 Currently the Operational Standards Rules for building control only apply to local authorities and Registered Building Control Approvers. Under section 58Z of the Building Act 1984 we are only able to make OSRs that apply to local authorities and Registered Building Control Approvers in respect of their building control functions – there is currently no legislation permitting us to apply a similar ruleset to public bodies. This creates a situation where it may be difficult to sanction public bodies who do not adhere to the standards now required of local authorities and Registered Building Control Approvers.
- 8.34 As we expect there are no public bodies capable of using forms PB1(W) to PB4(W) going forward, we are considering our approach to the future of public bodies in regards to building control.
- 8.35 Options available to us:
- Make no changes to regulations concerning public bodies – this would permit any public bodies designated under section 54 to continue to perform all types of building control work, including higher-risk building work.
 - Restrict public bodies from performing higher-risk building work to bring them in line with Registered Building Control Approvers so that only local authorities can oversee higher-risk building work.
 - Restrict public bodies from performing any building control work at all.

Question 8.19: Which approach should we take towards public bodies?

- Make no changes to the current system

- Restrict public bodies from overseeing higher-risk building work but retain the ability for public bodies to conduct other types of building control
- Restrict public bodies from performing any building control work
- Any other approach (please specify)

Question 8.20: Please provide an explanation for your answer. Please explain if any changes should be made to your chosen approach.

Amendments to Local Authority Charges framework

- 8.36 Local Authorities are required to set charges for their building control work in accordance with the Building (Local Authority Charges) Regulations 2010. These regulations set a framework for what functions Local Authorities can charge for and how the amount of each charge is to be calculated.
- 8.37 As a result of the Building Safety Act 2022 some of the terminology used in the framework will need to be replaced and previous sections of this consultation propose new functions for local authorities to deliver.
- 8.38 Therefore we propose to update the framework in the following ways:
- 8.39 Bring the terminology used in line with wider changes being introduced, such as references to passing or rejection of plans being updated to an application for building control approval.
- 8.40 Add new chargeable functions in relation to proposed new Local Authority building control functions:
- Actions taken in the determination of, and in connection with, notifiable changes to a previously approved higher-risk building work application.
 - Determination of an application for a completion certificate or partial completion certificate for higher-risk building work.

Question 8.21: Do you agree with the proposed changes?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 8.22: If you disagree, please provide an explanation for your answer.

Question 8.23: Do you think other amendments to the Local Authority charges framework should be made, including any other functions that should be chargeable?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 8.24: If you agree, please provide an explanation for your answer.

Local authority testing and sampling

8.41 Currently regulations 45 (testing of work) and 46 (sampling of materials) of the Building Regulations 2010 give local authorities powers to test building work and take samples of materials used in building work to ascertain compliance with building regulations. Section 33 of the Building Act 1984 contains similar provisions and also includes provisions relating to who carries out the tests or sampling, and how costs are to be handled.

8.42 We intend to commence section 33 of the Building Act 1984 and omit regulations 45 and 46 from the Building Regulations 2010 as they would no longer be required. This proposal would expand the scope of testing of building work, in terms of which building regulations the tests can be carried out in relation to. For example tests may be required of the soil of the building site, or of any material or fitting that has been or is intended to be provided in a building. This proposal would ensure local authorities are able to test a broader range of building work, which can be key to establishing whether building regulations have been complied with.

8.43 It would also enable local authorities to require testing or sampling be carried out by the person carrying out the building work as opposed to existing legislation which only allows local authorities to carry out testing or sampling.

Question 8.25: Do you agree or disagree with the proposal to commence section 33 of the Building Act 1984 and omit regulations 45 and 46 from the Building Regulations 2010?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 8.26: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Serious contravention notices issued to Registered Building Control Approvers

- 8.44 The Operational Standards Rules set out the standards to be met by building control bodies, and practices and procedures to be adopted, in exercising building control functions. Serious contravention notices can be issued to local authorities and Registered Building Control Approvers that contravene the Operational Standards Rules. This may be where there are concerns regarding safety in relation to the contravention. They can require the building control body to take, or refrain from, actions in order to remedy the contravention.
- 8.45 Regulations can be made to prescribe circumstances in which copies of any serious contravention notices issued to Registered Building Control Approvers are to be sent to local authorities in Wales. We intend to prescribe in regulations that a copy be sent to all local authorities in Wales for any case where a serious contravention notice is issued to an Registered Building Control Approver. This will allow local authorities to be aware of the content of the notice and undertake any further action where necessary. We think this is necessary as the details of the notice would not appear on the Registered Building Control Approver's registration entry with the Building Safety Regulator.

Question 8.27: Do you agree or disagree with the proposal that copies of serious contravention notices issued to Registered Building Control Approvers should be sent to local authorities?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 8.28: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Consequential amendments to other legislation

8.46 The new requirements for building work detailed in this consultation will require amendments to other existing subordinate legislation to ensure they remain fit for purpose.

8.47 These include:

- the Building (Restricted Activities and Functions) (Wales) Regulations 2024
- the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024
- the Building Inspector Competence Framework (BICoF) (Wales) 2024 version 2

8.48 The above were all introduced as part of the new regime of regulation of the Building Control profession, which introduced new standards that building control bodies and individual building control professionals must comply with.

The Building (Restricted Activities and Functions) (Wales) Regulations 2024

8.49 These regulations stipulate certain activities and functions that must be carried out by, or with the advice of, a registered building inspector. The purpose of the regulations is to restrict critical building control decision-making to professionals that have demonstrated they are competent to make those decisions and are subject to a regulatory regime.

8.50 It is proposed these regulations will be amended to update terminology for building regulations applications and include new building control functions being proposed for local authorities. These include:

- giving approval that staged higher-risk building work may proceed beyond a point specified in a requirement imposed in the approval of that work;
- determining a change control application for higher-risk building work;
- determining if a controlled change to higher-risk building work is a notifiable or major change
- giving a compliance notice
- giving a stop notice

8.51 By restricting these new functions to only be carried out with the advice of a registered building inspector these amendments will help ensure that these critical decisions in the building control process are taken by the right people.

Question 8.29: Do you agree or disagree with the proposals above?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 8.30: Please provide an explanation for your answer. Please explain what changes you think should be made (if any).

The Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024

- 8.52 These regulations detail requirements that must be followed when building work is overseen by private sector building control bodies, previously known as Approved Inspectors and now known as Registered Building Control Approvers.
- 8.53 It is proposed that there will be amendments to these regulations related to the introduction of dutyholder responsibilities and automatic lapse of building control approval. There will also be other amendments to improve the clarity of the existing regulations, such as to the notes on some forms and references to other legislation. These proposals are in addition to the proposals related to Public Bodies described previously in this consultation.

The Building Inspector Competence Framework (BICoF) (Wales) 2024 version 2

- 8.54 The Building Inspector Competence Framework (BICoF) details the competence framework that each building inspector must be assessed against to enable them to register as a particular class of building inspector and oversee specific categories of building work.
- 8.55 The registration and regulation of building inspectors in Wales is performed by the Building Safety Regulator, who also oversee the building control profession in England. The Building Safety Regulator publish a version of the BICoF for England.
- 8.56 It is proposed that there will be amendments to the Wales BICoF that will increase the alignment of it and the England version of the BICoF. These will include setting out competency elements related to dutyholders, not currently in the Wales BICoF, to make the criteria clearer.

Question 8.31: Do you have any comments on the above proposals for amendments to the Building (Registered Building Control Approvers

etc.) (Wales) Regulations 2024 or the BICoF? Please explain what changes you think should be made (if any).

Question 8.32: Do you have any other comments in relation to the proposals?

9. Transitional provisions

- 9.1 The various reports and investigations that have prompted our building control reform work have focused on improving safety, ensuring that only people who are competent can conduct work, and that people are accountable for their actions. Throughout this document you will have seen a number of different proposals that fundamentally change how the building control sector operates going forward. As some of these changes are highly impactful and might not be feasible to adhere to if a project is already well-advanced or in flight, we are considering several transitional proposals to ease from one regime into the next.
- 9.2 These transitional provisions are intended to ensure continuity for projects affected.

Stages of progression

- 9.3 Many of the transitional provisions we are considering might affect projects at different stages of their progression. As dutyholders, the golden thread, the gateway system and other changes being consulted upon fundamentally change the approach to the procedure of building in Wales, we are aware that it may be difficult to comply with changes to regulation mid-way through a project.
- 9.4 As a result we are considering exemptions to new regulations for projects that are already 'in-flight'. We would consider buildings to be 'in-flight' if, at the time the relevant legislation comes into force:
- The project has already received plans approval under section 16 of the Building Act 1984, or
 - An initial notice has been accepted or deemed accepted;
 - AND the project has not yet received an approved completion or final certificate.

Dutyholders

- 9.5 Where a project is in-flight at the time dutyholder regulations come into force then we are proposing that the project will be exempt from design and construction dutyholder requirements for the duration of the project. This will allow potentially complex or substantially completed projects to continue under the same system of regulation which applied when the project received plans approval (or application for building control approval in the instance where this process is implemented before dutyholders regulations come into

force). This would apply to newbuild construction, and remediation/renovation works in higher-risk buildings too.

Question 9.1: Do you agree or disagree that we should allow projects that are in-flight at the time dutyholder regulations come into force to be exempt from those regulations?

- Agree
- Disagree
- Neither Agree nor Disagree
- Don't know

Question 9.2: Please provide an explanation for your answer. If you answered disagree, please outline what changes should be made.

Golden Thread

- 9.6 As detailed elsewhere in this document, we are making a number of proposals regarding a Golden Thread of documents and information that must be produced and collated for projects that meet the criteria for higher-risk buildings.
- 9.7 A number of these records would be generated to comply with an application for building control approval or Gateways 2 and 3. As higher-risk buildings are typically large and complex structures and may have been in development for multiple years prior to the coming into force of any of our proposed regulations, we are proposing to exempt in-flight projects from Design and Construction phase Golden Thread requirements.
- 9.8 Our reasoning is that these projects might be sufficiently advanced that it would be infeasible to generate the required documents after the fact.
- 9.9 We believe this approach would affect a small number of in-flight higher-risk buildings under construction, and any building work currently ongoing within existing higher-risk buildings, and leaves them in the same position as existing completed higher-risk buildings in Wales that have already been issued completion certificates. The approach would not extend to new building work in existing higher-risk buildings after the Gateway 2 and 3 systems are implemented.

Question 9.3: Do you agree or disagree that we should exempt projects that are in-flight at the time golden thread regulations come into force to be exempt from those regulations?

- Agree

- Disagree
- Neither Agree nor Disagree
- Don't know

Question 9.4: Please provide an explanation for your answer. If you answered disagree, please outline what changes should be made.

Gateways

- 9.10 Elsewhere in this document, we have proposed the introduction of Gateway 2 and Gateway 3: these are hard-stop decision points replacing the building control deposit of plans stage, before building work starts, and the endpoint of the Design and Construction phase where completion or final certificates are issued prior to a building being occupied.
- 9.11 In line with the proposal above, we are proposing that projects that are in-flight before regulations relating to Gateways come into force are considered to have already been approved for the purposes Gateway 2 so as not to disrupt building work.

Question 9.5: Do you agree or disagree that in-flight projects at the time Gateway regulations come into force should be treated as if they had already received Gateway 2 approval?

- Agree
- Disagree
- Neither Agree nor Disagree
- Don't know

Question 9.6: Please provide an explanation for your answer. If you answered disagree, please outline what changes should be made.

- 9.12 Under the proposals elsewhere in this document, many of the requirements for passing Gateway 3 incorporate updated versions of documentation that would be provided under Gateway 2 requirements. While we would encourage clients, contractors and developers to collate as much relevant information as possible that might be useful when handing a building over to its occupiers, we recognise that it may be impractical to begin to develop documentation far into the construction of a project and that without that documentation it may be infeasible for projects in development to pass Gateway 3.
- 9.13 As a result, we are proposing that projects that are in-flight when the regulations come into force will be exempt from the requirements of Gateway

3 and will instead reach completion via the existing completion or final certificate route. This exemption will not apply to any building work that is approved via the application for building control approval protocol.

Question 9.7: Do you agree or disagree with this approach permitting existing building work that is in-flight when the new regulations come into force be completed using the existing completion or final certificate provisions?

- Agree
- Disagree
- Neither Agree nor Disagree
- Don't know

Question 9.8: Please provide an explanation for your answer. If you answered disagree, please outline what changes should be made.

Public Bodies

9.14 Elsewhere in this document, we have proposed limiting the ability of Public Bodies, approved under section 54 of the Building Act 1984 and regulation 24 of the Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024 to perform building work supervised by its own servants or agents on higher-risk buildings. We are proposing that where any higher-risk building project for which a Public Body is so approved for the purposes of building control and a Public Body's Notice for the project has been accepted, they may continue to fulfil their functions until the project is complete.

Question 9.9: Do you agree or disagree that Public Bodies designated for the purposes of building control may continue to fulfil building control functions for in-flight projects?

- Agree
- Disagree
- Neither Agree nor Disagree
- Don't know

Question 9.10: Please provide an explanation for your answer. If you answered disagree, please outline what changes should be made.

Local Authority conflict of interest

9.15 Elsewhere in this consultation, we have laid out proposals that might limit a local authority's ability to oversee higher-risk building work in properties it

controls, as well as outlining who should oversee that work instead. If a local authority is performing the building control function for a higher-risk building and has already passed the point where Gateway 2 approval would be required, we propose that they can continue to oversee the project to building regulation completion. This will prevent work from being halted and additional costs being incurred while retaining the present protocols for those projects.

Question 9.11: Do you agree or disagree that local authorities overseeing their own higher-risk building projects may continue to fulfil building control functions for in-flight projects?

- Agree
- Disagree
- Neither Agree nor Disagree
- Don't know

Question 9.12: Please provide an explanation for your answer. If you answered disagree, please outline what changes should be made.

Determination of plans approval under Section 16 of the Building Act 1984

9.16 We are proposing a transitional provision that will allow an overlap of systems between section 16 of the Building Act 1984 and any new system that may be introduced to facilitate an application for building control approval. We intend that, where an application for the passing or rejecting of plans has been made prior to the coming into force of any relevant legislation relating to “an application for building control approval” as introduced by the Building Safety Act 2022 and subsequent legislation, those applications will be processed under the outgoing section 16 system.

9.17 This will allow developers and clients to continue to plan and move projects forward in the knowledge that they will not need to halt work or redraft applications at short notice.

Question 9.13: Do you agree or disagree with our approach to applications for passing or rejecting of plans to continue to be the system by which building control approval is sought where the application has been made prior to the new system coming into force?

- Agree
- Disagree
- Neither Agree nor Disagree
- Don't know

Question 9.14: Please provide an explanation for your answer. If you answered disagree, please outline what changes should be made.

Applying transitional provisions to individual buildings

9.18 Through the Building Safety Act 2022, changes are being made to transitional provisions so that in future where there is a multi-site project, work must have started on an individual building for that specific building to benefit from the transitional arrangements. This will prevent dutyholders from being able to start work on one building on a multi-building site and then claim the benefit of transitional provision for all buildings on the site.

Question 9.15: Do you agree or disagree with the proposal for transitional provisions to only apply to individual buildings as opposed to multi-site projects?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 9.16: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

9.19 At the moment, local authorities may close initial notices after three years where building work has not commenced. In future, Section 32 of the Building Act 1984 will make this lapse of building control approval automatic for all projects not commenced within three years of an initial notice being submitted.

9.20 We are proposing that the new section 53A of the Building Act 1984 (Lapse of Initial Notice) will not apply to Initial Notices accepted or deemed accepted before the new regulations come into force.

Question 9.17: Do you agree or disagree with our approach for disallowing automatic lapse of building control approval for initial notices submitted before the new section 53A of the Building Act 1984 comes into force?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

Question 9.18: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Reversion

- 9.21 In England, the approach to reversion of building control for higher-risk building work is that a modified version of the new higher-risk building regime is utilised for the remainder of the project. We are proposing instead that building work that started under one system will continue to be regulated (per the proposed transitional provisions discussed in this section) for the duration of that project as the regulations stood when the initial notice was approved.
- 9.22 This means that if a Registered Building Control Approver ceases to oversee a higher-risk building project then the local authority the work reverts to will be able to carry on overseeing the project under the same regulations that originally applied to the Registered Building Control Approver.
- 9.23 As no new higher-risk building work has been permitted to be overseen by Registered Building Control Approvers in Wales since April 2024 we believe the number of projects affected by this provision will be low.

Question 9.19: Do you agree or disagree with our approach to reversions?

- Agree
- Disagree
- Neither agree not disagree
- Don't know

Question 9.20: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Timeframe for implementation

- 9.24 To give industry time to understand and adapt to changes proposed in this consultation we are considering an extended period between the future laying of regulations resulting from our consultation. We are considering a period of six months, after regulations are laid, before they will come into effect. By giving this lead in time, industry will be able to prepare for the changes we will introduce, including changing or developing new processes for compliance.

This will enable local authorities, Registered Building Control Approvers, and prospective dutyholders to begin afresh with safer procedures and building control mechanisms that are suitable for the future.

Question 9.21: Do you agree or disagree that a six month period is sufficient before regulations relating to this consultation come into force is sufficient?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question 9.22: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question 9.23: Are there any other transitional provisions relating to this consultation that you think should be considered?

Question 9.24: Do you have any other comments in relation to the proposals?

10. Welsh language

10.1 We are also interested in your views on the impact the proposals may have on the Welsh language.

10.2 We would like to know your views on the effects that the proposed amendments 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.

Question 10.1: What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 10.2: Please also explain how you believe the proposed actions 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.

11. Next Steps

- 11.1 This consultation will close on 25 May 2025. Responses to this consultation will be analysed and a Welsh Government Response will follow.