

## Equality Impact Assessment (EIA) Template – Part 1

<b>Policy title and purpose (brief outline):</b>	<b>Historic Environment (Wales) Bill</b>
<b>Name of official:</b>	<b>Historic Environment (Wales) Bill Team</b>
<b>Department:</b>	<b>Cadw</b>
<b>Date:</b>	<b>14 January 2015</b>
<b>Signature:</b>	

- 1. Please provide a brief description of the policy/decision. (For example what is the overall objective of the policy/decision, what are the stated aims (including who the intended beneficiaries are), a broad description of how this will be achieved, what the measure of success will be, and the time frame for achieving this?)**
- 1.1 The Programme for Government, the Welsh Government's five-year strategic plan issued in 2011, made a commitment to introduce a 'Heritage Protection Bill' as a central means to realise the aim to 'enrich the lives of individuals and communities through culture and heritage'. The Historic Environment (Wales) Bill represents the fulfilment of that commitment.
- 1.2 The Historic Environment (Wales) Bill forms part of a suite of legislation, policy, advice and guidance that makes important improvements to the existing systems for the protection and sustainable management of the Welsh historic environment.
- 1.3 The Historic Environment (Wales) Bill aims to:
  - introduce greater transparency and accountability into decisions taken on the historic environment;
  - give more effective protection to listed buildings and scheduled monuments; and
  - enhance existing mechanisms for the sustainable management of the historic environment.
- 1.4 The Bill creates new measures that:
  - allow the Welsh Ministers to put an immediate halt to unauthorised works to scheduled monuments and make it easier for action to be taken against those who have damaged or destroyed monuments;
  - enable authorities to act quickly if a listed building is under threat from unauthorised works and give them greater flexibility in dealing with historic buildings that require urgent works to protect them from further decay;
  - make it easier for owners or developers to create sustainable new uses for unlisted historic buildings by relaxing the conditions for applications for certificates of immunity from listing;
  - create a statutory register of Wales' historic parks and gardens;
  - allow owners of historic assets to negotiate partnership agreements with consenting authorities for a period of years, eliminating the need for repeated consent applications for similar works and encouraging more consistent and coherent management of the buildings or monuments;
  - secure a more stable future for Wales' historic environment records, which provide detailed information and advice on the historic environment to local planning authorities and the public;
  - make existing structures for the designation of nationally important historic assets more open and transparent by introducing formal consultation with owners and establishing a mechanism to review decisions; and

- establish an independent panel to advise on historic environment policy and strategy at a national level in Wales.
- 1.5 The current framework for the protection and management of the Welsh historic environment rests, in the main, upon two pieces of UK legislation: the Ancient Monuments and Archaeological Areas Act 1979 and the Planning (Listed Buildings and Conservation Areas) Act 1990. The Bill will amend these two Acts and also introduce two new stand-alone provisions relating to historic environment records and the establishment of the Advisory Panel for the Welsh Historic Environment.
- 1.6 The Bill will be implemented from 2016 onwards, with some of the measures not coming into force until later in 2017, once consultation has been undertaken on details that will be set out in regulations. The success of the Bill will be measured by a variety of means, mainly through the adaptation of existing data collection and recording, but also through evaluation of particular provisions.
- 2. We have a legal duty to engage with people with protected characteristics under the Equality Act 2010 (please refer to Annex A of the EIA guidance) identified as being relevant to the policy. What steps have you taken to engage with stakeholders, both internally and externally?**
- 2.1. The development of the Historic Environment (Wales) Bill has been informed by extensive engagement with sector stakeholders and members of the public across Wales and two public consultations.

## Engagement

- 2.2. During 2012, Cadw organised a series of events with heritage professionals, the third sector and members of the public to gather their views on the existing systems for the conservation and management of the historic environment and get ideas about how those systems might be improved.
- Three horizon-scanning workshops were held in Cardiff, Aberystwyth and Llandudno Junction in February and March 2012. With over 90 participants, these workshops sought to identify the challenges that the Welsh historic environment is likely to face in the future and consider how they might be met. A report on these workshops has been published online at: <http://cadw.gov.wales/historicenvironment/policy/historicenvironmentbill/?lang=en>
  - Four specialist workshops were organised in May and June 2012 to explore specific issues in the historic environment. Nearly 130 people attended sessions on:
    - the built historic environment (at Aberystwyth);
    - historic landscapes, parks and gardens (at Stackpole, Pembrokeshire);
    - archaeology (at Llandudno Junction); and

- historic assets from the owner’s perspective (at Fonmon Castle, Vale of Glamorgan).
  - The fourth Treftadaeth conference, ‘The Future of our Past’, held in Cardiff in July 2012 was attended by nearly 150 people and was the venue for active stakeholder discussion on the issues that the Bill should address.
  - Three open, public ‘Have your Say’ events were organised with assistance from CyMAL: Museums, Archives and Libraries Wales and the Wales Council for Voluntary Action during October and November 2012. Held in Carmarthen, Brecon and Conwy, these occasions gave third sector organisations and local communities opportunities to feed their views into the development of the Bill. Over 120 people took part. Via the WCVA, information on the public ‘roadshow’ engagement events was generally circulated amongst Welsh third sector organisations.
- 2.3. The information gathered at these events informed the Welsh Government’s Historic Environment Strategy for Wales and its associated ‘Headline Action Plan’ and shaped the proposals developed for the Historic Environment (Wales) Bill.

### **Consultation — *The future of our past***

- 2.4. A formal twelve-week consultation, *The future of our past*, was launched on 18 July 2013 to obtain responses from the historic environment sector and the wider public to the proposals for the Welsh historic environment being considered for the Bill and associated measures.
- 2.5. The consultation specifically invited evidence that could be used in the Equality Impact Assessment and welcomed the views of respondents on any equality issues.
- 2.6. The consultation received 177 responses, many of which contained detailed and insightful views that reflected the importance of the historic environment to the people of Wales.
- 2.7. In most cases, the consultation elicited clear support for the Bill’s proposals to extend protection where needed, to increase flexibility in the existing systems for management and to improve accountability and transparency. The responses also revealed that, for many, the improved guidance that is being proposed to support the sustainable management of the historic environment will be as important as the proposed changes to legislation.
- 2.8. A summary report on the consultation and the consultation responses are available online at: <http://wales.gov.uk/consultations/cultureandsport/heritage-bill/?status=closed&lang=en>
- 2.9. Several consultation events were also organised. The Historic Environment (Wales) Bill team worked with Cadw’s Lifelong Learning team to develop and deliver consultation events for sixth-form Welsh Baccalaureate students in Swansea and Conwy/Llandudno Junction. A total of 187 students from eight schools took part in the events, which were well received by the young people

and their teachers. A report on these sessions is included in the summary report on the consultation (link above).

- 2.10. Two workshops were also held. The first, attended by 21 key stakeholders, looked in detail at the future of the third sector in Wales in light of proposals in the consultation. Analysis of the outcome of the workshop and the consultation responses to the questions on those proposals has been included in Hyder Consulting's report, 'Options appraisal for the future of the third sector support for the historic environment in Wales' (see evidence base below).
- 2.11. The second workshop was attended by over 40 people. It provided an opportunity for key stakeholders to develop their knowledge and understanding of the options under consideration for the future of RCAHMMW and Cadw to enable them to respond comprehensively to the consultation.

### **Consultation — *Proposed amendments to the criminal offences and defences in sections 2, 28 and 42 of the Ancient Monuments and Archaeological Areas Act 1979***

- 2.12. The Welsh Government conducted a supplementary six-week consultation, Proposed amendments to the criminal offences and defences in sections 2, 28 and 42 of the Ancient Monuments and Archaeological Areas Act 1979, to solicit views on proposals that would limit the availability of a defence based on ignorance of a scheduled monument's status or location.
  - 2.13. A total of 60 responses were received and there was general support for the proposals. A summary report on the consultation and the consultation responses can be consulted online at:  
<http://wales.gov.uk/consultations/cultureandsport/proposed-amendments-to-the-criminal-offences-and-defences/?status=closed&lang=en>
- 3. Your decisions must be based on robust evidence. What evidence base have you used? Please list the source of this evidence, e.g., National Survey for Wales. Do you consider the evidence to be strong, satisfactory or weak and are there any gaps in evidence?**
- 3.1. A number of different evidence bases were used to develop the policy for the Bill. The Regulatory Impact Assessment identifies a wide range of information that was collected from local authorities and other key partners. A substantial amount of information is also held by Cadw, as the Welsh Government's historic environment service.
  - 3.2. However, since a number of the proposals are technical in nature, there have been gaps in the evidence and further evidence has been drawn from consultation with stakeholders and from the experience of the heritage bodies in Scotland and England.
  - 3.3. Cadw also established a Heritage Bill External Reference Group, composed of stakeholder representatives from the historic environment sector, to act as a sounding board during the development of the Bill.

## Evidence sources

- Baroness Kay Andrews OBE, 'Culture and Poverty — Harnessing the power of the arts, culture and heritage to promote social justice in Wales: A report with recommendations ... for the Welsh Government' (March 2014) — <http://wales.gov.uk/topics/cultureandsport/tackling-poverty-through-culture/?lang=en>
- Cadw, Database of listed buildings, scheduled monuments and historic parks and gardens.
- English Heritage, 'Heritage Counts 2014' — <http://hc.english-heritage.org.uk/National-Report/>
- Heritage Lottery Fund, 'Values and benefits of heritage: A research review' (December 2013) <http://www.hlf.org.uk/values-and-benefits-heritage>  
This is the latest in a series of annual reviews that collect key information from a range of external reports relevant to the heritage sector.
- Welsh Government: Statistics for Wales, 'National Survey for Wales, 2013–14: Internet Use' (September 2014) — <http://wales.gov.uk/statistics-and-research/national-survey/?lang=en>

## Research

- 3.4. In order to obtain more detailed evidence to support the formulation of policy for the Bill and the suite of measures that will complement it, the following four research studies were commissioned.
- Ove Arup & Partners Ltd, 'Heritage Bill for Wales: A research project to investigate three of the emerging topics' (heritage partnership agreements, historic areas and local lists)
  - Hyder Consulting (UK) Ltd, 'Heritage Bill for Wales: Options for the Delivery of Local Authority Historic Environment Conservation Services'
  - Hyder Consulting (UK) Ltd, 'Refining the Listed Building Consent Process'
  - Hyder Consulting (UK) Ltd, 'An Options Appraisal for the Future of Third Sector Support for the Historic Environment of Wales'
- 3.5. All four of these research reports are available online at:  
<http://cadw.wales.gov.uk/historicenvironment/policy/towardsaheritagebillforwales/?lang=en>.

**4.1 Do you think this policy / decision / practice will have a positive or negative impact on people because of their age?**

Age	Positive	Negative	None / Negligible	Reasons for your decision (including evidence) / How might it impact?
Up to 18	X			<p>Improved protection and sustainable management of the Welsh historic environment will ensure that it continues to deliver its many benefits to the people of Wales now and in the future. Simply by reason of longevity, the young people of Wales will enjoy the maximum benefit from this policy, but otherwise it will not affect any one age group more than another.</p> <p>An independent advisory panel for the historic environment is proposed to provide advice to the Welsh Ministers on conservation, knowledge and public engagement. It is envisaged that its cognisance would extend over education and lifelong learning, skills and access. Although these matters do affect people of all ages, they are likely to have particular relevance and positive effects for young people.</p> <p>By requiring local authorities to create and maintain historic environment records (HERs), their long-term survival will be assured. Although there will be general benefits for people of all ages, positive benefits may be more marked for young people since HERs often furnish educational materials and conduct active educational outreach programmes.</p>
18–50			X	<p>The protection and sustainable management of the historic environment will bring general benefits to people of all ages.</p> <p>The provisions of the Heritage Bill will apply equally to all persons who have attained the age of majority, irrespective of actual age. There is no evidence to indicate that particular age groups are more likely to own historic assets or engage in activities that</p>

				contravene existing or proposed provisions.
Over 50			X	<p>The protection and sustainable management of the historic environment will bring general benefits to people of all ages. The provisions of the Heritage Bill will apply equally to all persons who have attained the age of majority, irrespective of actual age. There is no evidence to indicate that particular age groups are more likely to own historic assets or engage in activities that contravene existing or proposed provisions.</p> <p>A few of the Bill's provisions (for instance, those relating to the statutory register of historic parks and gardens or the amended criminal offences and defences in the Ancient Monuments and Archaeological Areas Act 1979) assume the easy availability of authoritative information on the location and extent of historic assets via a new online resource on designated and registered historic assets that will be launched by Cadw in coordination with the Bill.</p> <p>According to the National Survey for Wales 2013–14, '56% of those aged 65 and over were not currently using the internet compared with only 10% of those aged 18–64'. Online provision of information will, therefore, cause some disproportionate disadvantage to older people.</p> <p>However, the Welsh Government's digital inclusion policy, delivered through programmes like Communities 2.0, specifically addresses the need to reduce the digital exclusion of older people in Wales. Such initiatives coupled with natural demographic processes will lead to a gradual decline in the number of older people who are digitally excluded.</p> <p>Cadw will, moreover, provide</p>

				information on designated and registered historic assets in printed or alternative formats on request without charge.
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#### 4.2 Because they are disabled?

Impairment	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Visual impairment			X	<p>Across all of these protected characteristics, the new advisory body will provide a voice for access in the advice that they provide to the Welsh Ministers.</p> <p>The Programme for Government made a commitment to 'go even further to deliver a more representative pool of decision makers in Wales.' The Welsh Government's Strategic Equality Plan and Objectives 2012-2016 also acknowledged the importance of widening participation in its Objective 7: 'Improve the engagement and participation of under-represented groups in public appointments in Wales'. In August 2013, the Welsh Government published an action plan: 'Increasing the number of women and other under-represented groups in public appointments in Wales'. The action plan specifically notes that under-represented groups include 'those with protected characteristics and those from lower socio-economic groups'. The detailed actions in the plan, in addition to identified good practice, will be followed to ensure that positive efforts are made to recruit people with protected characteristics for the advisory panel.</p> <p>Alternatives to writing for the administration of SMC may be of benefit to some groups with protected characteristics.</p>
Hearing impairment			X	
Physically disabled			X	
Learning disability			X	
Mental health problem			X	
Other impairments issues			X	

				<p>Some groups may be at a disadvantage if they are unable to access the new online resource on designated and registered historic assets that will be launched by Cadw in coordination with the Bill.</p> <p>Information relevant to provisions of the Bill will be provided to individuals in an appropriate and accessible format on request and without charge.</p>
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#### 4.3 Because of their gender (man or woman)?

Gender	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Male			X	<p>The Bill will not differentially impact on either female or male persons and will not affect the Welsh Government's ability to comply with the general Public Sector Equality Duty.</p> <p>The Programme for Government made a commitment to 'seek to introduce Norwegian style quotas for appointments to public bodies in Wales ensuring that at least 40% of appointments are women.' The Welsh Government's Strategic Equality Plan and Objectives 2012–2016 also acknowledged the importance of widening participation in its Objective 7: 'Improve the engagement and participation of under-represented groups in public appointments in Wales'. In August 2013, the Welsh Government published an action plan: 'Increasing the number of women and other under-represented groups in public appointments in Wales'. The detailed actions in the plan, in addition to identified good practice, will be followed to ensure that positive efforts are made to recruit people with protected characteristics for the advisory panel.</p>
Female			X	

#### 4.4 Because they are transgender?

Transgender	Positive	Negative	None /	Reason for your decision (including evidence) / How might
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			Negligible	it impact?
			X	Advisory panel appointments will be conducted in light of Welsh Government guidance on increasing under-represented groups.

#### 4.5 Because of their marriage or civil partnership?

Marriage and Civil Partnership	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Marriage			X	The Bill will not differentially impact on those who are married or in a civil partnership and will not affect the Welsh Government's ability to comply with the general Public Sector Equality Duty.
Civil Partnership			X	

#### 4.6 Because of their pregnancy or maternity?

Pregnancy and Maternity	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Pregnancy			X	The Bill will not differentially impact on those who are pregnant or have children and will not affect the Welsh Government's ability to comply with the general Public Sector Equality Duty.
Maternity (the period after birth)			X	

#### 4.7 Because of their race?

Race	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Ethnic minority people e.g. Asian, Black,			X	Efforts will be required to ensure under-represented groups are adequately represented on the advisory board.
National Origin (e.g. Welsh,			X	Although none of the Bill's provisions will have a direct impact because of an individual's race, if members of

English)				<p>ethnic minorities do not have a thorough command of English or Welsh, they may find it difficult to navigate some of the procedures being proposed — e.g., heritage partnership agreements — or access authoritative information that will be made available online.</p> <p>Access to the internet amongst gypsies and travellers is likely to be lower than the national average. They may, therefore, be at a disadvantage in accessing authoritative online information about designated and registered sites. Low literacy skills and educational attainment may also inhibit access to processes and information (see See 'Impact of universal credit and welfare reforms on the Gypsy and Traveller communities' (May 2013), p. 11).</p> <p>Cadw will, however, provide information relevant to provisions of the Bill in an appropriate and accessible format on request and without charge.</p>
Asylum Seekers and Refugees			X	
Gypsies and Travellers			X	
Migrants			X	
Others			X	

#### 4.8 Because of their religion and belief or non-belief?

Religion and belief or non – belief	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Different religious groups including Muslims, Jews, Christians, Sikhs, Buddhists, Hindus, Others (please specify)			X	The Bill will not differentially impact on any groups with a particular religion or belief and will not affect the Welsh Government's ability to comply with the general Public Sector Equality Duty.
Belief e.g. Humanists			X	

Non-belief			X	
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#### 4.9 Because of their sexual orientation?

Sexual Orientation	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Gay men			X	The Bill will not differentially impact on persons who are gay men, lesbian or bisexual and will not affect the Welsh Government's ability to comply with the general Public Sector Equality Duty.
Lesbians			X	
Bi-sexual			X	

#### 4.10 Do you think that this policy will have a positive or negative impact on people's human rights (including Human Rights Act and UN Conventions)? Please refer to point 1.4 of the EIA Annex A - Guidance for further information about Human Rights.

All of the Bill's provisions have been framed to be compliant with the Human Rights Act and have been thoroughly analysed to confirm their compliance. In every instance where negative impacts have been identified, they will occur only rarely or be tightly limited in application and will be outweighed by the wider benefits that the legislation will bring.

Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
		X	<ul style="list-style-type: none"> <li>The removal of an automatic right to a hearing on scheduled monument consent applications could be construed as a negative impact on human rights, perhaps breaching Article 6 of the European Convention of Human Rights: 'The right to a fair trial'. In practice, however, applicants only occasionally invoke this right; it was last exercised in Wales in 2003. Moreover, the Bill proposes to allow the Welsh Ministers to determine the most suitable mechanism to determine the application and does not preclude an inquiry or hearing.</li> </ul>

		X	<ul style="list-style-type: none"> <li>The power of entry without the owner's permission to undertake archaeological excavations on an ancient monument in imminent danger of damage or destruction would have a negative impact on human rights. However, this power would only be exercised in exceptional circumstances and would be a proportionate action justified by the immediate threat of the loss of unique and irreplaceable archaeological information and Cadw has been unable to contact the owner / occupier.</li> </ul>
		X	<ul style="list-style-type: none"> <li>The extension of the definition of a scheduled monument would impose new restrictions on some owners, but the number and kinds of sites will be limited through guidance. The scheduling of a site will place some restrictions on an owner's freedom to enjoy the property, but the site will have to fulfil clear criteria for national importance to qualify for protection. Moreover, the designation of a site will not interfere with its current use. It is anticipated that only around 30 nationally important sites will qualify for scheduling under the new definition. Under provisions proposed elsewhere in the Bill, the owner / occupier will be formally consulted on the decision to schedule a site under the extended definition and have a formal right to seek a review of the decision to schedule.</li> </ul>
		X	<ul style="list-style-type: none"> <li>The extension of urgent works to occupied buildings might be interpreted to impinge on human rights specified in Article 8 — 'The right to respect for private and family life and correspondence' — and Protocol 1, Article 1 — 'The right to peaceful enjoyment of possessions' — of the European Convention on Human Rights. The provision has been deliberately framed to exclude any works that might unreasonably interfere with residential use to avoid contravening Article 8.</li> </ul> <p>Data drawn from Cadw's Listed Building Condition Database (2011) indicate that 72% of agricultural buildings at risk are partly occupied; these are typically 'barns, stables or ranges subsidiary to the main farmhouse.' The percentage of partly occupied domestic buildings at risk is lower at 34%, but still substantial. These buildings 'are frequently farmhouses or other rural buildings which are falling out of use. In</p>

X			<p>some areas of Wales there is also an issue with the poor maintenance of second/holiday homes.’</p> <p>Amongst the proposals in the consultation, <i>The future of our past</i>, was one to extend urgent works notices to occupied buildings not in residential use. Eighty-four percent of those who offered their views on the proposal supported it, with many acknowledging that it addressed a clear loophole in the existing legislation. Some advocated extending it to buildings in residential use. In light of the support evidenced for the proposal and the significant proportion of buildings at risk that are in partial occupancy, the extension of urgent works notices to occupied buildings if it does not interfere with residential use is a proportionate response to the legal requirement to protect listed buildings. It is therefore not inconsistent with the limited right contained in Protocol 1, Article 1 of the European Convention on Human Rights.</p> <ul style="list-style-type: none"> <li>• The introduction of formal mechanisms for consultation and review on decisions to designate historic assets would have a positive impact on human rights, by ensuring greater compliance with Article 6 of the European Convention on Human Rights: ‘The right to a fair trial’.</li> </ul>
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## **Equality Impact Assessment – Part 2**

**1. Building on the evidence you gathered and considered in Part 1, please consider the following:**

### **1.1 How could, or does, the policy help advance / promote equality of opportunity?**

For example, positive measures designed to address disadvantage and reach different communities or protected groups?



**1.2 How could / does the policy / decision help to eliminate unlawful discrimination, harassment or victimisation?**

**1.3 How could/does the policy impact on advancing / promoting good relations and wider community cohesion?**

## **2. Strengthening the policy**

**2.1 If the policy is likely to have a negative effect ('adverse impact') on any of the protected groups or good relations, what are the reasons for this?**

**What practical changes/actions could help reduce or remove any negative impacts identified in Part 1?**

**2.2 If no action is to be taken to remove or mitigate negative / adverse impact, please justify why.**

**(Please remember that if you have identified unlawful discrimination**

**(immediate or potential) as a result of the policy, the policy must be changed or revised.)**

### **3. Monitoring, evaluating and reviewing**

#### **How will you monitor the impact and effectiveness of the policy?**

List details of any follow-up work that will be undertaken in relation to the policy (e.g. consultations, specific monitoring etc).

One of the aims of the new Advisory Panel for the Welsh Historic Environment is to provide independent, expert advice to the Welsh Ministers on a range of matters relating to the formulation, development and implementation of policy and strategy in relation to the historic environment of Wales. The Bill, as the first substantive change to heritage legislation in 25 years, represents a central element of the Welsh Government's historic environment policy. While the precise content of the panel's work programme will be a matter for its own determination, the impact of the Bill will undoubtedly receive its detailed attention. The panel will be able to draw on data collected by Welsh Government officials, but it will be free to seek further information or undertake research as it sees fit.

The results of all impact assessments where the impact is significant will be published on the Welsh Government's website.

#### 4. Declaration

**The policy does not have a significant impact upon equality issues.**

Review Date: 1 June 2018

The EIA for the Historic Environment (Wales) Bill will be reviewed in light of any amendments made during the scrutiny of the Bill and again after its passage. The full review of the EIA will be undertaken around two years after passage of the Bill, when adequate data should be available.