

Welsh Government

Sustainable Drainage Systems (SuDS) Schedule 3 Post Implementation Review

Post Implementation Review Report

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1. Executive Summary

In January 2019 Schedule 3 of the Flood and Water Management Act 2010 was commenced in Wales, requiring Sustainable Drainage Systems (SuDS) on most new development. In March 2022 the Welsh Government commissioned Ove Arup and Partners (Arup) to undertake a Post-Implementation Review.

This Review report has been compiled to:

- Summarise available data on activities following implementation.
- Collate stakeholder feedback from previous reports and from engagement as part of the Review including interviews, events, and a comprehensive questionnaire.
- Outline and prioritise recommendations to overcome issues raised.
- Inform the Welsh Governments approach to the Programme for Government (PfG) for the use of SuDS that provide wildlife habitat.

Limitations of lessons from Wales for England

Schedule 3 was commenced in Wales in 2019. It has not yet been commenced in England however implementation is now planned during 2024.

This report provides insights on the challenges and successes of the implementation phase of Schedule 3. However it is important to note there are fundamental differences in the legislative context and ‘ways of working’ between England and Wales; including local government structure, the Planning system, and the organisations involved in delivering development. These differences in the legislation, processes and stakeholders may mean the findings and recommendations in this report are not directly applicable to England.

1.1 The Implementation Phase

Development across Wales has changed following the commencement of Schedule 3 from January 2019. After four years of working under this legislation, comprehensive feedback has been obtained from a sample of impacted stakeholders representing many sectors. Feedback has mixed responses. Many highlight examples that demonstrate the value and benefit of the intent of the legislation, draining development in a more sustainable way. However, as to be expected with a new process and requirements, there have been several challenges experienced by all parties, of which resolution would bring collective improvement.

Those promoting, designing, and delivering developments have navigated the new process delivered by SuDS Approval Bodies (SABs) across Wales. The volume of applications received by SABs varies significantly from several tens of applications per year, to several hundred – many of these applications relate to smaller developments. Whilst data is available, there appears to be a significant shortfall in SAB applications received when compared to the number of submitted Planning applications (noting that some development that require a SAB application may not require Planning consent).

There are relatively few examples of fully adopted SuDS, following the design and construction of drainage systems. This is perhaps to be expected given the timescales involved in delivery and handover of development, which often includes defects periods. The pace of development in Wales was also impacted during the pandemic.

1.2 Observations

Throughout the Review, all stakeholders recognised the positive outcomes Schedule 3 set out to deliver. Issues that have been identified predominantly relate to the delivery process and procedure. It should be recognised that local successes often stem from a collaborative, “yes, if” approach by all parties, underpinned by the legislative framework.

1.3 Collated set of Issues and Recommendations

In reviewing the various feedback sources, 17 common themes have emerged. These are grouped into four categories: Governance & Resource, Consistency, Technical Requirements, and Affordability & Enforcement. A comprehensive set of issues and recommendations have been grouped under the below headings, with indicative action timeframe of each.

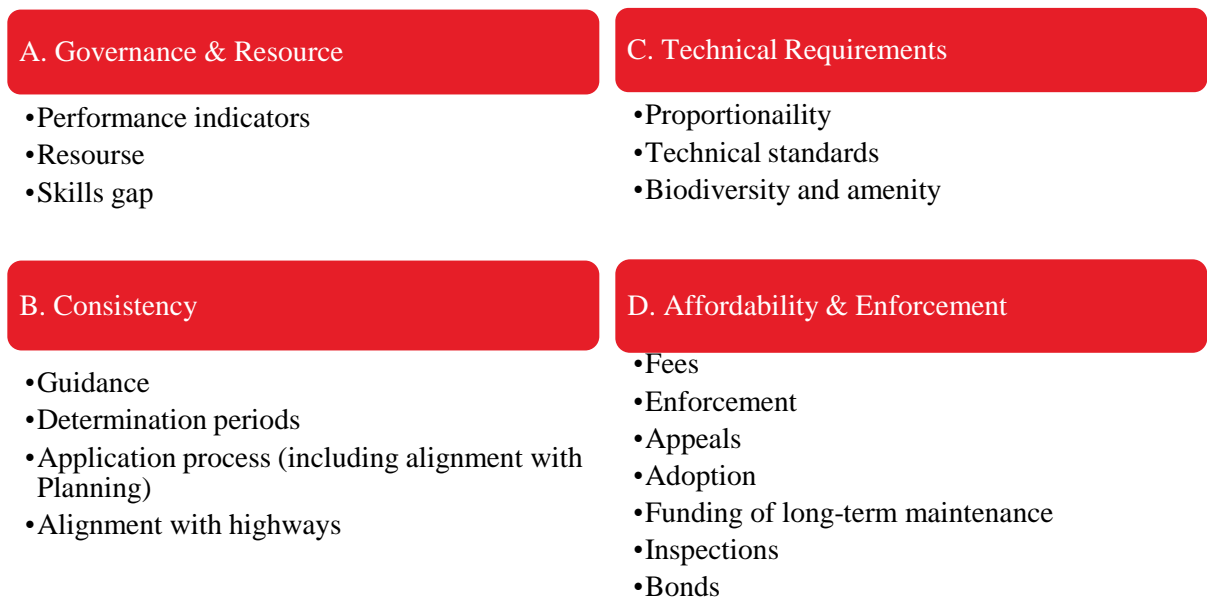


Figure 1 - Review issues and recommendations groupings

A. Governance & Resource

Governance & Resource suggests a performance framework, informed by consistent yet proportionate data-gathering from SABs. This will form empirical evidence for future improvements to the process and structure, including any changes required to application fees.

Resource and skills gaps within the industry are highlighted as significant. Retainment of resources is a challenge with some experienced staff leaving SAB posts in recent years. Moves towards regional partnerships and resource sharing could foster rewarding career pathways whilst balancing resource demands and enabling access to specialists. Ongoing training is required within the industry.

Underpinning the resource challenge should be a focus on developing new talent by promoting SuDS skills throughout the education system, with specific course content.

More defined leadership of SuDS in Wales is required to deliver consistency and drive good practice. Introducing an overseeing organisation would play a vital role in this.

B. Consistency

Consistency is a recurring theme throughout the Review. Key areas of focus are clarity of key definitions, clearer documentation including local guidance/addenda, and ongoing engagement and support frameworks built through reinventing a Focus Group (formerly the SuDS Implementation Group).

Determination periods for applications extending beyond the statutory timescale in many cases are a concern and causing delays to development. Timescales are required for validating applications. An oversight organisation should be put in place longer-term to regulate and help continually improve the process nationally.

The pre-application process should be formalised including staged advice, better alignment with Planning (where applicable), consistency of fees for pre-application, and ensuring advice given at an early stage can be relied upon by applicants further down the line.

The approach to and acceptance of SuDS in highways is inconsistent across Wales, but for the most part SuDS are not maximised in highway settings. This requires addressing through improved guidance and Standards relating to highways to maximise benefits alongside objectives such as Active Travel and complementing other policy implemented by the Welsh Government (e.g. 20mph roads).

Extra clarity should be provided on current exemptions afforded to railways and certain types of highway scheme. The exemption for highways schemes where the Welsh Minister is highways authority should be reviewed.

The commuted sum approach is used inconsistently across Wales with applicants unable to determine scheme viability/costs early. National consistency is needed.

C. Technical Requirements

A proportional approach is key. Technical requirements are challenging for some types of development. There is a general view that the technical Standards are well-suited to typical new housing developments but can be unclear when applied to other types of development.

There is a view that some types of development should be exempt or deemed to comply on some or all of the Standards, and the Welsh Government should provide clarity on these and consult on scenarios where necessary. This will support a proportionate risk-based approach to development control in-keeping with the intention of the legislation, without inhibiting or disproportionately burdening small development activities or infrastructure improvements.

Definitions within the legislation and Standards require further clarity, or in some cases new definitions are required. Beyond this there is a need to tailor the application form and technical requirements to the type of development considering scale and risk.

The overall hydraulic technical standards appear reasonable. The application of these standards could be improved with clearer national guidance. There are some technical hydraulic requirements that require further review and refinement as a result.

Retrofit SuDS schemes require guidance to assist in delivery at scale going forwards.

The Biodiversity and Amenity standards should be updated to provide clarity (rather than the current broad wording of ‘maximise’) and should better align and support Welsh biodiversity policy and direction changes since 2019 in relation to Planning.

D. Affordability & Enforcement

Affordability & enforcement reviews echo the requirement for data-gathering. A focused review on application fees found many SABs considered fees should be increased to cover costs, however there is insufficient and inconsistent data to evidence and support this.

Further guidance is required around minor amendments to applications, the designation of SuDS features, enforcement, inspections, appeals, adoption, and non-performance bonds.

A priority issue for all stakeholders is a sustainable approach to funding long-term maintenance. Some commuted sum periods used result in development becoming unviable. It is strongly encouraged that an additional approach to funding long-term maintenance in the form of a service charge is considered. The future could include a hybrid of options.

1.4 Shorter-term Priority Recommendations

On review of all themes and associated options, priority short-term recommendations are identified. These will provide significant improvement to the process, are generally agreeable amongst stakeholders, and are achievable in the shorter term:

- Initiate mandatory data collection and reporting by SABs, feeding into national annual performance reporting by the Welsh Government.
- Combine all guidance including FAQs into one clear document, consistent with the legislation and Standards. This will help to close gaps in the current documentation that result in ambiguity and inconsistency.
- Introduce standard legal forms to provide clarity on expectations and structure to the process.
- Reinvigorate a SuDS Focus Group (previously known as the SuDS Implementation Group) with representatives from across industry to be chaired by the Welsh Government with focus on delivery, sharing lessons learnt and best practice.
- Develop a national commuted sums approach including a schedule of rates and length of maintenance period. This should be accompanied by guidance on maintenance options.
- Consider the desirability and viability of a service charge approach levied by Local Authorities as a mechanism of funding long-term maintenance of adoptable SuDS assets.
- Provide a clear list of scenarios that do not require SAB approval, are deemed to comply or exemptions from requiring approval. This will support a proportionate risk-based approach to development control in-keeping with the intention of the legislation, without inhibiting or disproportionately burdening small development activities or infrastructure improvements.
- Develop a clearer, more appropriate pre-application process consistent across Wales which includes binding advice from the SAB.

2. Introduction

2.1 Background

In January 2019 Schedule 3 of the Flood and Water Management Act (FWMA) 2010 was commenced in Wales. This requires most new developments to include Sustainable Drainage Systems (SuDS) features that comply with national standards and arrangements for long term maintenance, subject to sustainable drainage approval bodies (SABs). The Welsh Government committed to review the SuDS regime after the first 2-years however this was delayed by the COVID-19 pandemic.

In March 2022 the Welsh Government commissioned Ove Arup and Partners (Arup) to undertake a Post-Implementation Review. This Review considers the legislation, standards and guidance alongside previous reviews undertaken. This is built on with further survey and engagement feedback during 2022-23.

This Review seeks to learn from the implementation phase and prioritise issues, consider options and where possible make informed recommendations based on feedback to improve the process going forward. It also seeks to consider the Programme for Government commitment introduced in 2021 for the use of SuDS to provide wildlife habitat.

2.2 Scope of Review

This Review has been completed on behalf of the Welsh Government by independent consultants who are experienced practitioners. The views expressed are the practitioners' interpretation for information purposes and do not constitute legal advice.

The scope of the Review set out by the Welsh Government includes the following tasks:

2.2.1 Review of Legislation

- Review documents including those listed in Table 1 and Table 2, and collate associated findings and recommendations. This will include identifying any recommendations from older pieces of work such as the 21st Century drainage programme and the Pitt review to identify useful recommendations not taken forward which could support in future delivery of SuDS.
- Present a collated and prioritised list of short-, medium- and long-term recommendations considering the resources implications of each. This may consider changes to guidance, legislation, or ways of working to support in the effective delivery of SuDS with wider benefits.
- Review legislation relevant to the SAB function including Schedule 3, planning legislation and other relevant legislation to identify barriers to the implementation of SuDS and propose possible solutions. This will include reviewing how the planning and highway functions can be better integrated with the SuDS requirements.
- Provide a prioritised list of other areas which require review by the Welsh Government.

2.2.2 SuDS Standards and Guidance

Undertake a review of the Statutory Standards and Guidance for Sustainable Drainage Systems to include the following:

- Obtain views from relevant stakeholders (contact details provided by the Welsh Government) where concerns are being raised and propose solutions to amend the standards where appropriate.
- Identify and where possible quantify the biodiversity benefits already achieved via the implementation of SuDS legislation which would not otherwise have been achieved. Propose ways to achieve increased biodiversity benefits in future SuDS.
- Consider and report on how the Standards can be made more measurable, particularly in terms of achieving wider benefiting, including the provision of wildlife habitats.
- Set out whether there should be any further exemptions or exceptions to the Standards required and if so propose what these should be.
- Consider areas where legislation, Standards and/or guidance require further clarification and/or amendments. Where clarification is needed, identify whether these changes are needed in legislation or guidance.

2.2.3 Fees Review

A focused element of the review will consider fees payable to SABs. This review will seek to:

- Undertake an evidence-based review of the fees associated with SAB applications and propose revised fees structure, if appropriate, ensuring cost recovery is achieved whilst also ensuring a fair and reasonable price for applicants.
- Identify areas where consistency of charges can be achieved and where this is not possible or desirable.

2.2.4 Pre-application Process Review

One of the keys to the successful implementation of SuDS requirements is early engagement by the developer with the SAB. This is currently done through a non-statutory process known as pre-application where the developer can request advice or information from the SAB on their proposal before submitting a full SAB application if they choose to do so.

The element of the Review will seek to:

- Undertake a review of the use of the pre-application process including the associated costs, fees (where these are charged) and quality and timeliness of the service provided based on user feedback.
- Provide suggested changes or improvements to the pre-application process if required.

2.3 Review Process

The Review initially focused on existing information, issues raised, and options proposed by stakeholders between January 2019 and July 2022. This literature review informed the Review Interim Report delivered in August 2022. The report is contained within Appendix B.

The literature review identified that feedback from applicants since implementation was limited. A hybrid virtual and in person Applicant Focused Workshop was undertaken in October 2022 to gain feedback from the applicant group. Feedback from the event in the language it was provided is contained within Appendix C.

An online focused questionnaire was issued to stakeholders across industry in Wales to gain feedback on the issues and options raised within the Interim Report. The questionnaire was completed by 88 people/organisations, including 19 SABs. A full set of questions and results in the language they were received is contained within Appendix D. This informs prioritisation and focus areas for recommendations. Some key results and graphs are used within the main body of this report for context.

Workstreams of the Review focused specifically on Application Fees and the Pre-Application Process. Available data from SABs and Applicants was collated to inform recommendations, supported by focused meetings. These were reported January and February 2023 respectively. Details can be found in Appendix E and Appendix F. The key findings and recommendations are also included within this report.

An Emerging Findings & Recommendations Online Event was undertaken on 7th March 2023. This was open to the whole industry with over 300 attendees and provided a platform for emerging recommendations to be presented and validated through feedback. A summary of feedback is contained within Appendix G.

A Draft report was shared for comment by Welsh Government in advance of this final report being produced.



Figure 2 – Review timeline

3. Literature Review

The literature review outlined below informed the Review Interim Report.

3.1 Summary of Literature Reviewed

Table 1 – Statutory instruments and associated guidance

Document Type	Document
Primary legislation	Flood and Water Management Act 2010 (UK Government. Contains ‘Schedule 3’)
Secondary legislation	5 Orders (2019) 1 Amendment Order (2020, Welsh Government)
National Standards	Welsh SuDS Standards (2019) This also contains guidance beneath the 6 Standards
Statutory Guidance	Guidance for Local Authorities (2019)
FAQs	Further guidance and clarifications (2019) These remain ‘Draft’

Table 2 – Other literature reviewed

Literature	Comment
Measuring the effects of the Sustainable Drainage legislation on SABs in Wales (2021, WLGA)	<p>A review of issues and recommendations from Welsh Local Government Association (WLGA) report focusing on SABs in Wales. Key issues and recommendations are considered alongside other literature and feedback from other stakeholders including:</p> <ol style="list-style-type: none">1. Strong agreement on the value and support for overall intent but concern that issues with implementation risked overshadowing more widespread SuDS utilisation.2. SAB Implementation Group needs to be reinvigorated.3. SAB and planning process needs to be more closely aligned to encourage engagement earlier in development process.4. Concerns over the commuted sums approach for maintaining SuDS assets and a need for an alternative funding mechanism.5. SABs and Developer groups desire national legal templates for adoption agreements.

Literature	Comment
	Some feedback from Applicants and Statutory Consultees was also obtained during this review and is considered herein.
HBF response to WLGA review (2021)	The Home Builders Federation (HBF) provided a response to the WLGA review including comments and priority ranking (low, medium high) against the issues and recommendations made.
Homes and Places Division (Housing and Regeneration) response to WLGA review, M. Jones (2021)	The Homes and Places Division (Housing and Regeneration) in Welsh Government provided feedback to the WLGA review. The feedback expanded on some of the WLGA recommendations and acknowledged some of the solutions could be achieved in a relatively short period of time to improve the process.
Schedule 3 Implementation Issues & Actions Tracker, Welsh Government	Detailed review of issues recorded by the Welsh Government through their engagement with SABs and other stakeholders and collation to inform proposals to be included in this report.
Other written correspondence and discussion	<p>Written correspondence from stakeholders including applicants/developers/consultees on issues and suggested recommendations through first-hand experience of the process to date.</p> <ul style="list-style-type: none"> • Dŵr Cymru Welsh Water • HBF • Hygrove Homes • Natural Resources Wales (NRW) (consultee and forestry developer) • Community Housing Cymru • Redrow • Persimmon Home • Vale Consultancy • Marshalls • 3P Technik UK • Mineral Products Association • WLGA • National Farmers Union • Waterco • Social Farms and Gardens

Literature	Comment
Practitioner Review of the Legal Framework Governing Sewerage and Drainage Assets in Wales (2017, Welsh Government)	<p>A comprehensive practitioner review of legislation relating to sewerage and drainage including extensive engagement with the sector. A key observation of the review was the complexity of legislation and fragmentation of water management. Key recommendations made align with issues and options presented herein, including:</p> <ul style="list-style-type: none"> • Setting clear responsibilities and addressing ambiguity around definitions and terminology. • Providing adequate lifecycle funding mechanisms, with appropriate powers for actors. • Consider a ‘controlling/coordinating mind’ for surface water drainage to oversee. • Providing the practical (resource and skills) and financial means to carry out functions. • Promoting public awareness and support. • Issues associated with legacy of assets with issues around ownership and maintenance.
Recommendations to Update Non-Statutory Technical Standards for Sustainable Drainage Systems (SuDS) (2021), Defra	<p>Final report from Defra research project on the Non-Statutory Technical Standards which includes a summary of their review and findings. It also includes recommendations for six new standards. These align closely with the Welsh Standards.</p> <ul style="list-style-type: none"> • Standard 1: Runoff destinations • Standard 2: Everyday rainfall • Standard 3: Extreme rainfall • Standard 4: Water quality • Standard 5: Amenity • Standard 6: Biodiversity
Non-statutory technical standards for sustainable drainage systems (2015), Defra	<p>Non-statutory technical standards for SuDS published by Defra in March 2015 to be implemented alongside the planning process. The standards include:</p> <ul style="list-style-type: none"> • Flood risk outside the development • Peak flow control • Volume control • Flood risk within the development • Structural integrity • Designing for maintenance considerations • Construction

Literature	Comment
Assessment of how strategic surface water management informs Sustainable Drainage Systems (SuDS) delivery through the planning system (2021), Defra	<p>Report on the use of the planning system to provide a more joined up approach to the use of strategic surface water management plans to inform spatial planning and development management.</p> <p>The report includes a review of both the current situation with regards to strategic surface water management plans and the aspiration for how they can be better used in future. There are associated recommendations on how to meet these aspirations which in turn refer to the Defra Standards Review.</p>
Pitt Review (2008)	A review of the recommendations made following the floods of 2007, specifically focusing on recommendations relating to surface water management. Outstanding actions from the Pitt Review are contained within Appendix A of this report.
21st Century Drainage Programme recommendations, Water UK	<p>Water UK's 21st Century Drainage Programme collates industry, regulatory, and academic knowledge, and research to inform long term plans for the sewerage and drainage sector.</p> <p>In addition, The Water Strategy for Wales has set direction for water policy in Wales over a 20-year period. It sets short-, medium- and long-term objectives and supporting actions specific to 21st Century Drainage and Sewerage Systems. This highlights a medium-term objective of a framework to identify evidence, data and gaps in the sewerage and drainage sector – which the Implementation Group for Schedule 3 in Wales could feed into if re-established.</p>

4. The Implementation Phase

This section provides some context around the implementation phase as background to this Post-Implementation Review.

There are currently 19 SuDS Approval Bodies (SABs) in Wales compared with the 22 unitary Local Authorities, as some have joined to deliver the SAB function through a regional approach. Local Authorities typically opted for the SAB form part of the Lead Local Flood Authority team. However, there are other approaches being taken, for example there is one example of the SAB role being delivered by the highways team within a local authority.

Available data is incomplete and inconsistent, limiting detailed analysis.

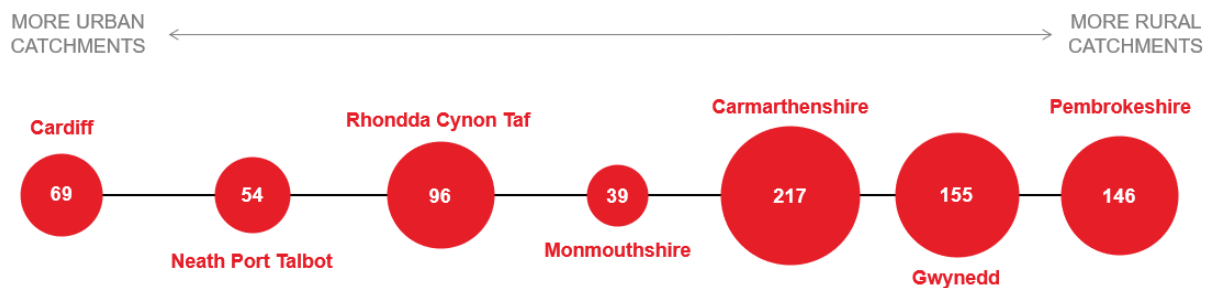


Figure 3 – SAB Applications by Local Authority 2021 & 2022 combined, of available data provided

The WLGA (2021) review identified that a large proportion of applications are from single property / small development. At the time it was identified this was causing a resource constraint in guidance unfamiliar applicants through the design process in many instances.

Of available recent data SABs estimate a range of between 20-60% of required applications are received, when compared to Planning application data. This agrees with early data and indications from SABs that there is a significant shortfall in applications compared with expectations when considering development overall both in terms of what could be expected on review of Planning applications and noting many types of development that require a SAB application may not require Planning consent.

Many developments are currently in process of adoption, ranging from 1 to 20 per SAB based on recent available data. However, there are relatively few examples of fully adopted SuDS by SABs, following the design and construction of drainage systems. The process is still in relevant infancy considering the timescales required to design, construct and handover a development, which often includes lengthy defects periods. Development that had and approved or validated planning application prior to January 2019 was not required to go through the process. The pace of development in Wales was also impacted during the pandemic.

There has been limited enforcement action by SABs. Examples include temporary stop notices and refusal of applications due to lack of detail.

The implementation phase has highlighted successes alongside areas where improvements are needed. Overall stakeholders in the process overwhelmingly agree in the beneficial outcomes delivered by SuDS and support the principle of Schedule 3. Figure 4, from the recent questionnaire of a wide range of stakeholders, highlights the mixed experience. While this focuses on the issues, and recommendations to

address these, it is acknowledged that there are many good examples of the process and outcomes across Wales. Some of these success stories provide useful examples and foundation for recommendations to be delivered upon.

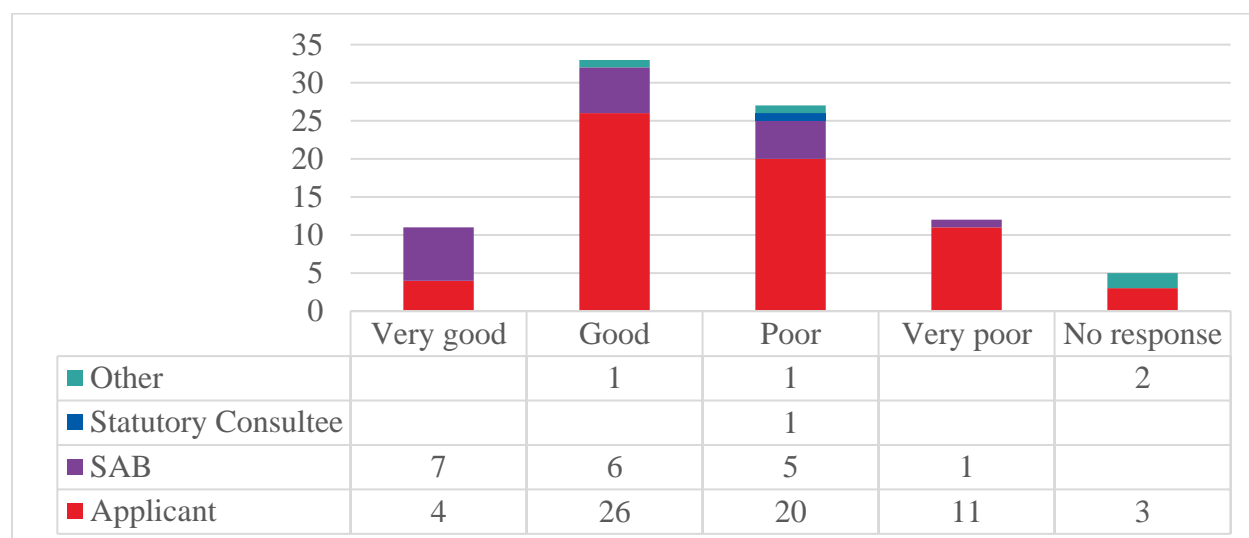


Figure 4 – Feedback on effectiveness of the implementation phase

5. Issues, Feedback and Recommendations

The Literature Review which included feedback received during the implementation phase helped to inform a collated list of issues. These issues and associated options were outlined in an Interim Report to the Welsh Government in August 2022. The Issues and Options were used to inform further engagement, including workshops, meetings, and an online questionnaire. Full details of this engagement is contained within the Appendices found at the end of this report. Subsequent feedback from the additional engagement informed recommendations in this section.



Figure 5 – Summary of how findings are presented under each Theme heading

5.1 Categories and Themes

17 Themes have emerged on review of the issues raised during the implementation phase. These Themes have been grouped into four Categories as shown in Table 3.

Recommendations are made as a result. Consideration is given to the resource implications of each recommendation.

Recommendations have also been categorised based on whether they can be delivered in the short, medium, or long-term.

- **Short term:** Potential to be completed in 6-12 months. Actions that are within the remit of the Welsh Government / Local Authorities to implement with no requirement for formal public consultation or legislation.
- **Medium term:** Potential to be completed in 12-24 months. Needs consultation and/or secondary legislative change or reliance on third party/new commercial arrangement.
- **Long term:** Potential to be completed in 2-5 years. Dependent on other short/medium term actions and their effect, or requires primary legislative change.

Table 3 – Categories & Themes

Category	Theme
Category A: Governance & Resource	Data Collection & Performance Indicators
	Sunset period
	Resource
	Skills Gap
Category B: Consistency	Guidance
	Determination Period
	Application Process (Including Alignment with Planning)
	Alignment with Highways
	Existing Exemptions
Category C: Technical Requirements	Proportionality
	Technical Standards
	Biodiversity and Amenity
Category D: Affordability & Enforcement	Fees
	Enforcement
	Appeals
	Adoption
	Funding of Long-term Maintenance
	Inspections
	Bonds

6. Category A: Governance & Resource

6.1 Data Collection & Performance Indicators

6.1.1 Summary of Issues

This review has highlighted that data collection by SABs varies across Wales and is inconsistent in detail. There is currently no requirement for data to be collected and reported. The absence of consistent data and evidence prevents informed changes from being made to the application and approval process.

Beyond this, SABs have no publicly visible performance framework, akin to Local Planning Authorities. This limits the ability to compare the varying demands and outcomes across the SABs. Early figures and statistics were collated through the 2021 WLGA review however implementation was then in relative infancy.

It is acknowledged that some issues and options noted in this report may be perceived, as opposed to issues experienced. The implementation period coincided with the UK's exit from the EU and the pandemic which placed resource and delivery constraints on stakeholders involved in development. Updated data (which could also support a useful future performance indicators across Wales), will assist in prioritisation of options and continued improvement into the future.

6.1.2 Engagement, Feedback & Discussion

As part of the questionnaire respondents were asked whether there is a need for a publicly visible performance framework akin to the framework in the Town and Country Planning process. This would mean that the SAB would be required to report on metrics such as the period for determination, number of applications approved etc. 88% of respondents agreed that this should be introduced. A follow-up question found that 69% of those respondents believed this reporting should happen at a local SAB level.

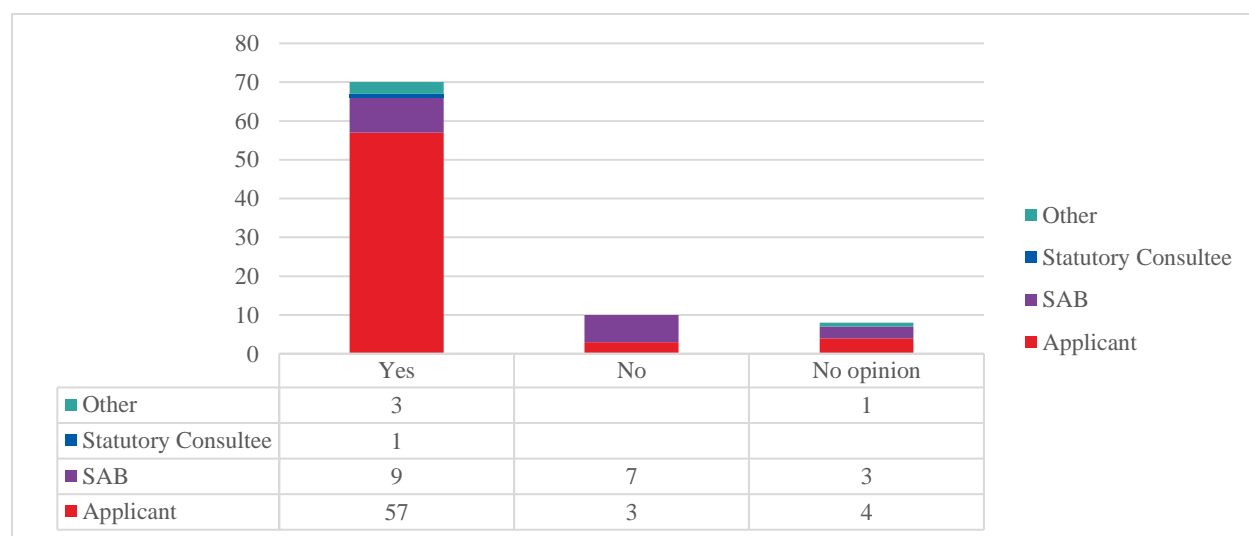


Figure 6 – Questionnaire results on whether a publicly visible framework performance framework was needed

6.1.3 Recommendations

The following recommendations are presented for consideration.

Table 4 – Performance indicator recommendations

Ref.	Recommendation	Time frame
A01	<p>Requirement for each SAB to undertake data collection and reporting. This should feed into a national annual reporting of statistics and performance indicators.</p> <p>This review has found that there is a lack of evidence on a wide range of metrics available from the SABs. Whilst some SABs are collecting data, it is inconsistent and of insufficient quality to understand the state of the nation.</p> <p>The Welsh Government should provide a direction to SABs across Wales to collect and report data. The WLGA should facilitate this process and create consistency in data collection, which could build on good local examples of data collection.</p> <p>Information may include the following as a minimum from 2023. This would help evidence improvements to the process in future, for example an economic appraisal to determine whether changes are required to the application fee structure.</p> <ul style="list-style-type: none"> • Number of applications received (per type of development). • Date each application was 1) received, 2) validated, 3) approved/rejected. • Reason for rejection of application (if appropriate). • Fee per application and type of development. • Actual time spent on each application in hours and the equivalent chargeable costs. • Number of individuals working on the application with their hourly rates. • Any on-costs and overheads attracted by SAB determination. • Additional costs incurred by the SAB post determination, including inspection, adoption and certification. <p>The data collected by all SABs must be consistent to allow an appraisal taking account of all relevant factors. The above list should be reviewed to ensure that the data is adequate to inform future legislative change. This recommendation should be implemented as soon as possible.</p> <p>Resource implications: Following initial direction from the Welsh Government and WLGA, data collection by SABs should form part of normal administrative activities. Collating and publishing national data at the end of each quarter/year to be undertaken by the Welsh Government or WLGA (or new SAB Oversight body if one is to be formed).</p>	Short term (within 6-12 months)

6.2 Sunset period

6.2.1 Engagement, Feedback & Discussion

It has been raised through engagement that a 'sunset period' for Planning applications approved or validated prior to January 2019 should be put in place. This considers the following:

- Paragraph 5(1) of The Sustainable Drainage (Approval and Adoption) (Wales) Order 2018 sets out a transitional arrangement for developments where planning was approved or validated before 7th January 2019.
- There is no sunset clause for this transitional provision meaning that there could be a lag of developments that don't have to apply for SAB due to meeting these requirements.
- Whilst planning approvals are normally only valid for 5 years, there are things that can be done (such as discharging conditions and phasing developments) that can extend this period prior to construction start.

6.2.2 Recommendations

The following recommendations are presented for consideration.

Table 5 – Sunset period recommendation

Ref.	Recommendations	Time frame
A02	<p>Consider implementing a sunset clause to ensure that any development that has had planning consent approved or validated prior to 7th January 2019, but has not started construction by 7th January 2025 is compelled to apply for SAB consent.</p> <p>This would allow for a full 5 years to lapse for applications that were both approved and validated prior to January 2019.</p> <p>Resource implications: This would require a change to secondary legislation in the form of an amendment order.</p>	Medium term

6.3 Resource

6.3.1 Summary of Issues

Resource challenges within SAB teams have been a recurring theme in feedback from all stakeholders. This is related to the number of staff with appropriate skills, overloaded SAB teams, the number of applications requiring advice and input, and other external pressures (other duties that the SAB team may carry out such as LLFA). Generally, SABs have faced challenges with people retention, recruitment and training within teams. It is noted several experienced staff have left SAB roles during the implementation phase.

Applicants have shared that due to a lack of accountability, they believe that there is little incentive for SABs to process an application efficiently. This can result in no response or a very delayed response following a SAB application, resulting in impacts to programme and costs.

6.3.2 Engagement, Feedback & Discussion

The questionnaire sought views on how resource was affecting applications. 85% of respondents said that it affects more than half of applications, with 35% saying that it affects all applications.

The questionnaire also sought views on who was best to undertake the SAB function, taking account of experience since implementation. Most respondents believe that this role should remain with the Local Authority and listed local knowledge and links with other local authority functions as reasons for this. Of those suggesting a national SAB approach, a key reason for this was to create more consistency with process and requirements, which was also highlighted during engagement with applicants.

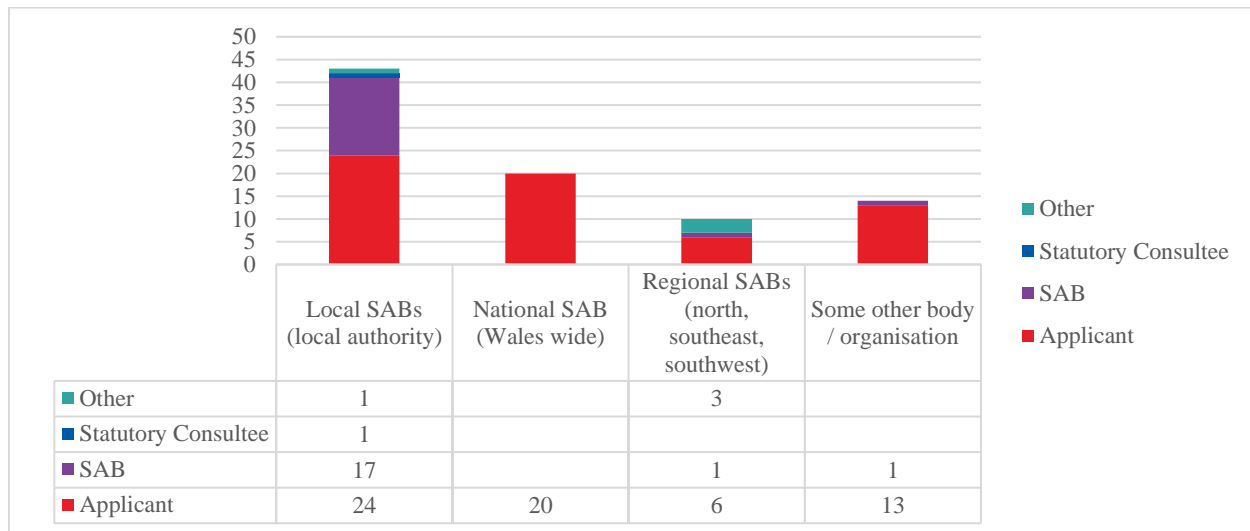


Figure 7 – Who is best placed to deliver SAB function

6.3.3 Recommendations

The following recommendations are presented for consideration.

Table 6 – Resource recommendations

Ref.	Recommendations	Time frame
A03	<p>Undertake a review focused on why drainage engineers are leaving post within Local Authorities.</p> <p>It is noted several experienced SAB officers have left post during the implementation.</p> <p>phase. This review should include discussions with staff in SAB roles and include staff who have moved on who are willing to take part. The review should consider career path/options, salaries, whether staff feel valued, if/how surface water management is valued within Local Authorities, and the pressures experienced by SAB staff. Consideration should be given to the case for regional delivery/partnership models to achieve critical workload mass to foster career pathways and necessary specialists.</p> <p>Resource implications: Following initial direction from the Welsh Government this review could be undertaken by WLGA or a third party. Time would be required from SAB teams to support/interview.</p>	Short term
A04	<p>Promote SuDS more widely within education including schools, colleges, and universities.</p> <p>In the short term, actively encouraging and promoting drainage within education will raise awareness of the opportunities available. This will help to reduce the skills gap within the drainage sector and attract people from within civil engineering into drainage. The results of this may not be immediate.</p> <p>Resource implications: The Welsh Government could consider approaching Institutions to facilitate this and encourage participation and guest lectures (ICE, CIWEM, CIRIA), and engage with schools, universities and colleges.</p> <p>This links to options presented under ‘skills gap’ .</p>	Short term

Ref.	Recommendations	Time frame
A05	<p>Develop SuDS qualifications and course content.</p> <p>The Welsh Government should work with the Joint Board of Moderators, Welsh Universities and Colleges, and apprenticeship providers to undertake a review of civil engineering and construction related courses, and how this could be improved across disciplines including engineering, planning and other construction-based qualifications.</p> <p>Creation of a standard learning outcomes to be rolled out in partnership with the Joint Board of Moderators.</p> <p>Skills gaps within other sectors including environment and landscape also require consideration.</p> <p>Whilst this can be thought about in the short term it would take time to get into course content and would also have a lag before making a difference in the industry. A scheme could be developed to encourage industry to support education providers with their course content.</p> <p>Resource implications: The Welsh Government to initiate. This could then be outsourced to a third party. Requires delivery in partnership with the Joint Board of Moderators, Universities, Colleges, and apprenticeship providers.</p>	Long term

6.4 Skills Gap

6.4.1 Summary of Issues

Across the drainage sector there is a skills gap. Many SAB teams have noted it is difficult to employ and/or retain qualified staff, and several leading drainage engineers have left posts within SAB teams over recent years. This links to the resource issue described in the section above. The WLGA review (2021) notes skills and resource shortages exist within specialisms of biodiversity, amenity, inspections, enforcement, and with legal support too.

6.4.2 Engagement, Feedback & Discussion

The questionnaire asked respondents whether they had recognised a skills gap in the wider drainage industry currently. 97% of respondents recognised this wider industry gap and 96% felt that it had impacted the SABs they work with.

It is also noted through engagement that the skills gap within the sector is not limited to SAB teams. It's highlighted there is a shortage in skills and knowledge across design and construction more generally within the industry.

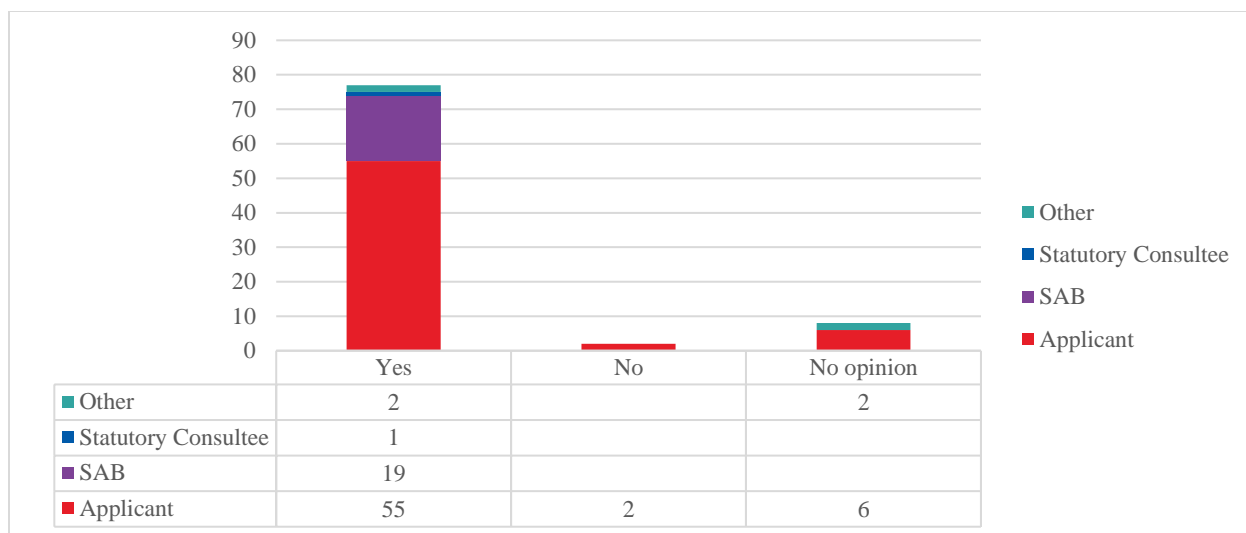


Figure 8 – Whether there is a skills gap in the drainage industry

6.4.3 Recommendations

The following recommendations are presented for consideration.

Table 7 – Skills gap recommendations

Ref.	Recommendation	Time frame
A06	<p>Work with professional bodies to promote SuDS, provide accredited training and how to navigate the system in Wales.</p> <p>Whilst accredited training would take longer to develop and implement as shown above, the Welsh Government can work with bodies such as universities, colleges, and professional institutions to develop packages that can count towards CPD.</p> <p>Resource implications: The Welsh Government could consider approaching an institution to facilitate with this (e.g. ICE, CIWEM, CIRIA). It is noted training was provided early in the implementation process and could be refreshed.</p>	Medium term
-	<p>Develop SuDS qualifications and course content.</p> <p>As outlined within resource recommendations.</p>	Long term

Ref.	Recommendation	Time frame
A07	<p>Accreditation for competent engineers.</p> <p>Accreditation for SuDS engineers would take time to develop, fund and implement. Even when implemented, it could take time to gain appropriate gravitas and would need to be regulated. It should be developed in a way that it does not become a barrier to the successful delivery/approval of SuDS.</p> <p>It is noted there is work underway by CIWEM in England to consider the potential of accreditation. There is an opportunity to work with them on a consistent approach.</p> <p>Resource implications: The Welsh Government should approach institutions to facilitate with this (e.g. ICE, CIWEM, CIRIA).</p>	Long term

7. Category B: Consistency

7.1 Guidance

7.1.1 Summary of Issues

It has been widely flagged that there are gaps and in some cases conflicts in the documentation and guidance that has been published to support the implementation of Schedule 3. Some of the ambiguity relates to terms and definitions from the legislation and Standards, which can be interpreted differently. This has resulted in ambiguity and inconsistency in the approach across Wales.

Ambiguity often requires intense upfront support from the SAB for new or smaller applicants resulting in disproportionate unrecoverable costs to the SAB.

Inconsistencies between SABs (or sometimes even different officers within a SAB) makes applications more time-consuming for developers with costly abortive working.

Some SABs have resorted to developing their own interpretations to gain consistency within their jurisdiction. Some have taken strong stances on certain topics whereas others are taking quite different approaches.

In addition, there is no governing body to provide a control to regulate the SABs and their decisions unless a decision is taken to appeal.

7.1.2 Engagement, Feedback & Discussion

The questionnaire sought views on several topics related to documentation and the inconsistencies and ambiguity that has arisen.

Definitions

The figures below show responses on whether certain terms are clearly defined.

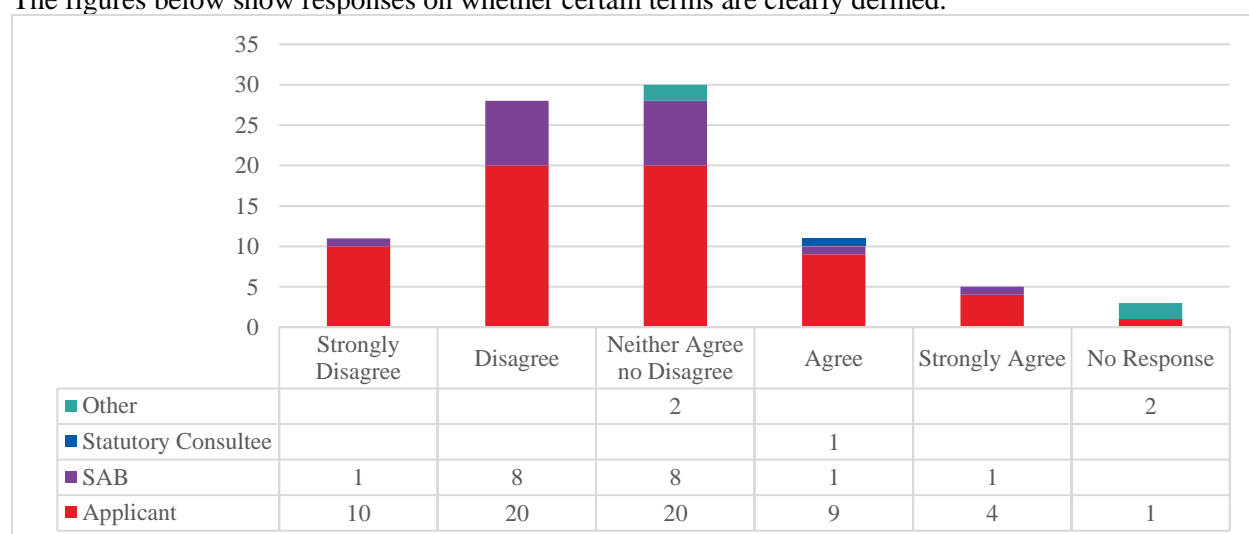


Figure 9 – Whether you agree that “structure” is clearly defined

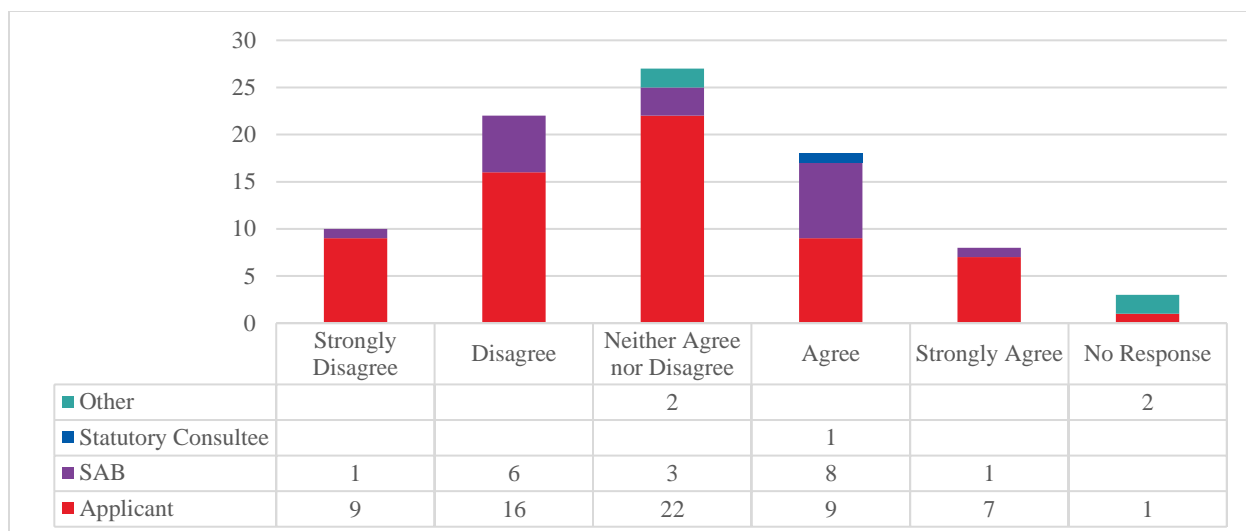


Figure 10 – Whether you agree that “construction” is clearly defined

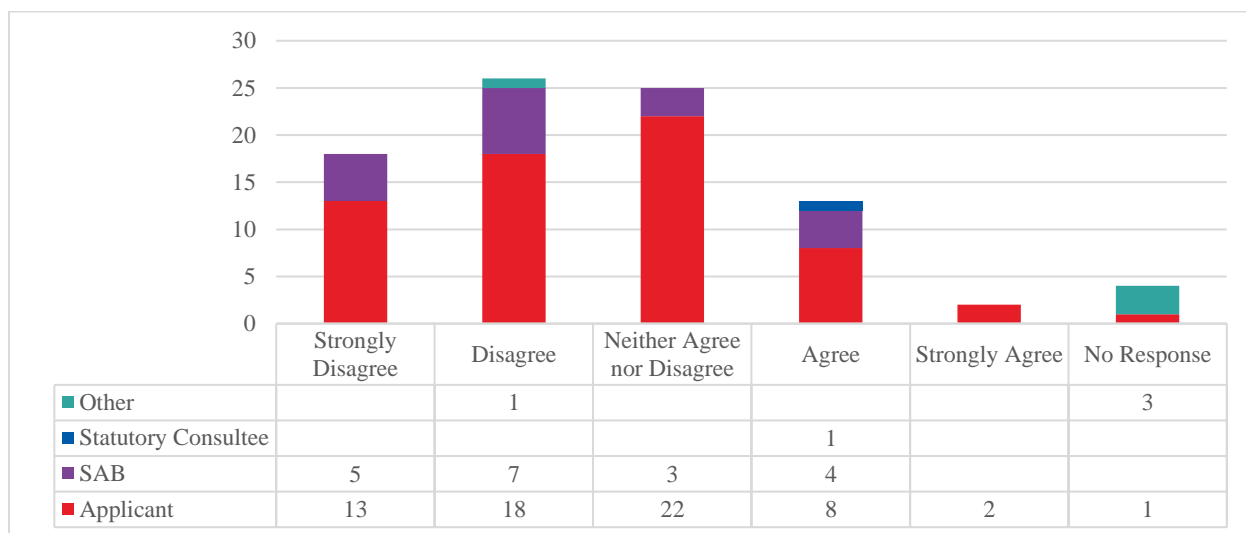


Figure 11 – Whether you agree that “drainage implications” is clearly defined

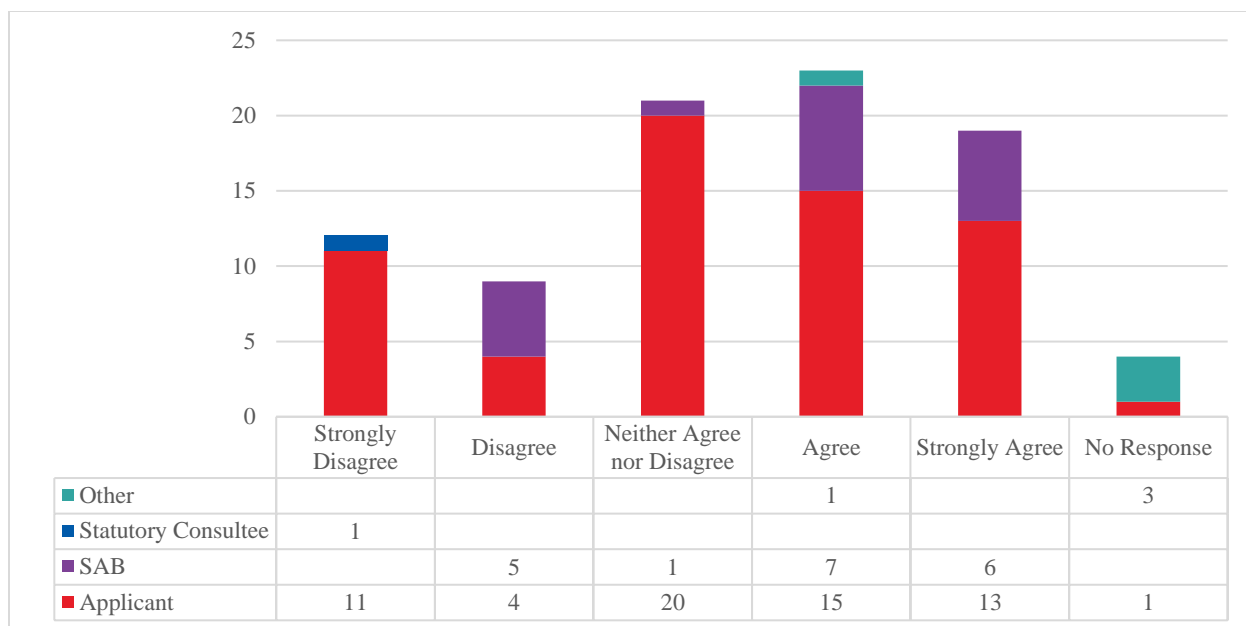


Figure 12 – Whether you agree that “single property” is clearly defined

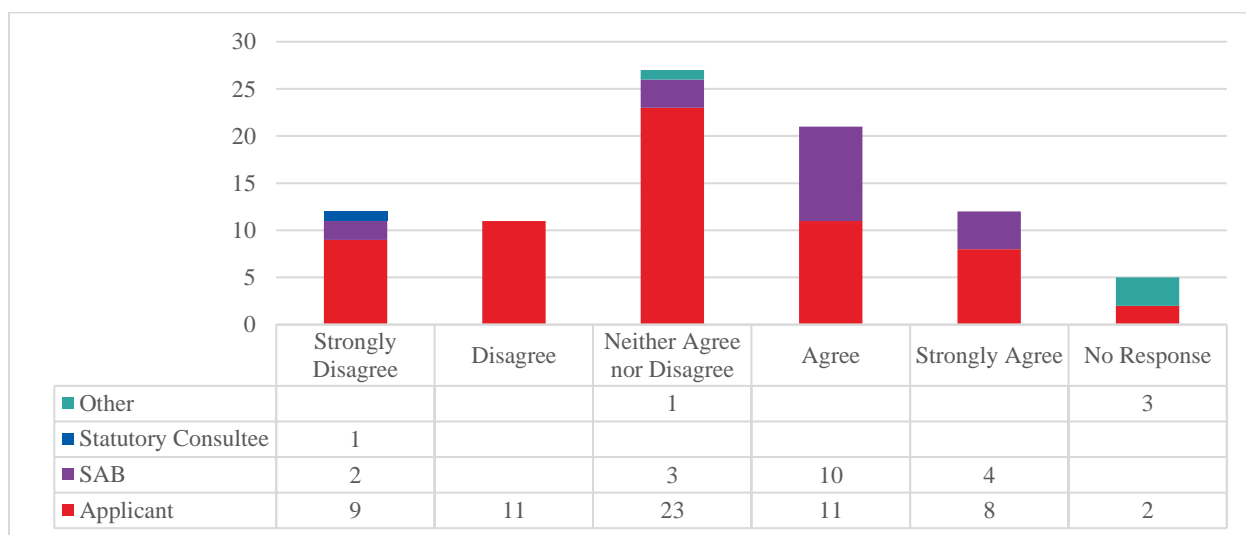


Figure 13 – Whether you agree that “brownfield development” is clearly defined

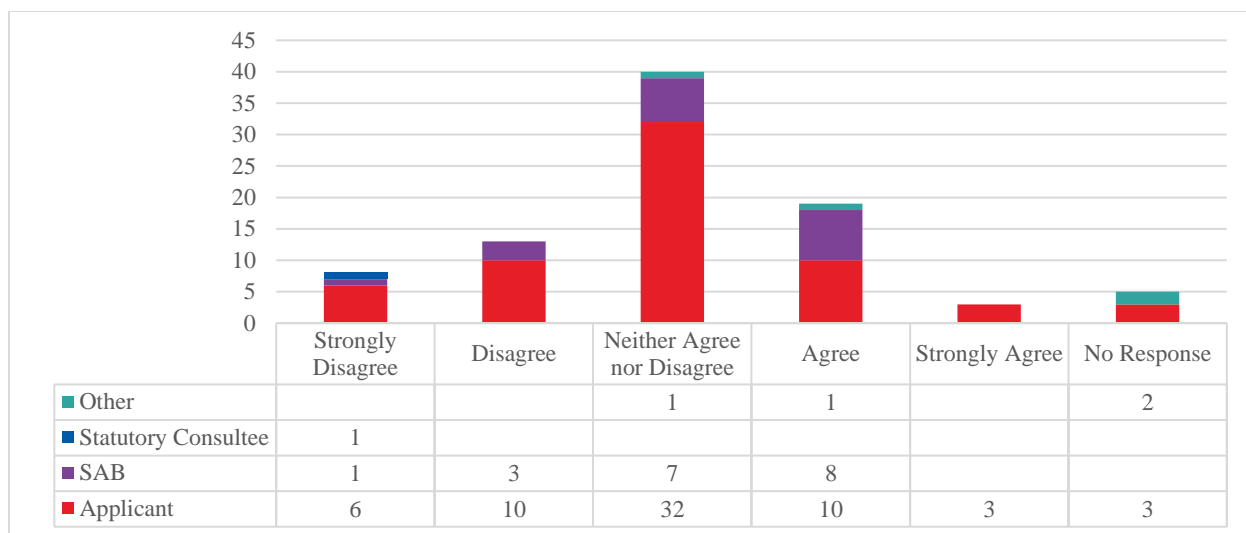


Figure 14 – Whether you agree that “retrofit” is clearly defined

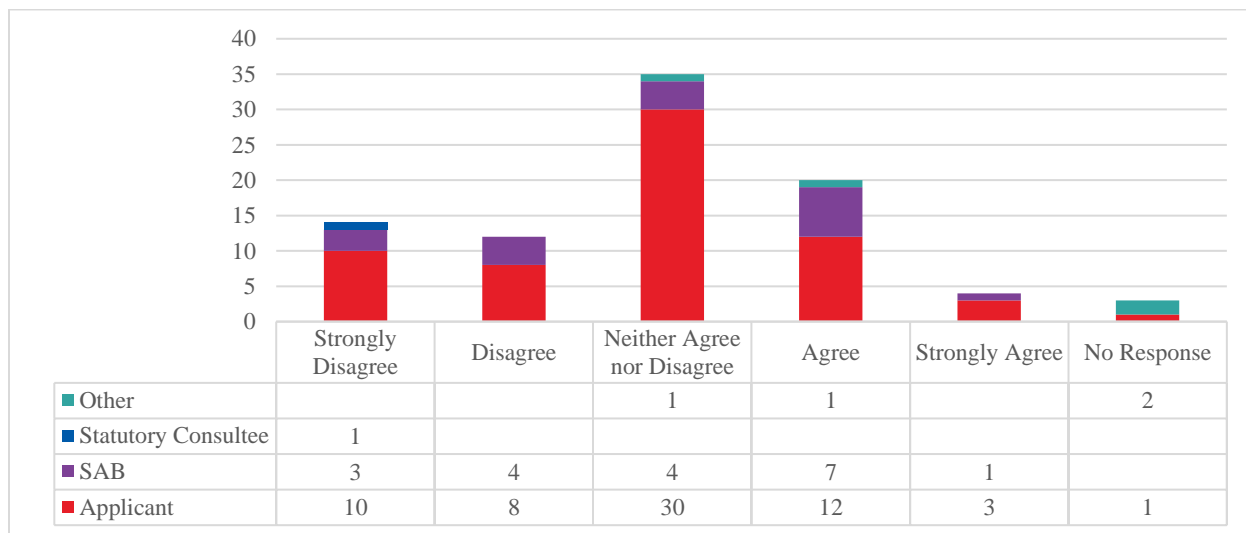


Figure 15 – Whether you agree that “surface (that covers land)” is clearly defined

The responses evidence that there is widespread confusion across most terms, however, it seems that the terms “structure”, “construction”, “drainage implications” and “surface” (that covers land) are the least clear and the term “single property” is more clearly defined. Many respondents did not express an opinion on each of these terms which makes it difficult to identify whether they understood where these terms came from.

In addition, it was asked whether anything else need to be defined. The most popular term that was identified as needing a clear definition was “adoption”, followed by “start on site”.

Guidance documents

Respondents were also asked whether the multiple guidance documents currently available should be kept separate or merged into a single document. 72% of those that expressed an opinion believed they should be merged into a single document.

It was also asked whether there was sufficient design guidance available. 78% of respondents believed that there was not enough design guidance (including 63% of SABs) and the majority also expressed that this should be set at a national level with sector-specific guidance (small housing, agriculture etc.) developed.

Documentation

Linking to the above feedback on guidance the range of documentation associated with the requirements, processes and procedures is considered. It is noted there are currently a range of documents, some of which were introduced on implementation and others that have been published since.

Statutory Standards	Sustainable Drainage (SuDS) Statutory Guidance	FAQs (Draft)	Agriculture Guide
<ul style="list-style-type: none">•Sets out the technical requirements•Also includes guidance on the technical requirements	<ul style="list-style-type: none">•Sub-title suggests intended audience is Local Authorities•Is generally non-technical.	<ul style="list-style-type: none">•Title suggests 'draft' status•Focuses largely on process and procedure.	<ul style="list-style-type: none">•Produced for agriculture development specifically.•Aims to provide simplified technical and process guidance.
Small development guide	Pockets of local guidance and interpretation	SuDS Manual	Appeals Guidance
<ul style="list-style-type: none">•Produced for single dwelling development specifically.•Aims to provide simplified technical and process guidance.	<ul style="list-style-type: none">•Not required but produced by some SABs•Produced regionally in some cases•Produced but not published in some instances.	<ul style="list-style-type: none">•Referred to throughout Statutory Standards•Generally considered best practice for design in UK.•Due to be updated.	<ul style="list-style-type: none">•Published by The Planning Inspectorate in January 2019.•Provides guidance on the appeals process, stages and timescales.

Figure 16 - Current documentation

Consideration has been given to a forward strategy for documentation associated with SuDS design and delivery. This is set out in the figure below, taking on board feedback received as part of engagement activities. The four separate documents

Statutory Standards

- As per the existing document, with updates based on recommendations made as part of this Post-Implementation Review.
- The purpose of this document is to define the national technical requirements.
- Continues to provide associated, specific guidance to each the Standards.

National Guidance

- Updates to the existing 'Statutory Guidance' but with duplication of standards removed/reduced.
- Focused on process and procedure.
- Guidance expanded for other audiences (remove reference to SABs from document sub-title), and removes the need for a separate FAQs document.
- Appendices/sections may include content specifically for sectors such as Agriculture, small development (based on inclusion of existing Advice Notes already produced, plus any new).
- Consider whether this Guidance can be titled 'Statutory', taking on board paragraph 15 of Schedule 3 of the Flood and Water Management Act 2010.

National Design Manual

- Non statutory but best practice.
- This is guidance for design, construction and long-term maintenance.
- Includes expansion of theory, detailed design guidance, examples, case studies, standard details, templates.
- **Note:** The SuDS Manual is due to be updated by CIRIA Susdrain within the next few years. This presents an opportunity for the Welsh Government and stakeholders in Wales to feed into it's production/content. It is strongly recommended the Welsh Government pursue this opportunity.

Local / Regional Addenda

- This provides specific local requirements and guidance where necessary.
- A consistent format/content to be agreed.
- Does not duplicate the other documents above but provides clarity at a local level. Examples might include soakaway potential within the local area, and links to other local strategies/plans.

Figure 17 – A potential strategy for documentation

Implementation group

The SuDS Implementation Group had been established by Welsh Government to:

- provide high-level direction on the implementation of SuDS in Wales;
- identify key implementation risks, inconsistencies, and opportunities for improvement;
- make evidence-based recommendations, consider and approve proposals and implement suitable measures (including appropriate resourcing plans) to address these concerns;
- collaborate with key partners and share information and best practice examples to build confidence and raise awareness amongst stakeholders.

This group was formed from a range of stakeholders involved in the SAB process to collate feedback and seek to suggest changes to Welsh Government. However, after a consistent pattern of meetings pre-Covid, this group no longer meets. When asked whether if this group should be reinvigorated, 100% of respondents agree that it should be. However, there were mixed views as to whether this group should continue to be chaired by the Welsh Government or whether an independent chair should be appointed.

When asked what the remit of the group should be, the overriding view was that it should be to drive change, ensure consistency and remove blockers.

7.1.3 Recommendations

The following recommendations are presented for consideration.

Table 8 – Guidance recommendations

Ref.	Recommendations	Time frame
B01	<p>Clarify key definitions referenced within legislation and standards that dictate when a SAB application is required.</p> <p>Definitions such as what constitutes as a “structure” , “construction” , “drainage implications” and “single property” , "brownfield development" considering graphics to help generate common understanding.</p> <p>Also provide new definitions for "retrofit" and "surface" as these do not appear to be provided in legislation already (noting definition of a "structure" includes "...patio or any other surface").</p> <p>Providing clarity on existing definitions can be implemented quickly by the Welsh Government by amending the current guidance.</p> <p>Providing new definitions may require legislative change.</p> <p>Resource implications: Guidance on definitions can be incorporated into an overarching update to National Guidance.</p> <p>Practitioner and Legal input may be required to consider new definitions, which can then be added to primary or secondary legislation.</p>	Short term
B02	<p>Revise a clearer suite of documentation associated with the Standards, requirements, process and procedures.</p> <p>This initially requires agreement on a strategy for documentation setting out the purpose, audience and content for each piece of document.</p> <p>A suggested document strategy is shown in Figure 17.</p> <p>The Welsh Government should look to implement this following this review as there are several ambiguities and items that require addressing. This should be done in partnership with SABs and applicants.</p> <p>A strategy for all future Standards, national and local design guidance (including level of detail of each) should be set out in the first instance. This links to other recommendations made within this report.</p> <p>Resource implications: The Welsh Government could commission a third-party to undertake this. It would require input from all stakeholders in the process.</p>	Short term

Ref.	Recommendations	Time frame
B03	<p>Reinvigorate a ‘SuDS Focus Group’ with focus on delivery, sharing lessons learned and best practice.</p> <p>The Welsh Government should immediately re-establish the SuDS Focus Group (formerly the SuDS Implementation Group) group following the outcome of this review. They should review whether an independent chair should be appointed and ensure that the group has clear objectives and a defined remit. The group should also include proportionate representation from applicants, SABs, and statutory consultees.</p> <p>Resource implications: Establishing, coordinating, and running this group requires a designated resource/lead on an ongoing basis.</p>	Short term
B04	<p>Engage the agricultural sector and forestry to ensure content is applicable and clear for more rural contexts.</p> <p>This may require additional definitions and clarifications. The Welsh Government should reassess the validity of the rural SuDS guidance alongside any other changes made to guidance/standards and promote these documents more widely.</p> <p>Resource implications: Initially including representatives onto the ‘SuDS Focus Group’ should aid engagement (see recommendation B03). Promotion of existing documentation could be done quickly by the Welsh Government.</p>	Short term
B05	<p>Consult on a clear list of scenarios that do not require SAB approval, are deemed to comply, or exemptions from requiring approval to reprioritise resource to applications with more potential benefit.</p> <p>This may include development such as allotments, certain permeable surfaces, emergency works, utilities, drainage betterment (e.g. removing impermeable surface and reinstating with permeable), and development with a requirement to comply with other legislation or design standards (for example dealing with runoff from slurry stores etc. in line with Water Resource (Control of Agriculture Pollution Wales) Regulations 2021).</p> <p>Where exemptions and deemed to comply development can still present risk (e.g. flooding or water quality) an approach similar to NRW Flood Risk Activity¹ permits may be used, which requires exemptions to be registered and meet given conditions.</p> <p>This can be implemented quickly by amending the guidance. Welsh Government should revisit the original intentions of the legislation to inform this. Secondary legislation may be required for exemptions.</p> <p>Resource implications: A designated resource is required to identify types of development and engage with developers and SABs on appropriate measures/conditions. This will then require consultation.</p>	Medium term

¹ <https://naturalresources.wales/permits-and-permissions/flood-risk-activity-permits/flood-risk-activity-exemptions/?lang=en>

Ref.	Recommendations	Time frame
B06	<p>Provide funding and require Local Authorities to produce Local or Regional Addenda to the National Guidance.</p> <p>The guidance should not duplicate or contradict Statutory Standards or National Guidance but provide information and detail to help applicants successfully deliver SuDS within the Local Authority area or region.</p> <p>Local Authorities may choose to work regionally (as per the example of the North Wales Flood Risk Management Group during the implementation period).</p> <p>A format/template should be created to ensure consistency in the content and detail. Information may include the following:</p> <ul style="list-style-type: none"> - How to apply the destination hierarchy (e.g. stating if infiltration is not possible in some areas) - Identify hydraulic constraints, which may link to Local Flood Risk Management Strategies. - Link to other Local Authority content on biodiversity and amenity to help applicants deliver in line with Local Authority aspirations. <p>This will require funding for each Local Authority to deliver.</p> <p>A successful approach is that of Sewers for Adoption where a National document is produced, and local addenda then follow. The production of any local guidance should be standardised and should not undermine any national guidance published by the Welsh Government.</p> <p>Resource implications: Funding required for Local Authorities to deliver this locally, noting some may choose to deliver regionally.</p>	Medium term

Ref.	Recommendations	Time frame
B07	<p>Create practical, detailed training material for SABs consistent across Wales that can be catered to local context and conditions.</p> <p>As with recommendations around training in A06, this could be achieved by working with professional bodies/institutions. The content needs to be bespoke and contextualised appropriately. This also requires funding and would need to be approved by the Welsh Government.</p> <p>Consideration should be given to the different roles required within the SAB team including:</p> <ul style="list-style-type: none"> - Administration/process - Technical standards assessment - Biodiversity & amenity - Construction & maintenance, including inspections and enforcement. <p>Training can build on the experience of SAB officers in Wales.</p> <p>Resource implications: Requires funding to be delivered, including time for SAB teams to attend training. Some training could be delivered online however some would benefit from in-person and on-site delivery, enhancing peer to peer SAB networks.</p>	Medium term

7.2 Determination Period

7.2.1 Summary of Issues

Limited resource in SAB teams is exacerbated by high input required for smaller developments meaning that they are finding it increasingly difficult to meet the 7 or 12-week response window. In addition, slow responses from statutory consultees can make the response window unachievable. There is potentially a lack of understanding of when to consult with statutory consultees and when consultees should or should not respond.

This current timeframe has been reported as being particularly challenging where adoption agreements are required. The current legislation says that if a response is not received within the statutory timeframe, then the application is deemed to be refused.

7.2.2 Engagement, Feedback & Discussion

Seven questions were posed in the questionnaire on the determination period for SAB applications.

Determination period

68% of SABs believe that the 7- and 12-week determination periods are sufficient to determine an application. However, 86% of applicants have experienced delays to their determination that extend beyond the defined determination periods.

Consultation period

One statutory consultee responded to the questionnaire and stated that their three-week consultation period is sufficient for them to respond to an application.

Validation period

89% of those that expressed an opinion believed that a timescale for validation should be introduced, including 63% of SABs.

Deemed refusal

Opinions were sought on whether the legislation should be amended from “deemed refusal” after the expiry of the statutory timescale to “deemed approval” which would reflect the process for Ordinary Watercourse Consents. 69% of those who expressed an opinion agreed with this approach, however 89% of SABs disagreed.

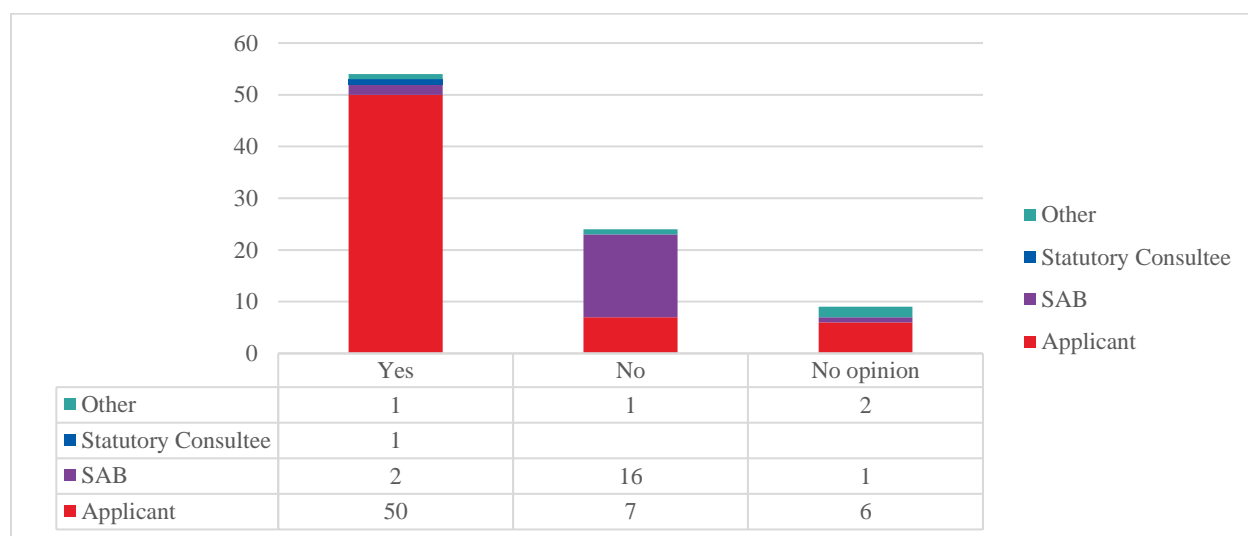


Figure 18 – Whether legislation should be amended from “deemed refusal” after the expiry of the statutory timescale to “deemed approval”

Regional partnerships

We also asked whether respondents believed that establishing regional partnerships to pool SAB resource would reduce the burden of meeting determination periods. Only 26% of respondents disagreed or strongly disagreed that this would reduce the burden.

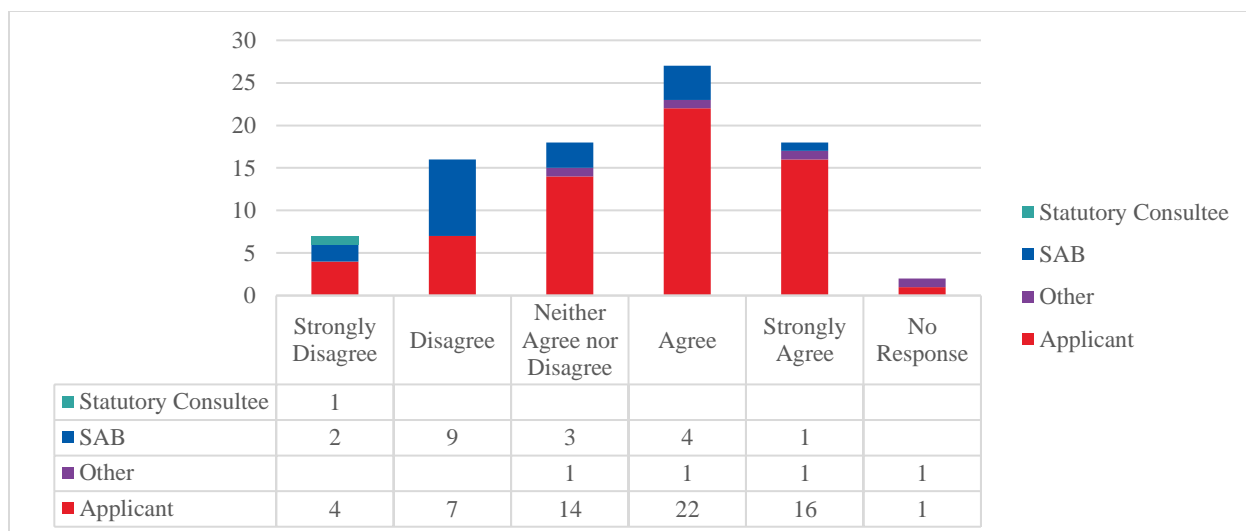


Figure 19 – Would establishing regional partnerships to pool SAB resource reduce the burden of meeting the determination periods?

Trigger mechanisms for determination periods

74% of respondents thought that alternative “trigger mechanisms” should be introduced for longer determination periods, as opposed to simply relying on whether the scheme requires an Environmental Impact Assessment. Respondents in favour of a “trigger mechanism” generally suggested it should take account of scheme size and consider adoptability.

Third party oversight

Respondents were asked if a third-party should regulate the SAB function to ensure consistency and support with dispute resolution. Two thirds of responses think that a third party should be established for accountability and consistency across Wales.

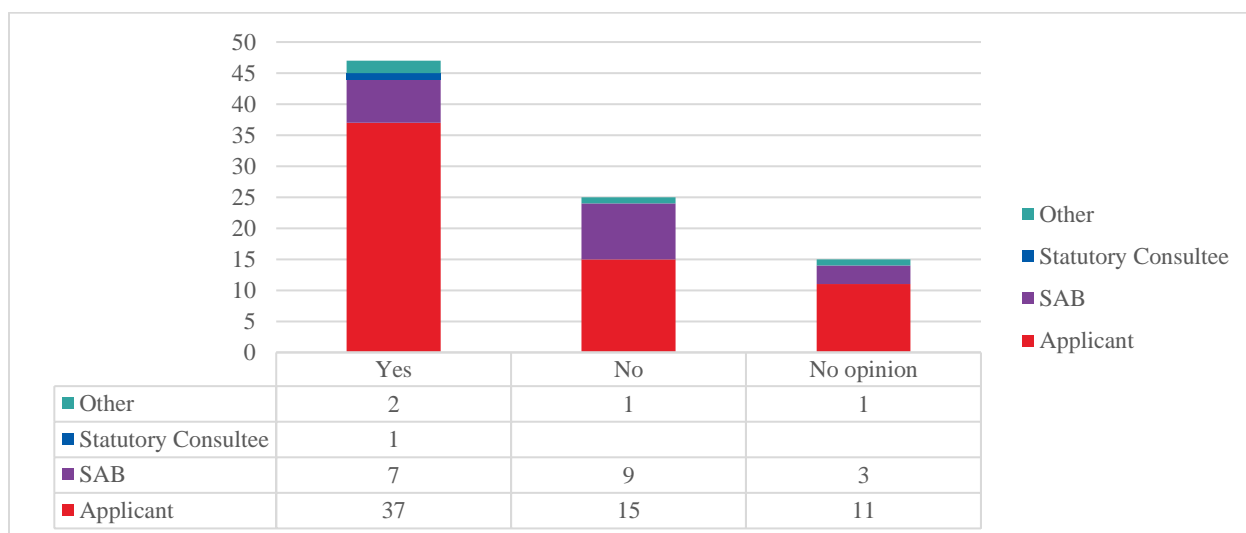


Figure 20 – Whether a third-party should be established to regulate the SAB function and support with disputes

7.2.3 Recommendations

The following recommendations are presented for consideration.

Table 9 – Determination period recommendations

Ref.	Recommendations	Time frame
B08	<p>Provide clarity on scenarios where a statutory consultee should be consulted and set expectations on response level.</p> <p>This should be clarified by the Welsh Government in National Guidance. In the shorter-term expectations should be discussed with SABs and communicated to Statutory Consultees. The expectations should consider interaction with Statutory Consultee assets and functions, with the aim of reducing unnecessary consultation.</p> <p>Resource implications: The Welsh Government initially should agree an approach and expectations with SABs which can be communicated to Statutory Consultees. This can then be added to updated guidance.</p>	Medium term
B09	<p>Review the 7- and 12-week determination periods. The findings from a data gathering exercise over 12-24 months should be used to understand whether the determination periods are sufficient and what the reasons for delay are.</p> <p>The Welsh Government should issue a direction to SABs to collect this data as there was no evidence of it being collected when it was requested as part of this Review. This data can then be analysed to understand whether there is an issue, what the blockers are and whether there is a case for change.</p> <p>Resource implications: Data collection by SABs should form a normal administration. Following 12-24 months the Welsh Government may commission a review of Fees based on evidence.</p>	Medium term
B10	<p>Develop a simpler process for consultation with statutory bodies, similar to the Planning Applications Wales portal.</p> <p>This could be achieved by utilising and amending the existing planning portal platform. The portal would however need to consider development that requires a SAB application but not a Planning Application, and vice-versa.</p> <p>Resource implications: Third party resource required to deliver a platform, with ongoing cost as per the Planning Applications Wales portal.</p>	Medium term
B11	<p>Introduce a timescale for SABs to validate an application and therefore formally commence the 7/12-week determination period.</p> <p>This recommendation requires a short research exercise to determine a suitable period. It is noted that expected validation periods for Planning are between three to ten working days depending on the size of the development.</p> <p>This recommendation would require changes to legislation.</p> <p>Resource implications: An initial research exercise with SABs is required in the short-term to confirm a suitable period. This could be facilitated by WLGA and would need to consider resource pressures in meeting the validation timescale.</p>	Medium term

Ref.	Recommendations	Time frame
B12	<p>Provide an overseeing and/or third-party organisation to provide regulatory oversight to SAB functions and ensure consistency, including helping with dispute resolution. This would be separate to the formal appeals process managed by the Planning and Environment Decisions Wales (PEDW) and could build on the approach of the Association of SuDS Authorities in England.</p> <p>This recommendation requires funding and possible legislative change to establish a body. Consideration should be given to making this a government appointed body should this be taken forwards.</p> <p>Resource implications: This would require ongoing resource and funding but would assist in delivering an improved process into the future.</p>	Long term
B13	<p>Help develop local or regional partnerships to provide a dedicated central resource for determination of applications.</p> <p>This would require commercial arrangements to be made between local authorities and teams formed.</p> <p>Resource implications: This requires Local Authorities to initiate. The Welsh Government could offer funding to help initiate and transition.</p>	Long term
B14	<p>Introduce alternative “trigger mechanisms” or agreements for longer determination periods.</p> <p>This should be based on the size of development, and/or whether the scheme is adoptable, as opposed to simply on whether the scheme requires an Environmental Impact Assessment.</p> <p>A change to primary legislation would be required to enable this change as the current “trigger mechanism” is set out in the FWMA 2010. The Welsh Government would need to await the appropriate legislative vehicle to propose this change which would also be subject to both public consultation and legislative scrutiny.</p> <p>An approach similar to Planning could also be taken whereby a longer determination period can be agreed in writing with the applicant.</p> <p>Resource implications: The Welsh Government should set out trigger mechanisms for public consultation. Legislative change may then be required.</p>	Long term

Ref.	Recommendations	Time frame
B15	<p>Consider amending “deemed refusal” upon expiry of the statutory timescale to “deemed approval” .</p> <p>This is subject to reviewing the outcome and impact of the above recommendations and data collection.</p> <p>This would be reflective of process for Ordinary Watercourse Consents. A change to primary legislation would be required to enable this change as the term “deemed refusal” is currently set out in the FWMA 2010. The Welsh Government would need to await the appropriate legislative vehicle to propose this change which would also be subject to both public consultation and legislative scrutiny.</p> <p>Resource implications: Requires public consultation which could be undertaken in combination with recommendation B14 (trigger mechanisms). Legislative change is then required.</p>	Long term

7.3 Application Process (Including Alignment with Planning)

7.3.1 Summary of Issues

Planning alignment

Most SABs recognise that the drainage approval process and Planning process need to be better aligned. This has been echoed across the developer community, as whilst the planning process is not perfect, it has been established for a long time and provides a good basis from which to learn lessons.

Minor amendments

Approved designs can change due to other inputs from other disciplines which can result in an application diverging from agreed principles. There is currently a lack of guidance on what constitutes a minor amendment with regards to SAB approvals and there is no mechanism to make non-material amendments. The current process can result in the need to submit a new application to capture any change that impacts the SAB consent. This approach is cumbersome and costly for the developer to manage and means that SAB resource is being further stretched to deal with these scenarios.

Local Authority coordination

It is perceived that there is currently a lack of internal co-ordination between the Local Planning Authority and the SAB in some local authorities, particularly when receiving Planning approval without SAB approval. Many departments currently feed into the Planning application process however similar input does not always happen for SAB applications. This can result in costly changes further on in the process and delays in receiving determination. In addition, there has been feedback to say that pre-application advice has changed when the full application has been submitted – again resulting in abortive work and delays to programme.

Pre-Application advice

There is currently no mandatory requirement for pre-application advice and SABs have a differing approach to this matter. In some areas applicants find a large amount of detail is requested at pre-application stage which can be costly to compile and usually is only available later in the design process. In addition, as there is no statutory timescale for response, the pre-application process can cause programme delays unless a service level agreement is in place.

7.3.2 Engagement, Feedback & Discussion

Planning alignment

95% of questionnaire respondents believe that there is a disconnect between SAB and Planning as shown in Figure 21.

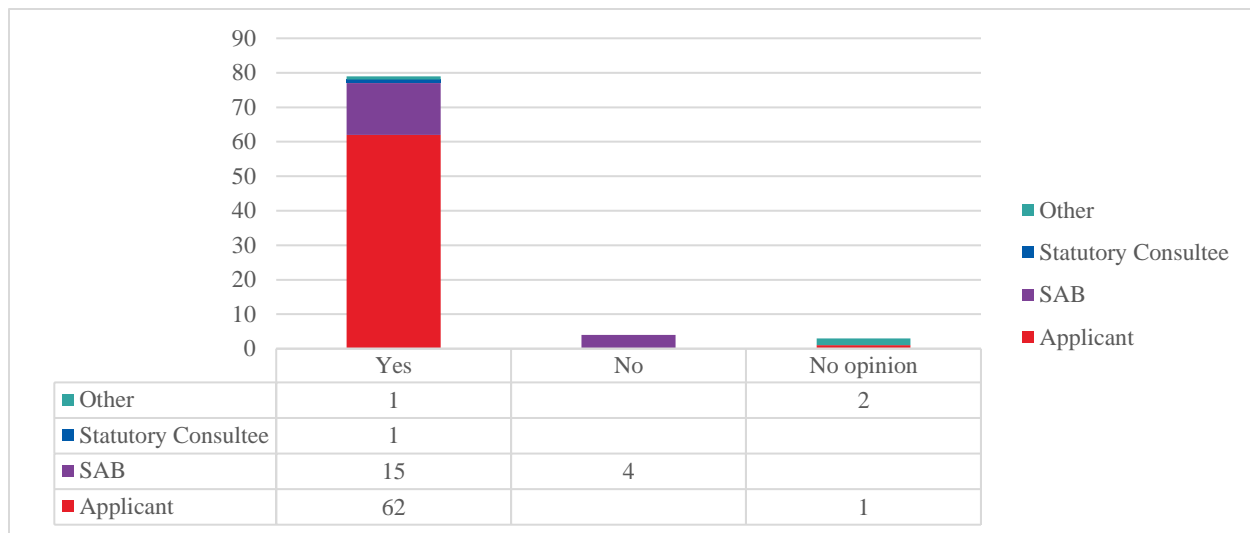


Figure 21 – Whether there is a disconnect between Planning and SAB

Additionally, of those who expressed an opinion, 81% of respondents believe that provision should be made to facilitate combined Planning and SAB applications where relevant as is currently set out in the legislation.

Pre-application advice

A specific review was undertaken regarding the pre-application process including proposed recommendations based on survey results and additional stakeholder engagement. This can be found in Appendix F. The recommendations from this focused review are contained within this section.

86% of questionnaire respondents would like to have a staged or phased SAB approval for large developments. Similarly, 91% of responses think that SABs should be a statutory consultee in the Planning process.

The Town and Country Planning Act allows non-material amendments to be made to Planning applications. When asked if a similar process should be allowed for SAB applications, 93% of respondents believe that there should be. Of those who responded “yes”, respondents generally shared that some SABs have existing agreements in place pre-construction to allow small changes, however, many responses suggest that SABs do not allow changes after an approval has been granted. Some

examples of what could be included in these non-material amendments: small changes in site layout, changing position or size of SuDS and/or drainage network, flexibility to cover market fluctuations.

7.3.3 Recommendations

The following recommendations are presented for consideration.

Table 10 – Application process (including alignment with Planning) recommendations

Ref.	Recommendation	Time frame
B16	<p>Each SAB should set out and provide staged options of pre-application advice, and where relevant consider how this process can be combined with planning pre-application (note potential TAN15 update).</p> <p>Options should include an early-stage review/advice, and a more detailed review with feedback and each format and outputs clearly specified (i.e. meeting with minutes, or report). This should include the level of detail expected and preferred design principles at each stage although these should be reasonable and not excessive given stage of the project. This will allow design layouts to progress with more certainty whilst adhering to binding principles. Efforts should be made to develop and agree standardisation across Wales where possible to provide consistency for applicants.</p> <p>It is noted there is an ongoing trial with the WLGA and Caerphilly County Borough Council to allow for joint Planning and SAB applications.</p> <p>Resource implications: SAB resource required to collate and agree approach. This should be facilitated by WLGA to encourage consistency.</p>	Short term
B17	<p>Provide direction to Local Authorities to allow combined planning and SAB applications (note potential TAN15 update).</p> <p>This guidance should utilise the provisions of paragraph 10 of Schedule 3 of the FWMA 2010. Updates to the Planning Portal may be required and the guidance document would also need to be updated.</p> <p>It is noted there is an ongoing trial with WLGA and Caerphilly County Borough Council in joint Planning and SAB applications.</p> <p>Resource implications: The Welsh Government should provide initial direction. Provisions to facilitate the process (portal) require resource and funding.</p>	Short term

Ref.	Recommendation	Time frame
B18	<p>Incorporate a Drainage Statement documenting SuDS compliance within the planning process (note potential TAN15 update).</p> <p>This will ensure development considers SuDS and avoids the risk of proposals complying with one regulatory system and not the other. The drainage statement should demonstrate to the Planning Authority that proposals incorporate SuDS appropriately and is subsequently likely to obtain SAB approval.</p> <p>This is currently proposed in the January 2023 update of Technical Advice Note 15: Development, flooding, and coastal erosion.</p> <p>Resource implications: This is already proposed under TAN15 updates, subject to consultation. SAB resource is required to review and respond to statements through Planning; however this should be offset through improved compliance for drainage (SAB) approval.</p>	Short term
B19	<p>Publish expected SAB response times for a pre-application.</p> <p>A timescale should be prescribed to enable greater transparency to the process. Based on the questionnaire feedback, it is recommended that four weeks should be considered (from receipt of documentation and payment). However, this should be discussed with SABs particularly those with resource challenges, and the type of advice being provided (as per staged pre-application recommendation).</p> <p>SABs should report on pre-application and full application statistics to the Welsh Government to give clarity on whether legislative change is required as per recommendation A01.</p> <p>Resource implications: SAB resource required to collate and agree in line with stages pre-application recommendation. This should be facilitated by WLGA and the Welsh Government.</p>	Medium term
B20	<p>SABs should offer reduced SAB application fees if an applicant uses the pre-application service.</p> <p>This should be aligned with the associated cost-savings resulting from less time required to review a SAB application on the basis that SAB comments have been considered from the pre-application. This should encourage the uptake of the pre-application advice service offered. A percentage of the final application fee could be considered as an appropriate fee reduction.</p> <p>SABs should report on pre-application and SAB application statistics to the Welsh Government to give clarity on if legislative change is required as per recommendation A01.</p> <p>Resource implications: WLGA should facilitate consistency across SABs charging for pre-application in the short-term. Additional administration is required in collecting payment. The charging could be formalised in legislation the longer-term as part of a review of fees following data collection.</p>	Medium term

Ref.	Recommendation	Time frame
B21	<p>Consider making pre-application SAB advice binding.</p> <p>If a design (with any required changes) or key design parameters are satisfactory, SABs should issue an “agreement in principle” .</p> <p>This would provide greater confidence to applicants that if pre-application is taken on board then the SAB approval should be “de-risked” . However the Welsh Government should consider implementing a time limit on binding advice e.g. the subsequent application should be made within a certain timeframe. This change would require a change to secondary legislation.</p> <p>This would be consistent with Planning. It is noted under Planning that pre-application advice is a material consideration in the determination.</p> <p>Resource implications: In the shorter-term a process should be agreed by SABs facilitated by WLGA to inform consultation. This requires consultation and then legislative change.</p>	Medium term
B22	<p>Consider making SAB pre-applications mandatory for certain developments.</p> <p>Similar to the Town and Country Planning Act, the term “major development” is defined and warrants a pre-planning application. The Welsh Government should determine what term and definition is used, likely to be linked to risk, whether the SuDS are adoptable, number of properties and/or size of development.</p> <p>If pre-application is made mandatory for certain developments, SABs should report on pre-application and full application statistics to the Welsh Government to inform future changes if necessary. This change would require a change to secondary legislation.</p> <p>Resource implications: In the shorter-term types/sizes of development should be agreed by SABs facilitated by WLGA to inform consultation. This requires consultation and then legislative change.</p>	Medium term
B23	<p>Support SAB and Planning departments to work together.</p> <p>For example, combine pre-application SAB and Planning processes. This should include Planning, SAB and other Statutory Consultees present at pre-application meetings as required. This This is already set out in legislation but would require cultural and administrative change within Local Authorities.</p> <p>Resource implications: Further develop a SAB and Planning process alignment approach (building on existing informal approaches developed by some Local Authorities).</p>	Medium term

Ref.	Recommendation	Time frame
B24	<p>Assess the benefits of making SABs a statutory consultee in the planning process.</p> <p>This could be achieved using changes to secondary legislation. Consultation would be needed.</p> <p>Resource implications: Initial consideration is required on trigger for SAB to notified. Consultation and legislative change required.</p>	Medium term
B25	<p>Clarify what constitutes a minor amendment.</p> <p>Clarify the definition of minor amendment in the context of drainage design. Work with SABs to develop a formal process for SABs to assess minor amendments. This may require secondary legislation.</p> <p>Resource implications: The Welsh Government should provide initial direction on definition. Requires SAB and developer input to develop examples and process. Consultation and legislative change required.</p>	Medium term

7.4 Alignment with Highways

7.4.1 Summary of Issues

SuDS features within the highway become adoptable by the Highways Authority. However, it is highlighted that in practice Highways Authorities often find SuDS drainage principles challenging within the adopted highway. Current highways design standards (including Manual for Streets, Design Manual for Roads and Bridges (DMRB), the Manual of Contract Documents for Highway Works (MCHW) that includes Volume 1 Specification for Highway Works (SHW), local technical standards and Welsh Government Active Travel Guidance) can limit designs that support SuDS principles.

Design standards could go further to promote the use of SuDS features within a highway setting. The North Wales Flood Risk Management Group have developed guidance in response however this is currently unpublished. Elsewhere CIRIA have published free guidance C772F² for Improving the performance of linear assets through green infrastructure. Highways England completed research in 2016-2017 on the production and delivery of guidance on Sustainable Drainage Systems³.

The Chartered Institution of Highways & Transportation (CIHT) are developing a policy piece to support the transport sector in delivering Green Blue Infrastructure (GBI)⁴. This work supports this organisation's strategy to prioritise climate action, and links to their previous Improving Local Highways recommendation⁵ to: "show how the highway network will support the delivery of a carbon-neutral

² [Item Detail \(ciria.org\)](#)

³ <https://s3.eu-west-2.amazonaws.com/assets.highwaysengland.co.uk/specialist-information/knowledge-compendium/2016-17/Sustainable+Drainage+Systems+%E2%80%93+Innovation+Literature+Review.pdf>

⁴ [green-and-blue-infra_single-page-version.pdf \(ciht.org.uk\)](#)

⁵ [Improving Local Highways | CIHT](#)

system, create sustainable, green, resilient, and accessible places, make transport healthier, and help the economy grow".

7.4.2 Engagement, Feedback & Discussion

Approval of SuDS in highway setting

Applicants were asked if they had experienced any issues with getting drainage systems in the highway approved. Of those that expressed an opinion, 79% had experienced issues. As shown in Figure 22, 93% of respondents with an opinion would like to have clearer guidance for SuDS in adoptable highways.

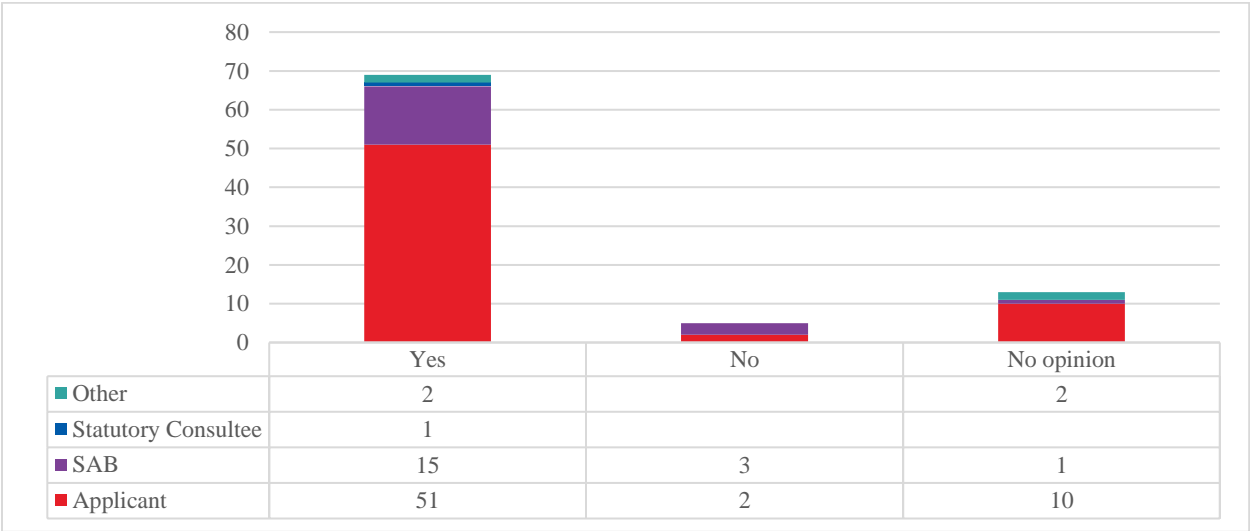


Figure 22 – Whether you would like to have clearer guidance for SuDS in adoptable highways

Highway drainage Standards and guidance

When designing most roads DMRB is commonly used although the document itself recognises it is guidance to be used for trunk roads. Document CG 501 “Design of highways drainage systems” is useful for gully spacing, edge drainage systems and other drainage elements. However, DMRB is not particularly helpful for SuDS guidance. In some areas, the Local Authority have their own technical standards for non-trunk roads which may or may not reference SuDS.

Manual for Streets⁶ is considered by many as the most relevant design guidance for lower speed, residential streets. While this document does reference SuDS it is outdated and references old guidance and mechanisms for delivery. It is noted the document is currently being updated by CIHT and the Department for Transport.

The wide range of guidance available for highway drainage design can make it difficult to determine which is most appropriate in different highways settings (e.g. trunk roads, main roads, local residential streets).

⁶ <https://www.gov.wales/manual-streets-residential-streets>

Drainage requirements for highways Vs SuDS Standards

Table 11 reviews guidance that highways designers commonly refer to and compares how this aligns with the SuDS Statutory Standards. This high-level comparison highlights the gaps that exist in highways standards.

Table 11 – Existing highways standards or guidance against Statutory Standards

SuDS Statutory Standards	Existing Highway Standards or guidance e.g. DMRB, SHW, Manual for Streets
S1. Surface water runoff destination	DMRB CG501 Section 2.4 gives a similar discharge hierarchy for road drainage: (1) ground; (2) surface water body; (3) surface water sewer; (4) combined sewer.
S2. Surface water runoff hydraulic control	DMRB references that a flow control and bypass (exceedance) should be considered. Table 8.3.2N1 discusses interventions and a simplistic flow control comment i.e. stating whether an intervention slows flow.
S3. Water Quality	DMRB CG501 Section 2 states that runoff should “minimise the impact of the runoff on the receiving environment in terms of flood risk and water quality”. Section 8.3.1 states that “pollution control measures should be designed to treat the “first flush” with Table 8.3.2N1 listing different interventions and associated treatment efficiency.
S4. Amenity	There are references in DMRB CG501 for drainage systems to consider safety to users. Manual for Streets states that planting and trees can reduce traffic speeds when positioned correctly. There is limited reference to wider amenity benefits and considerations.
S5. Biodiversity	Manual for Streets Sections 5.12 and 11.3 cover “Planting”. There is reference that planting adds value and can be integrated into layout to slow traffic speeds although reference to trees and plants are from a layout perspective only. Manual for Streets 2 (2010) Section 12.5 covers “Street Trees and Planting” but similarly does not provide guidance from biodiversity perspective.
S6. Design of drainage for construction, operation and maintenance	DMRB CG501 Tables 3.4, A.1 and B.1 gives suggestions of where interventions may or may not be appropriate from a maintenance perspective.

7.4.3 Recommendations

The following recommendations are presented for consideration.

Table 12 – Alignment with Highways recommendations

Ref.	Recommendations	Time frame
B26	<p>Facilitate the sharing of examples of local guidance and ways to overcome challenges.</p> <p>This could be through, for example the SuDS Focus Group (see recommendation B03) or a SAB oversight body (see recommendation B12). Examples include the unpublished North Wales guidance and other SABs who have developed their own local guidance. The Welsh Government should encourage sharing of content and consider providing a hosting platform/website.</p> <p>Resource implications: The Welsh Government should encourage the sharing of content and facilitate removing any blockers, which may require funding.</p>	Short term
B27	<p>Invite Highways Authority colleagues to sit on the SuDS Focus Group.</p> <p>Highways input to the SuDS Focus Group (see recommendation B03) would encourage the sharing of their advice and opinions in the short term and help inform further recommendations below.</p> <p>Resource implications: Requires resource from Highways Authorities to attend Focus Group sessions.</p>	Short term
B28	<p>Consider making the highways authority a statutory consultee in the SAB process.</p> <p>This could be achieved using changes to secondary legislation. Consultation would be needed with SABs and applicants.</p> <p>Resource implications: Requires legislative change. Resource required by all Highway Authorities to review applications.</p>	Medium term

Ref.	Recommendations	Time frame
B29	<p>Produce clearer guidance on delivering SuDS within adopted highways and interaction with utilities.</p> <p>This aligns with the CIHT Green Blue Infrastructure policy and recommendations⁷. There is potential to work with CIHT in developing guidance.</p> <p>The unpublished North Wales guidance for SuDS in Highways could also inform National Guidance. This guidance could also include how highway features such as traffic calming could also be SuDS features.</p> <p>The Welsh Government should also consider adding prompts in the latest National Active Travel Guidance to encourage Active Travel designers to consider SuDS.</p> <p>The update to Manual for Streets currently underway may be another method for influencing street design to encourage the use of SuDS in a residential setting.</p> <p>The guidance around utilities would need to be jointly agreed with highways engineers and by working with Welsh HAUC, utility providers, and SAB representatives.</p> <p>Consideration should be given to whether Highways Standards should be updated as per recommendation B30 to provide a sound basis for new Guidance (if so, guidance may be long-term).</p> <p>Resource implications: Requires significant resource to develop guidance, which could be outsourced by the Welsh Government. Requires input from various parties as described.</p>	Medium term

⁷ [Green and blue infrastructure: A transport sector perspective | CIHT](#)

Ref.	Recommendations	Time frame
B30	<p>Engage highways authorities to update / create national highways technical standards to include SuDS within adoptable highway boundaries.</p> <p>This should complement the above recommendation.</p> <p>This should align with other policy in Wales including the new default 20mph speed limit, the limited new highways schemes, along with the promotion of Active Travel. Consideration should be given to the different types of highway (trunk roads, main roads, residential) with guidance on each.</p> <p>The Design Manual for Roads and Bridges (DMRB) has a Wales annex which periodically gets updated and could include clear SuDS design principles including reference to amenity and biodiversity benefits. Trunk roads are currently exempt from approval however inclusion in the DMRB Wales annex would enable SuDS to be part of trunk road consideration even if a SAB consent is not currently required.</p> <p>Alternatively, DMRB should update their guidance CG501 “Design of highway drainage systems” to provide clearer guidance on SuDS and encourage their use. This would need to align with a scheduled update to the highways standards and would also need to be done after recommendation A02 related to definitions has been implemented.</p> <p>Resource implications: Requires significant resource, including review of health & safety implications of changes.</p>	Long term

7.5 Existing Exemptions

7.5.1 Summary of Issues

The legislation sets out exemptions for types of development requiring SAB approval. This is set out as per the below extract.

The following construction works are exempt from the need for SAB Approval:

- *construction work carried out by an internal drainage board in exercise of its functions under the Land Drainage Act 1991;*
- *construction work carried out for the purpose of, or in connection with, the construction of—*

(i) a road for which the Welsh Ministers are the highway authority, or

(ii) a railway by Network Rail.

However, it has been raised that there remains uncertainty around the reason for exemption and exactly what is exempt. Examples highlighted include station platforms associated with a railway.

7.5.2 Recommendations

The following recommendations are presented for consideration.

Table 13 – Existing Exemptions

Ref.	Recommendations	Time frame
B31	<p>Clarify within guidance the existing exemptions to the SuDS approval requirements.</p> <p>This should clarify the parts of development that is not exempt associated with a road by the Welsh Minister as highway authority, or railway by Network Rail. It should also clarify what constitutes a railway (the tracks only) and that tramways are not exempt.</p> <p>Providing reasoning for the exemptions within guidance will also provide clarity.</p> <p>Resource implications: can be undertaken with update to guidance as part of wider refresh of documentation.</p>	Short term
B32	<p>Review the exemption provided to roads by the Welsh Minister as highway authority</p> <p>This should consider requiring trunk roads to comply with the Statutory Standards.</p> <p>Resource implications: Review including input from highways, drainage, water quality, landscape and ecology specialists to consider the benefits. Consideration may be given to building on Table 11 which highlights gaps within current highway standards.</p>	Medium Term

8. Category C: Technical Requirements

8.1 Proportionality

8.1.1 Summary of Issues

The resource constraint on SABs is partly due to the volume of applications received for small developments. In some Local Authority areas, a large proportion of applications are from smaller developments. Applying the Standards and process to smaller scale development can be challenging.

They often require similar input to larger and more complex applications and are required to submit the same application detail, but do not attract the same level of fee. This is exacerbated by the current single, comprehensive SAB application form which can place a seemingly disproportionate burden on applicants. Poor quality applications require a significant amount of advice by the SAB to the applicant, adding to the SAB resource constraint.

In some development contexts, the applicability of all the Standards is questioned. This is typically smaller development and can include instances where other design standards or regulatory requirements also apply. However there has been concern that leniency to wording or requirements (e.g. increasing the 100m² threshold or the removal of the requirement for applications for single dwellings) could result in losing the intent of the legislation.

There is inconsistent interpretation of the legislation and Standards across Wales, particularly concerning what is classed as a “structure” or what constitutes “drainage implications”.

Significant concerns are raised about affordability in many instances. This is not limited to residential development and includes development in other sectors, where programme implications of the application process can cause significant delays and increases in cost, impacting on viability.

8.1.2 Engagement, Feedback & Discussion

Tiered application form

Questionnaire respondents were asked whether a tiered application form would reduce the resource burden on both SABs and applicants e.g. having a “lite” version for areas below a certain size or in a certain context. Of those who responded 65% strongly agree that a “lite” or tiered application would help reduce resource challenges.

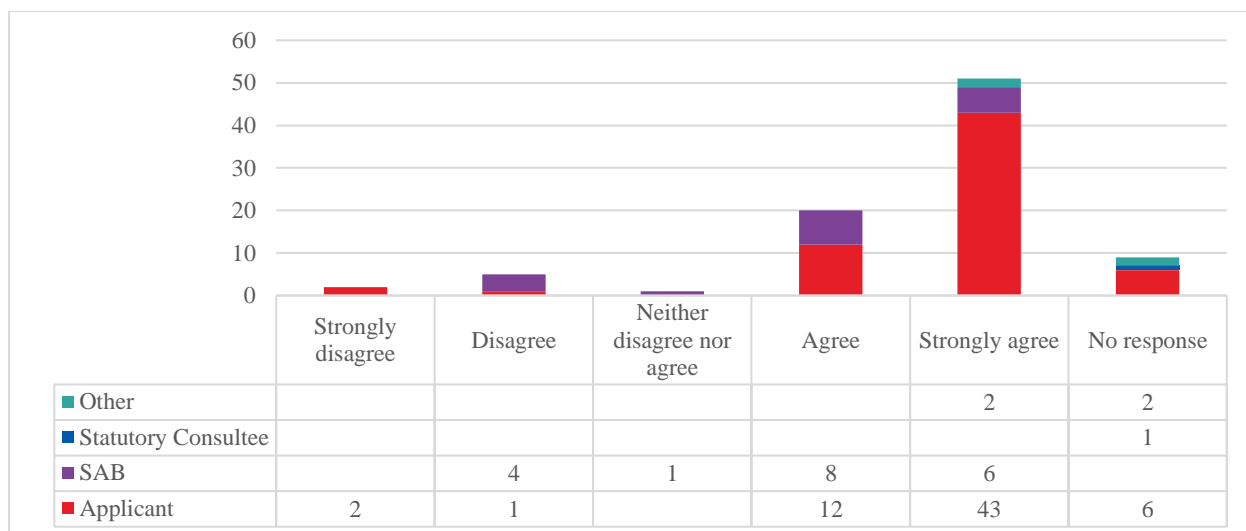


Figure 23 – Whether a tiered application form would reduce resource burden

Responses were sought on the whether applications should adopt a “lite” approach. Responses included size (38%), type of work (29%), risk (10%) and “other” (23%).

Of those who selected “size”, the most popular scales were:

- 10 dwellings or less
- 5 dwellings or less
- 1000m²
- Non-adoptable developments

Of those who selected “risk”, the most popular risk considerations flagged were:

- Environmental risk
- Type of development
- Water quality
- Flood risk

Of those who selected “other”, the most popular suggestions were:

- Combination of size, type, and risk
- Combination of size and type
- Combination of size and location

Supporting information

A key theme from feedback received during the Applicant Focused Workshop around proportionality, suggested the application form should be catered around different scales and types of development. It was acknowledged there is inconsistency in requirements across SABs too. The workshop also highlighted the level of supporting information requested to accompany an application can be excessive and

disproportionate, and some documentation required is not strictly relevant for a drainage technical approval (e.g. Construction Environmental Management Plans).

Application portal

The Applicant Focused Workshop highlighted the need for improvements to the accessibility and format of the application form. It was noted different approaches have been taken by SABs, with some opting for digital forms via online portals while others requiring email receipt of documents. It was noted that sharing of supporting information causes problems in some cases due to file sizes. It was generally agreed within the workshop that a consistent, preferably digital, form via an online portal is the best approach to submit and track applications.

Deemed to comply or exempt development

89% of responses stated there should be defined works that are deemed to comply or are exempt from requiring SAB approval. A suggested list developed through the literature review was considered by respondents as shown in Figure 24.

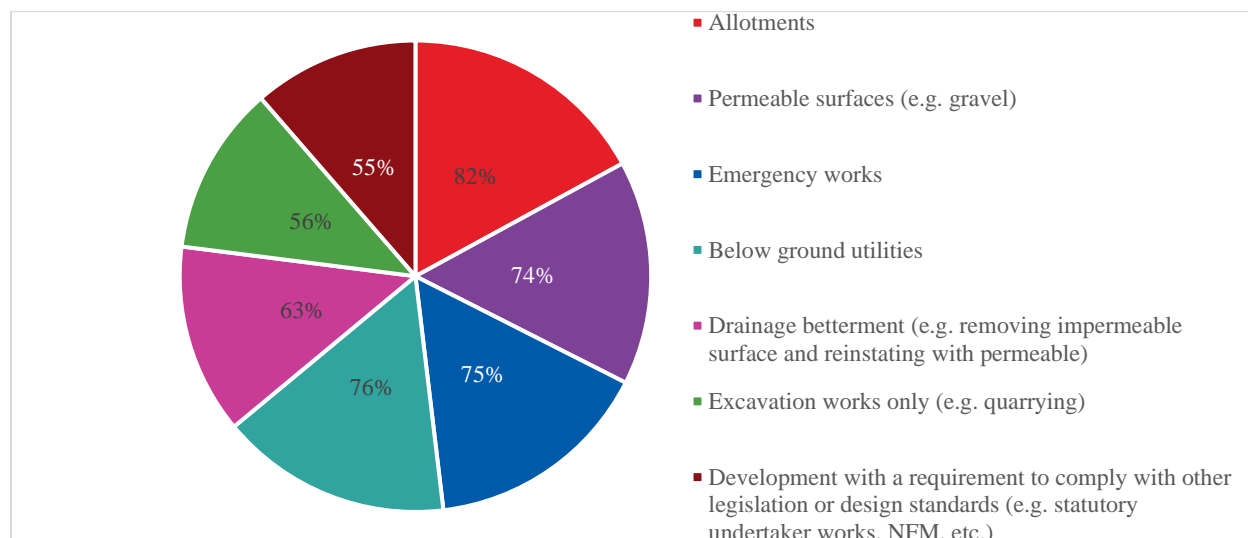


Figure 24 – Potential types of development that could be deemed to comply or exempt from requiring SAB approval

Some additional feedback and additional types of development included:

- Agriculture
- Forestry works including tracks
- Active travel schemes
- Coal tips
- Temporary works

100m² threshold

When considering the 100m² threshold, most responses would like to see this increased. However, 17 SABs prefer to keep it as it is, shown in Figure 25.

Suggestions of what it should be changed to include:

- 200-250m² – 3 responses out of 40
- 500m² – 6 responses out of 40
- 1000m² – 7 responses out of 40

Several responses allude to potential benefits of a “lite” application form with proportionally lower requirements which could facilitate smaller developments.

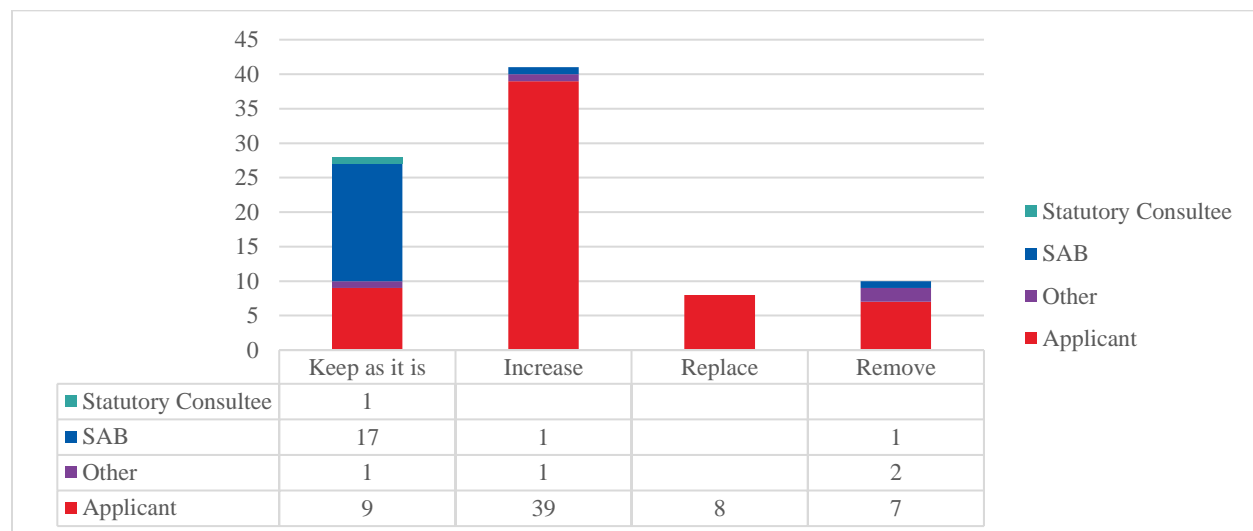


Figure 25 – Whether 100m² threshold should be reviewed

8.1.3 Recommendations

The following recommendations are presented for consideration.

Table 14 – Proportionality recommendations

Ref.	Recommendations	Time frame
-	<p>Clarify definitions such as what constitutes as a “structure” , “construction” , “drainage implications” , “single property” , "brownfield development" and “retrofit” .</p> <p>As per recommendation B1. Consider inserting graphics to help generate common understanding.</p>	Short term

Ref.	Recommendations	Time frame
C01	<p>Develop a new digital application form/portal akin to Planning.</p> <p>A form used throughout Wales will provide consistency and more easily allow future data capture (recommendation A01). The application form/portal could be combined with that of Planning, or a separate but similar tool created. A digital form could allow for a proportional approach whereby information requirements are dictated by the scale, risk and location/context of development.</p> <p>Resource implications: Digital resource is required to set up and maintain the form/portal. This should be done in combination with the below recommendation for a scaled form.</p>	Medium term
C02	<p>Introduce a tiered application form appropriate for a given scale of application e.g. a “lite” version.</p> <p>The Welsh Government should determine the types of development which will likely to be linked to risk, whether the SuDS are adoptable, number of properties and/or size of development.</p> <p>This should seek to minimise the number of forms or create a single digital form that automatically responds to development type, to reduce administrative burden. Consultation would be needed with SABs and applicants. Implementation can be quicker by setting up a task and finish group and swapping out documents.</p> <p>Resource implications: Resource is required from SABs facilitated by WLGA to refine forms, which should include input from applicants.</p>	Medium term
-	<p>Provide a clear list of scenarios that do not require SAB approval, are deemed to comply, or are exempt from requiring SAB approval.</p> <p>As covered under Guidance</p>	Medium term
C03	<p>Following a review of the impact of above recommendations, review the 100m² threshold again.</p> <p>This will require careful consideration alongside clearer definitions, a list of deemed to comply / exemptions from SAB approval, and the impact of any other changes, noting that SABs generally feel the current threshold is suitable.</p> <p>If the threshold were to be changed this would require a change to secondary legislation.</p> <p>Resource implications: In the medium term, the Welsh Government should review if the threshold remains an issue for applicants following implementation of exemptions and/or deemed to comply criteria.</p>	Medium term

Ref.	Recommendations	Time frame
-	<p>Provide an overseeing and/or third-party organisation to regulate SAB functions and ensure consistency, including helping with dispute resolution.</p> <p>As per recommendation B12.</p>	Long term

8.2 Technical Standards

8.2.1 Summary of Issues

The current Standards and guidance are viewed by some applicants as being too generalised for practical application. For example, there are currently no commonly accepted methods to calculate surface water run-off rates. Also, the interception criteria within Standard 2 are difficult to achieve in locations with poor infiltration rates and/or ground contamination, which are common conditions in Wales.

Standards need to provide further detail, allowing SABs to have more of a risk-based approach that is proportionate to the development type and the local context. Once these areas have been clarified there would be a clear need to produce best practice worked examples to evidence what success looks like.

Sectors such as agriculture, mining/quarrying, forestry, and social housing are not adequately addressed. This can result in conflicts with other Welsh Government policy and legislation as well as the ability to meet targets and spend grant allocations.

8.2.2 Engagement & Feedback

The questionnaire focused on the Standard Principles and each Standard, with opportunity for respondents to provide further comments.

Principles

The first question asked if the Standard Principles added value to SAB applications in addition to providing evidence to the six Standards. Of those who expressed an opinion, 64% agreed that the Principles add value. This is influenced by 89% of SABs selecting this option.

Standard S1 – Surface water runoff destination

When asked if the run-off destination hierarchy in Standard S1 sufficiently protects downstream networks and hydrology, 82% agreed and 18% disagreed.

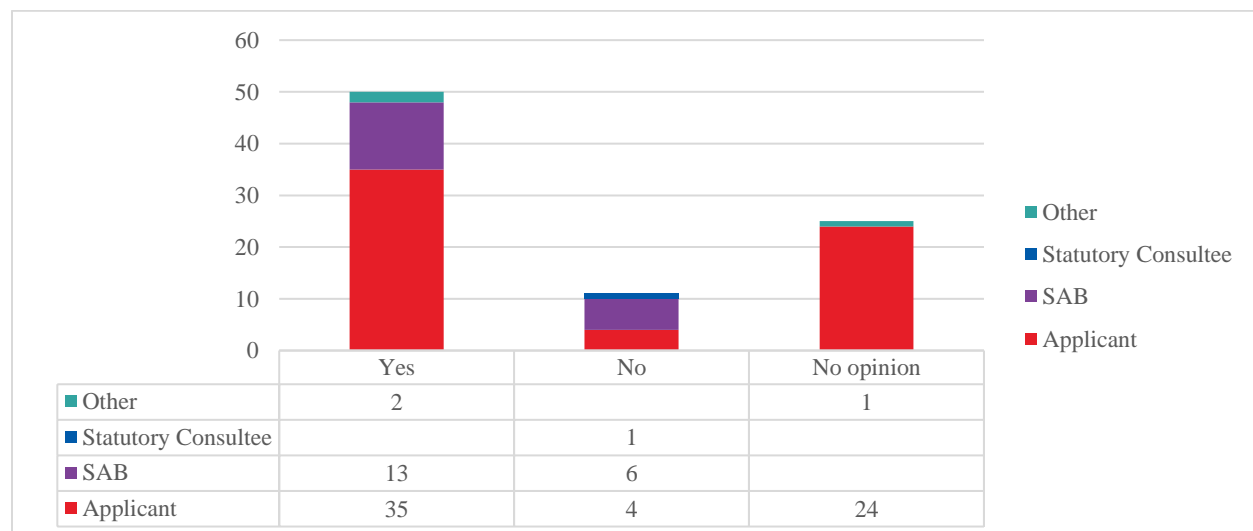


Figure 26 – Whether Standard S1 is sufficient to protect downstream networks and hydrology

Of those who said “no”, responses were sought on how to make it more robust. Feedback included:

SABs interpreting the hierarchy in different ways. This includes what is meant by ‘destination’ i.e. is it the connection point or is it the final discharge location of the downstream network.

Some recommendations included adding a requirement to demonstrate that the receiving system can accommodate proposed flows.

One respondent recommended that proposed connection to a public sewer, if agreed by the SAB, should allow the Statutory Consultee the right of appeal.

Some have questioned the validity of water re-use when many SABs do not consider this appropriate or allow it to be factored into hydraulic performance of the drainage system.

Standard S2 – Surface water runoff hydraulic control

Similarly, 84% of respondents agree that Standard S2 provides sufficient evidence of hydraulic controls. Of those who disagreed, responses have been generalised of how to make it more robust:

The guidance needs to be more specific and is currently open to interpretation. This includes reference to interception and flow rates which need to have clearer guidelines and expectations from a SAB that are realistic and allow a pragmatic approach.

One challenge is that due to the changing nature of designs and often unreliable infiltration data, SABs are unwilling to accept solutions that rely on infiltration.

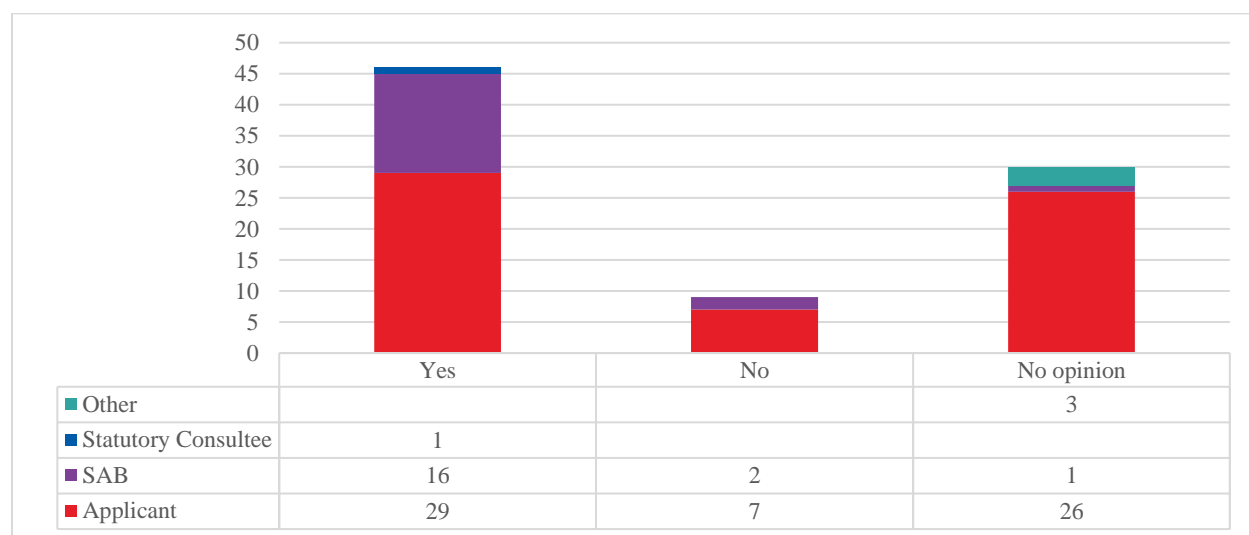


Figure 27 – Whether Standard S2 is sufficient to evidence hydraulic controls being proposed

Interception criteria

Feedback from applicant engagement noted evapotranspiration rates in Wales and the UK are not significant, so for sites that suffer from poor infiltration and contamination, to prevent the first 5mm of rainfall from leaving a site is often not feasible. This can result in development becoming financially unviable.

Volumetric Storage

Volumetric Storage was raised through engagement with applicants that the requirements set out in the Standards require significantly more excavation and footprint than would traditionally be the case using greenfield runoff rates.

Standard S3 – Water quality

When asked whether Standard S3 adequately protects receiving waterbodies and drainage systems, 91% agree that it is sufficient, as seen in Figure 28. Comments from respondents who disagreed include reference to each development site being unique. Applicants refer to the CIRIA SuDS Manual's Simple Index Approach as being very coarse with net annual loads perhaps a more appropriate measure.

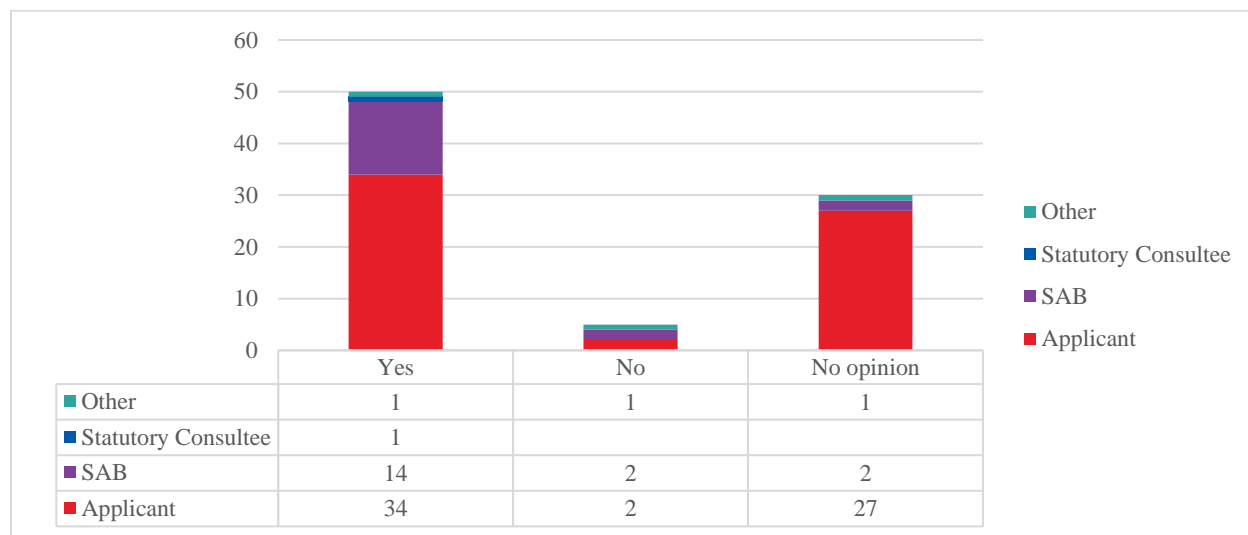


Figure 28 – Whether Standard S3 adequately protects receiving waterbodies and downstream drainage systems

Standard S6 – Design of drainage for construction, operation, and maintenance

Of those who voiced an opinion, 70% of responses agree that Standard S6 is sufficient when considering design, constructability, operation, and maintenance. General themes from respondents who disagreed include:

- The requirements for structural and H&S considerations are good, however guidance on maintenance costs should be created to ensure more consistency.
- There is a skills shortage to maintain assets properly which risks poorly maintained and redundant assets.

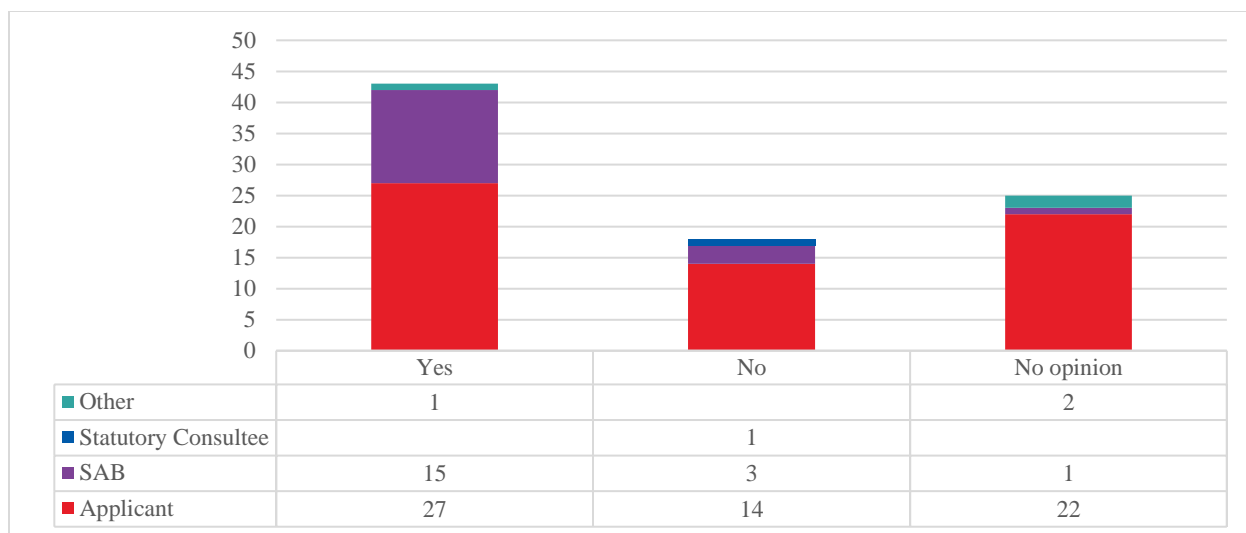


Figure 29 – Whether Standard S6 ensures drainage systems can be designed, constructed, operated, and maintained taking account of whole asset life

8.2.3 Omissions from Standards

65% of respondents do not think anything is missing from the Standards although most expressed that they did not have an opinion.

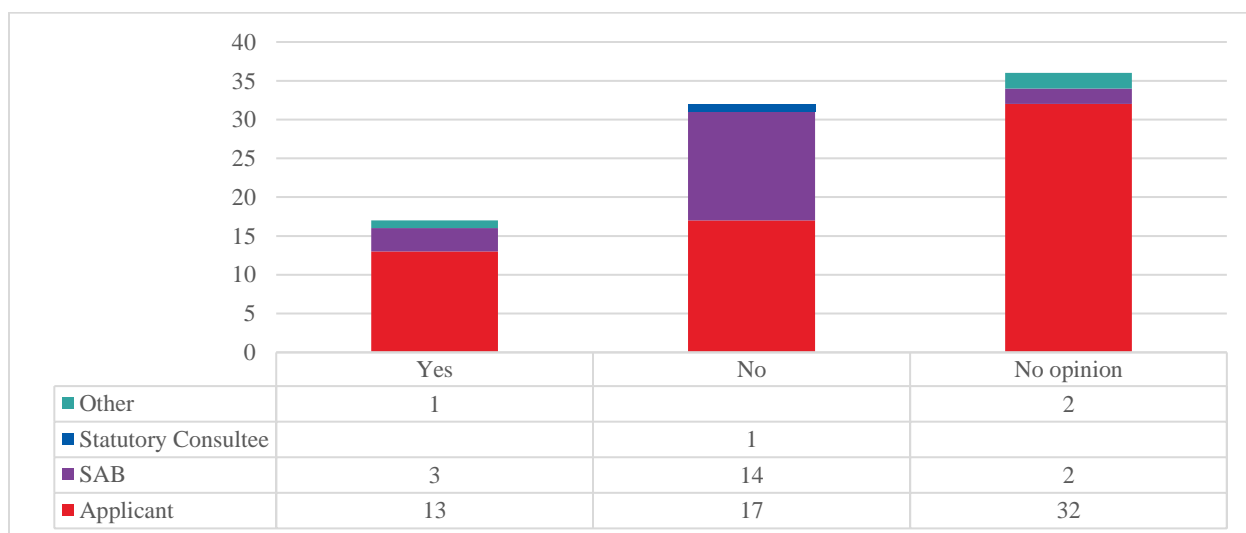


Figure 30 – Whether anything is missing from the standards

When asked if there should be more emphasis on carbon reduction or carbon neutral systems, of those that raised an opinion, there was an equal split of responses.

8.2.4 Recommendations

The following recommendations are presented for consideration.

Table 15 – Technical standards recommendations

Ref.	Recommendations	Time frame
C04	<p>Clarify whether an applicant must provide infiltration testing as required in Standard S1</p> <p>The Standards state ‘early conceptual design will require that infiltration tests are also undertaken early to inform the conceptual design of the drainage system’ . However, it can be obvious that infiltration is not appropriate at a site based on existing site information or a desk study. Undertaking infiltration testing can result in abortive costs in these instances.</p> <p>Consulting SABs could enable a set of criteria to be demonstrated before accepting that infiltration is not appropriate for a given site.</p> <p>Resource implications: To be clarified within proposed updated National Standards and Guidance.</p>	Short term
C05	<p>Update Standard S1 to make it clear that the ultimate discharge point requires confirmation, beyond just the immediate connection point.</p> <p>This will require SABs/LLFAs and other Statutory Consultees to share asset data information (where available) to the applicant where available to enable them to review this. Mechanisms should be set out to fairly define existing asset condition, assign responsibility to deal with issue and how to cost for upgrades to assets such as pipes that are in poor condition.</p> <p>Resource implications: To be clarified within proposed updated National Standards and Guidance.</p>	Medium term

Ref.	Recommendations	Time frame
C06	<p>Strengthen national design guidance.</p> <p>The guidance should set out Industry standards for design hydraulic modelling and inputs, including rainfall data, runoff methods, and detail on other hydraulic values to be used. This should complement the Statutory Standards.</p> <p>Following the strengthening of national guidance, local or regional concise addenda should follow (as per recommendation B06). This could be achieved using a similar approach as used for West of England Sustainable Drainage Guide (where appended to the main guide, each unitary authority sets out the character of each area, authority-specific technical and procedural requirements, and key contacts) or Sewers for Adoption (where WRc work with all sewerage undertakers to produce a guide and they then produce their local addenda).</p> <p>A strategy for Standards, national guidance and local design guidance/addenda (including level of detail of each) should be set out in the first instance as per recommendation B02.</p> <p>Resource implications: This requires one leading organisation, but the creation/update of national detailed design guidance requires input from all stakeholders in Wales. It could be achieved in partnership with a scheduled update to the CIRIA SuDS Manual.</p>	Medium term
C07	<p>Review and update the interception compliance criteria in the guidance for Standard S2</p> <p>Consider removing/amending the “deemed to comply” tables in the guidance for Standard S2 (Table G2.1).</p> <p>Guidance should be provided on how interception can be delivered from first principles but should consider the existing site conditions and local climate.</p> <p>Resource implications: Requires technical consideration by a focus group of SABs and designers based on local conditions in Wales.</p>	Medium term
C08	<p>Review and consider changing Standard S2 for long-term volumetric storage.</p> <p>This could focus on better alignment with Interception Criteria with clearer requirements on when this can reduce or remove the need for long-term storage.</p> <p>If on review this is agreed it requires the Standards to be amended, which requires consultation.</p> <p>Resource implications: Requires technical consideration by a focus group of SABs and designers based on local conditions in Wales.</p>	Medium term

Ref.	Recommendations	Time frame
C09	<p>Set out clear requirements and associated guidance for ‘retrofit’ projects.</p> <p>This requires the term “retrofit” to be defined. If deemed necessary these schemes could then fall under a separate set of ‘deemed to comply’ criteria whereby separate conditions/standards apply.</p> <p>Resource implications: Requires an initial scoping exercise including a range of stakeholders to determine strategy for delivering this.</p>	Medium term
C10	<p>Review whether the current controls for the right to connect to the sewerage network in s106A of the Water Industry Act 1991 (as inserted by Schedule 3 of the FWMA 2010) are correctly placed.</p> <p>A change to primary legislation would be required to enable this change as this is currently set out in the FWMA 2010. The Welsh Government would need to await the appropriate legislative vehicle to propose this change which would also be subject to both public consultation and legislative scrutiny.</p> <p>Resource implications: The Welsh Government should consider this legislative change.</p>	Long term

8.3 Biodiversity and Amenity

8.3.1 Summary of Issues

In 2021 the Welsh Government set out a Programme for Government (PfG) commitment in Wales to “legislate to strengthen the requirements for the use of SuDS that provide wildlife habitat”⁸. Improvements to practical guidance and tools are required to assist with this, with consideration given to the size and type of development.

Both applicants and SABs agree that the current guidance lacks specific tools and guidance to clarify what is proportionate from a biodiversity and amenity perspective.

Biodiversity and amenity are considerations covered in Planning applications, however the requirements for Planning and SAB can be varied and inconsistent. There may be a risk of considering pockets of biodiversity and amenity related to SuDS elements that will not be appropriate for the wider context.

SABs have general resource pressures but particularly in relation to the skills necessary to review the biodiversity and amenity requirements.

⁸ [Programme for government | GOV.WALES](#)

8.3.2 Engagement, Feedback & Discussion

Standards S4 & S5 – impact on application process

The first question on this topic asked whether the amenity and biodiversity Standards were an issue for applications. Applicant responses suggest these two Standards are an issue in the application process.

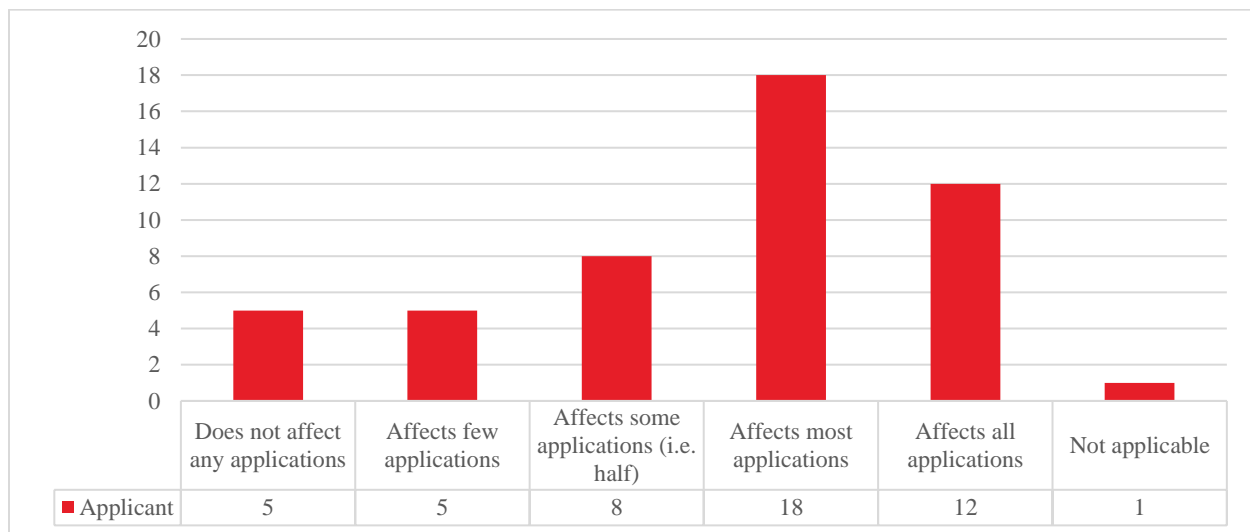


Figure 31 – For applicants whether amenity and biodiversity are an issue for applications

Standard S4 – maximising amenity benefits

Of those that expressed an opinion, 63% of respondents agreed that the requirements in Standard S4 are sufficient to maximise amenity benefits. Of the 20 people that responded “no”, comments and suggestions included:

- Clearer guidance is required with definitions where appropriate as current guidance is vague and is open to interpretation.
- The guidance should be reasonable and proportionate to the type of development.
- Some respondents stated that Standard S4 should either be removed or less onerous, potentially for “lite” applications if this option was to be taken forward.
- Applicants noted similar requirements are part of the Planning process and so there is duplication with their inclusion in the technical drainage approval.

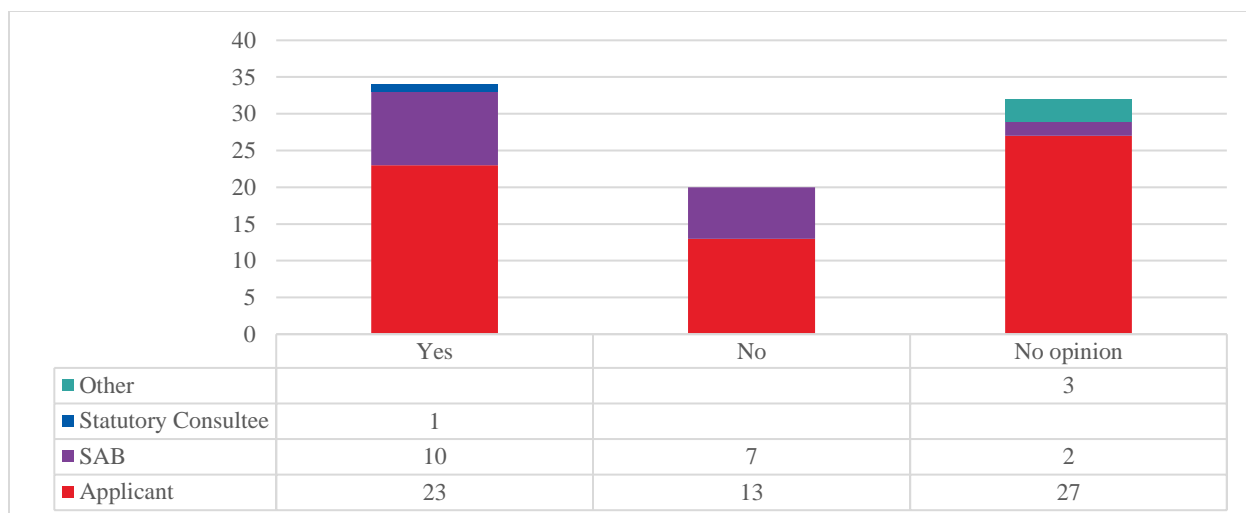


Figure 32 – Whether Standard S4 is sufficient to maximise amenity benefits

Standard S5 – maximising biodiversity benefits

For Standard S5, 63% of those that expressed an opinion feel like the requirements are sufficient to maximise biodiversity benefits. However, when considering the view of SABs, 53% answered “no”. Suggestions of how to make this more robust include:

- Similarly to Standard S4, clearer guidance is required perhaps on a regional scale. The current guidance is vague and is open to interpretation. This guidance should be reasonable and proportionate to the type of development.
- Again, some respondents believe that Standard S5 should either be removed or made less onerous. Particularly as similar requirements are part of the Planning process and so feel that there is duplication of effort.

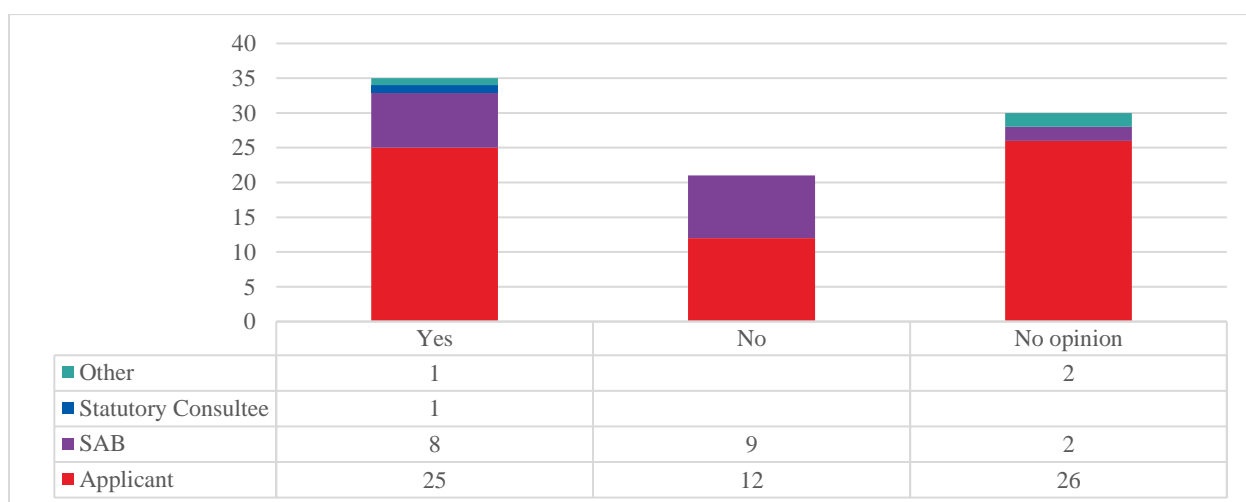


Figure 33 – Whether Standard S5 is sufficient to maximise biodiversity benefits

Local authority expertise in assessing biodiversity

12 out of 19 SABs believe that there is sufficient expertise in the Local Authority to consider and deliver biodiversity benefits as shown in Figure 34.

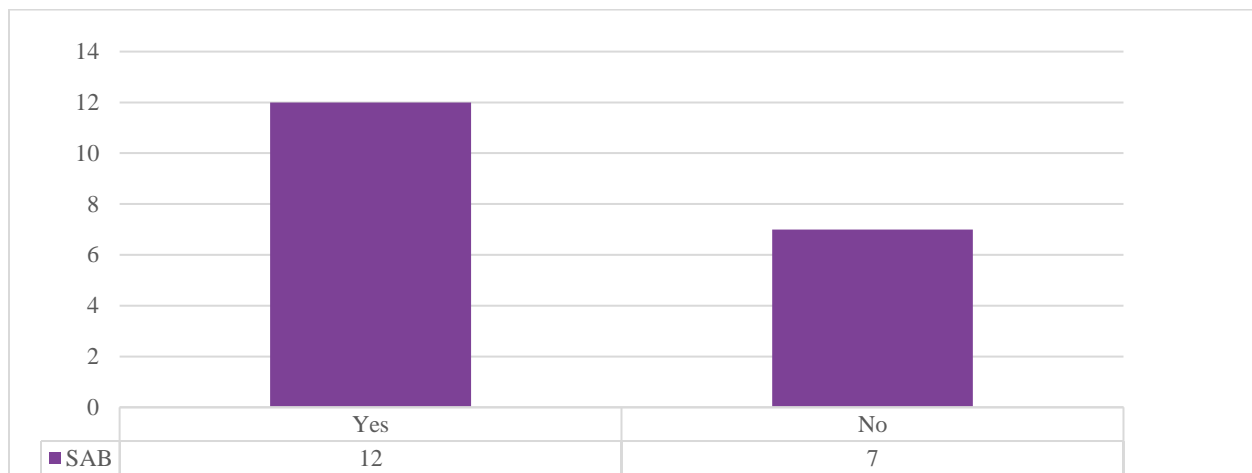


Figure 34 – If you are a SAB, is there sufficient expertise in the local authority to ensure the consideration and delivery of biodiversity benefits?

Improvements delivered by Standards 4 and 5

57% of respondents believe that the biodiversity and amenity standards have brought some improvement. However, there is an equal split of those who believe the legislation has delivered significant improvement and those who feel there has been no impact.

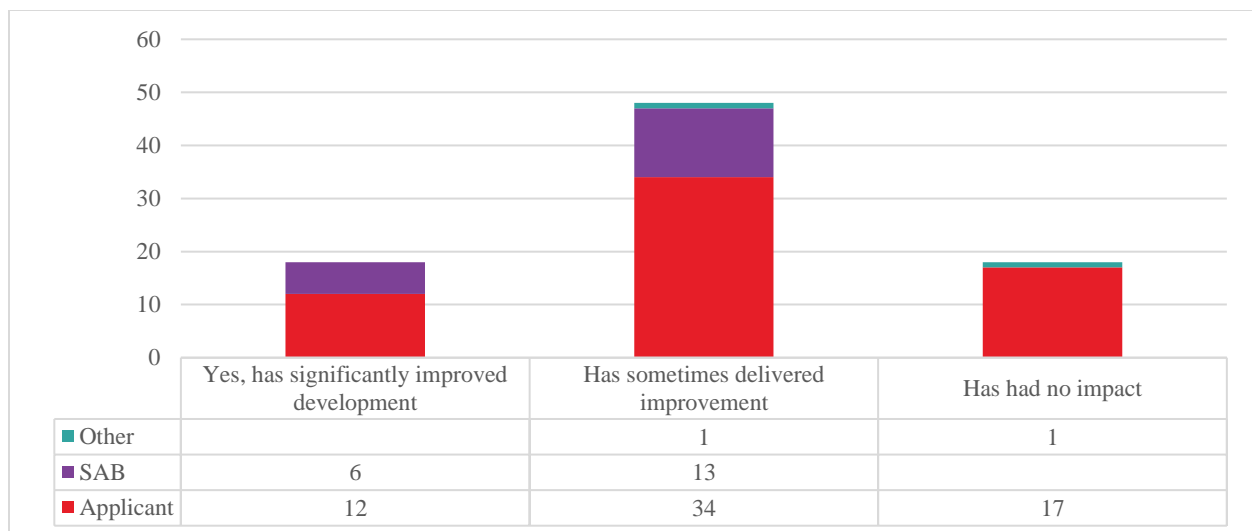


Figure 35 – Whether the biodiversity and amenity standards have contributed to improved development in Wales

Local guidance for biodiversity

However, when asked if there was sufficient local-level guidance available for biodiversity the results showed that 88% of respondents do not feel there is sufficient guidance.



Figure 36 – Whether there is sufficient local level guidance for what Local Authorities require for biodiversity

Feedback on improvements for biodiversity

Some suggestions of how biodiversity benefits could be encouraged:

- Better alignment with Planning to avoid duplication or disconnect.
- Earlier consideration in process.
- Creating national or regional advice.
- Better guidance on SAB expectations including maintenance.
- Emphasising equal weighting for this Standard compared to other Standards.
- Provision of a quantifiable Standard or tool.
- Implementing off-site improvements where a site boundary is limited. The Welsh Government to offer training and funding for teams.

Local guidance for amenity

Similarly to biodiversity, 90% of respondents believe that there is insufficient guidance for amenity.

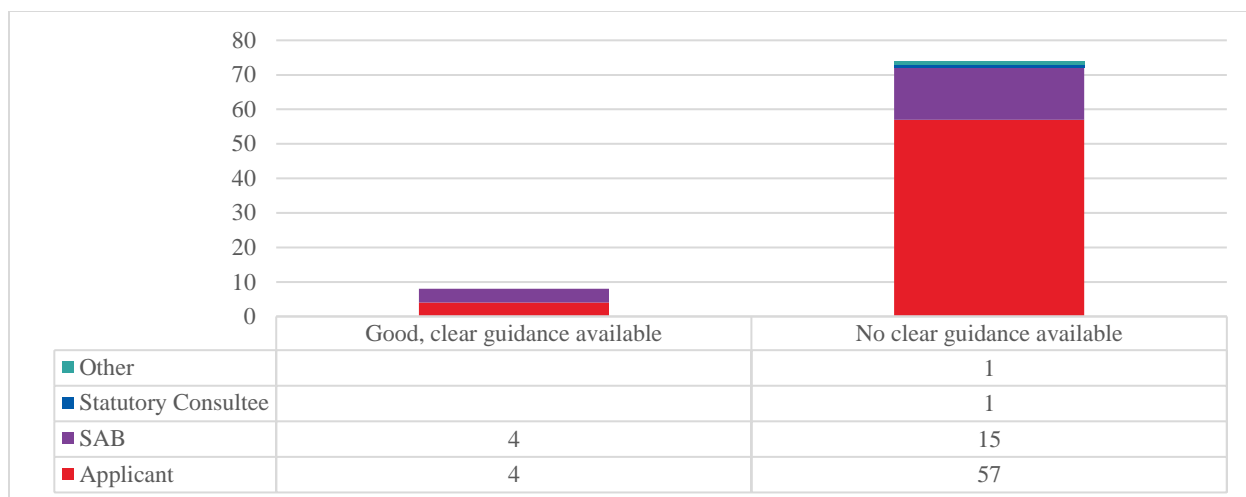


Figure 37 – Whether there is sufficient local level guidance for what Local Authorities require for amenity

Deemed to comply

When asked whether some types of development should be deemed to comply (or potentially in some circumstances exempt) from the biodiversity Standard, 65% of respondents agreed. Some types of development that this could apply to included:

- Agriculture
- Forestry
- Industrial buildings
- Small developments (could align with the “lite” SAB application as suggested in the Proportionality section)

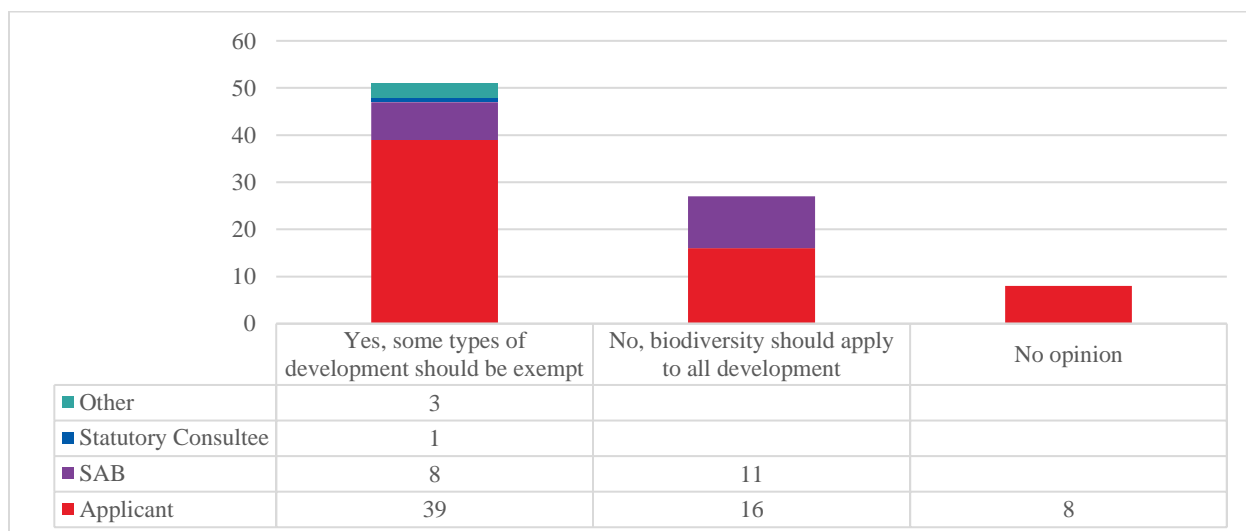


Figure 38 – Whether some types of development should be deemed to comply (or exempt) from biodiversity standard

Similarly, respondents were asked if some types of development should be deemed to comply / exempt from the amenity Standard, and 72% responded “yes”. Some examples of types of development this could include are:

- Agricultural
- Industrial buildings
- Small development

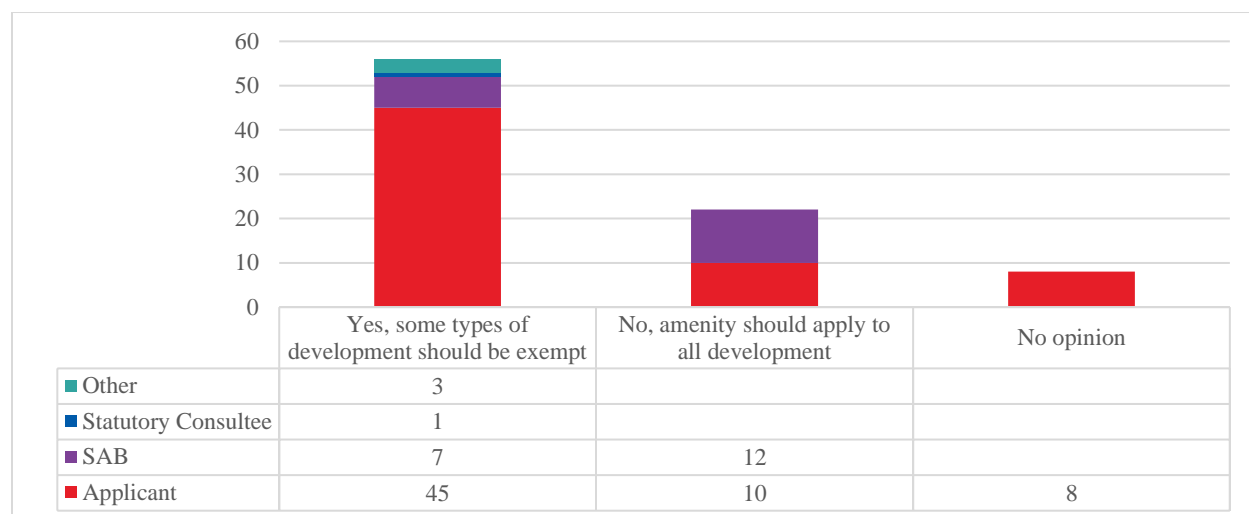


Figure 39 – Whether some types of development should be deemed to comply/exempt from amenity standard

Maximising biodiversity gain or ecosystem resilience for integration with wider policy

A review of the current biodiversity assessment methods identified the following improvements to the Standards relating to biodiversity:

- In Planning, the Welsh Government uses the phrase “biodiversity net benefit” rather than “biodiversity net gain” used in England. Additionally, The Environment (Wales) Act 2016 uses the phrase “ecosystem resilience” and Planning Policy Wales refers to “Biodiversity & Ecosystem Resilience. These terms could be considered in future updates to the Standards for consistency.
- The Welsh Government approach requires consideration of biodiversity (species and habitats) and ecosystem resilience using the DECCA framework (Diversity, Extent, Condition, Connectivity and Aspects of ecosystem resilience) which is qualitative rather than quantitative. It should be noted that the DECCA framework may not be suited to all development, particularly smaller scale.
- This standard could be restructured around two aspects:
 - Designing for least impact of existing features
 - Designing to maximise benefits and ecosystem resilience under the DECCA framework
- Guidance notes or prompts should also be provided to support applicants when considering the DECCA framework e.g.:
 - diversity between and within ecosystems

- connections between and within ecosystems
- scale of ecosystems
- condition of ecosystems (including their structure and functioning)
- adaptability of ecosystems
- Clearer practical guidance from Local Authorities on what they require in the area (species, connectivity etc.).

Metrics for assessing biodiversity

The potential use of metrics/tools to assess biodiversity have been discussed with stakeholders. There are arguments for and against the use of metrics to ‘score’ biodiversity. Noting the above, a qualitative approach is currently encouraged in Wales.

If metrics for assessing biodiversity were to be used, different tools may be more suitable to different contexts. For example, tools assessing biodiversity net gain/benefit are more appropriate for greenfield development whereby a baseline for existing biodiversity exists. However, on brownfield developments there may not be a suitable baseline (i.e. no existing biodiversity may exist), and so other tools may be more appropriate to ensure biodiversity benefits as part of the proposed development maximised. The Urban Greening Factor⁹ is an example of this.

8.3.3 Recommendations

The following recommendations are presented for consideration.

Table 16 – Biodiversity and Amenity recommendations

Ref.	Recommendations	Time frame
C11	<p>Change the extent of biodiversity and amenity requirements to be proportional with scale of development.</p> <p>This could follow a tiered or “lite” application, or “deemed to comply” in some instances with given conditions.</p> <p>Consideration should be given to the site context and whether it is open to public/resident access.</p> <p><i>Refer to Proportionality Recommendations.</i></p>	Medium term
-	<p>Make SABs as a statutory consultee in the Planning process and Planning authorities as a statutory consultee in the SAB process.</p> <p>This will flag opportunities and issues at a much earlier stage in the process.</p> <p><i>Refer to Application Process Recommendations.</i></p>	Medium term

⁹ <https://publications.naturalengland.org.uk/publication/4842738632884224>

Ref.	Recommendations	Time frame
C12	<p>Produce more specific national guidance for the biodiversity and amenity standards.</p> <p>Biodiversity: The Welsh Government should consider bringing the principles of the DECCA (Diversity, Extent, Condition, Connectivity, and Adaptability) biodiversity framework where appropriate. This new framework is being applied in Planning although not all sections will be appropriate. This recommendation links with the Proportionality section i.e. consider if reduced biodiversity considerations are required for smaller / specific types of development. Further work is needed to align with other policy areas on this subject.</p> <p>Amenity: The Welsh Government should clarify that amenity benefits also include the wider development not just the drainage elements e.g. if an application is for a school / play area / hospital, these amenity benefits should be considered in the SAB application. The guidance should also include and promote multi-functional amenity features e.g. community amenity facilities that double up as attenuation in large rainfall events. Further work is needed to align with other policy areas on this subject.</p> <p>Resource implications: Requires joint discussion and development with ecologists, landscape architects, in combination with the drainage industry to consider how guidance can be strengthened while proportional to development.</p>	Medium term
C13	<p>Local Authorities should incorporate local requirements for Biodiversity and Amenity of SuDS into local guidance/addenda to assist applicants in aligning with local requirements.</p> <p>This is particularly important for smaller scale development where the development impact is limited within a small boundary.</p> <p>Local addenda should link and reference to other local authority aspirations and actions plans such as Wellbeing Indicators, Green Infrastructure plans/strategies, Local Flood Risk Strategies/Plans. It should assist the applicant in helping their development to achieve wider local/regional aims.</p> <p>Resource implications: Requires funding for local authorities to develop and deliver this guidance.</p>	Medium term
C14	<p>Local authorities should coordinate specialist input into a single set of feedback appropriate for Planning and the SAB.</p> <p>This should be made a clear requirement for all local authorities in Wales.</p> <p>Resource implications: Would require internal guidance to be produced in local authorities with already limited resource – may need direction from the Welsh Government.</p>	Medium term
C15	<p>Consider amending wording of the Biodiversity Standard.</p> <p>While the title of the Standard may be retained, the text within the requirements could be revised and framed around this two-pronged approach:</p>	Medium term

Ref.	Recommendations	Time frame
	<ul style="list-style-type: none"> • Designing for least impact of existing features • Designing to maximise benefits and ecosystem resilience (referencing the DECCA framework) <p>This would align with the PfG commitment. The requirements should be consistent with the approach used for Planning so that the two systems complement one another.</p> <p>Changes should support a proportionate approach in the application of this Standard. Further work on this is required with specialist input from ecologists and review alongside other evolving policy areas.</p> <p>Resource implications: As with national guidance on biodiversity, requires input from ecologists and to ensure it aligns with planning policy (and other policy areas) for a consistent national approach.</p>	

9. Category D: Affordability & Enforcement

9.1 Fees

9.1.1 Summary of Issues

Several SABs have disclosed that guiding a new developer through the SAB process can incur high upfront costs, resulting in unrecoverable costs to the SAB under the current pricing mechanism. However, it is recognised that as developers gain experience and understanding then less support will be required, making the current fee structure more sustainable.

Due to a lack of internal resource, SABs can find it challenging to respond to applications within the given 7-week window. Increased funds may enable recruitment to ease resource demands.

Constructed designs are not always inspected to verify that SuDS will perform as designed. This is closely linked with the resource challenges and skills gap that SABs are facing but also due to limited funds to facilitate these visits.

Applicants can find the pre-application service frustrating especially as some SABs insist on this stage to gain SAB approval. However, the pre-application discussions are not legally binding, and advice may be subject to change. However, applicants would be more accepting of the pre-application fees provided the advice was binding and received in a timely manner. Some applicants would also be willing to pay fees for other elements of the SAB application service if the application process was improved and efficiencies can be delivered such as closer integration with planning departments, including a higher application fee cap (currently the maximum charge is £7,500).

9.1.2 Engagement, Feedback & Discussion

Level of fee

Three questions were included in the questionnaire on application fees. As shown in Figure 40, most respondents expressed no opinion on the level at which the application fee is currently set, including 46% of developers. However, it is worth noting that 42% of SABs believe that they are too low.

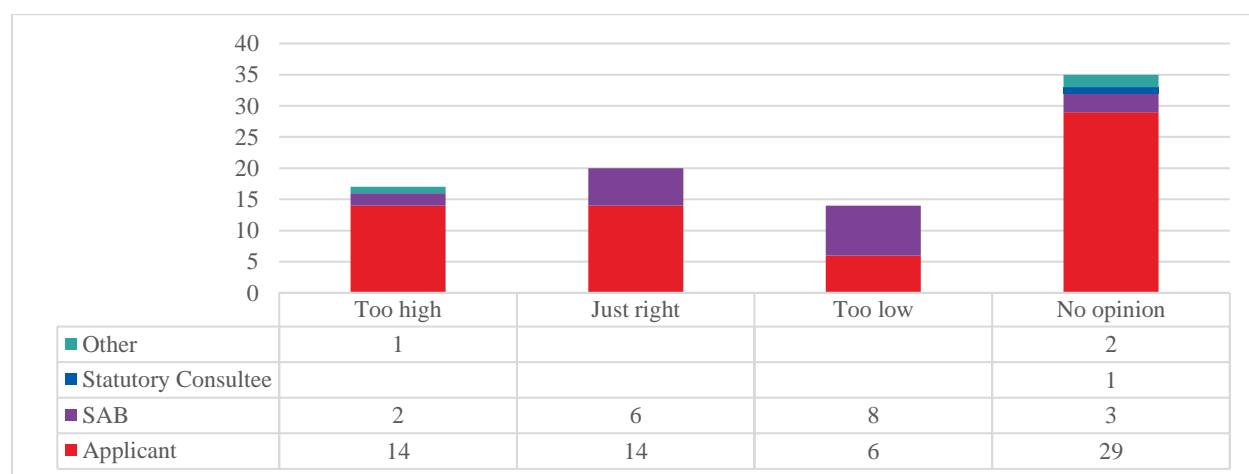


Figure 40 - feedback on current application fee

Cost recovery

During our feedback period we requested data from SABs on actualised fee generation versus cost recovery. The data request has found that most SABs are not collecting data on their cost recovery in a way which would be meaningful to inform policy or legislative change. There also appears to be differing approaches to determination and the time spent on applications which impacts on whether a SAB can recover their costs, in addition to the disparities between time spent on adoptable and non-adoptable sites. A more detailed breakdown of the data received is in Appendix E.

Increasing fee Vs resource

The questionnaire also asked whether applicants would be willing to pay more for their SAB application if the determination timescales could be guaranteed to be met, resulting in more programme certainty for applicants. 62% of applicants indicated that they would be willing to pay more. However it became apparent during the discussions in the focus groups held in late 2022 that this alone would not resolve the issue, due to the intrinsic links with the current resource gap in the sector.

Other focused discussion

We also discussed the topic of fees more generally in the focus groups. The below bullet points summarise some of the key findings:

1. The current method of fee calculation is transparent, but not necessarily the simplest method of calculation.
2. Generally, the red line boundary (used for Planning) is agreed to be the most appropriate way to calculate fee for a site, but some discretion needs to be used by SABs for developments where the red line boundary may be disproportionate to the area affected.
3. A “lite” application form should be developed for single dwelling/non-adoptable applications – this should not necessarily result in a reduction in cost, unless for certain developments, e.g. agricultural.
4. It was broadly agreed that any differentiation in fees and cost recovery could be split with adoptability of a site being the differentiator. Generally, the consensus was that fees should be cost-recovery based and that non-adoptable sites were usually not cost-recoverable due to the additional work required post approval, including discharge of conditions and adoption.
5. Provision should be made for minor amendments to be made, aligned with the Town and Country Planning Process.

Additional SAB services

Lastly, we asked whether applicants would be keen to see “additional services” being provided by the SAB at an additional cost which would increase the likelihood of their application being approved. Over half of respondents indicated that this was something they would like to see and gave the following suggestions on types of service. However some SABs noted during meetings that providing design could be problematic regarding design liability.

Regarding opportunities for more meetings and site meetings with the SAB to aid the application, 64% of respondents who answered this question raised this as something they want more of.

Regarding the production of drainage layouts and undertaking elements of design including calculations and provision of discharge rates, this was suggested by 45% of respondents who answered this question.

A full review into fees can be found at Appendix E.

9.1.3 Recommendations

The following recommendations are presented for consideration.

Table 17 – Charging mechanism recommendations

Ref.	Recommendations	Time frame
D01	<p>Review the current fee structure (in 12-24 months).</p> <p>Following data collection review fees for various types, scales and locations of development with a view to amending the fee structure if required to ensure costs are covered, while not burdening small development with unaffordable costs.</p> <p>Resource implications: The Welsh Government should initiate a review of fees following consistent data gathering and reporting from SABs.</p>	Medium term
D02	<p>Develop a formal process by which SABs can assess minor amendments.</p> <p>This should take learning from the process for minor amendments in Planning.</p> <p>This could be achieved using changes to secondary legislation. Consultation may be needed.</p> <p>Resource implications: The Welsh Government should facilitate a group consisting of SABs and applicants to develop examples of minor amendments and a process for dealing with these, for consultation.</p>	Medium term

9.2 Enforcement

9.2.1 Summary of Issues

Feedback from SABs is that the Standards or associated guidance documents do not define what the enforcement boundary should be. Also, some SABs desire to have stronger powers to ensure SAB applications are submitted for all qualifying schemes to ensure that these are designed and built to an acceptable standard with appropriate levels of maintenance are being undertaken.

9.2.2 Engagement, Feedback & Discussion

The questionnaire included two questions on enforcement. The first asked whether it was clear when enforcement action can be taken by the SAB. Of the respondents that expressed an opinion, 60% do not think it is clear, including 44% of SABs.

The second asked whether a national approach should be taken regarding enforcement to ensure consistency. 93% of respondents agreed with this approach.

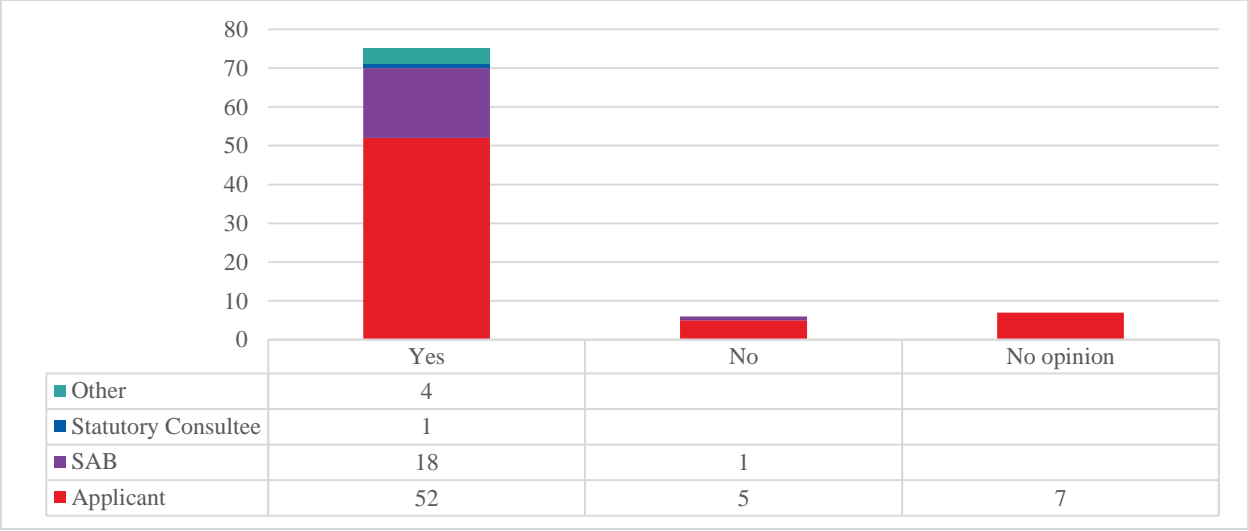


Figure 41 - Feedback on whether a national approach to enforcement should be taken

9.2.3 Recommendations

The following recommendations are presented for consideration.

Table 18 – Enforcement recommendations

Ref.	Recommendations	Time frame
D03	<p>Produce guidance to local authorities setting out expectations for designation of SuDS features.</p> <p>Provide further guidance on designating features under Schedule 1 of the FWMA 2010 so that relevant enforcement powers are able to be used when SuDS are not maintained effectively.</p> <p>Resource implications: The Welsh Government should initiate guidance on this. Its noted this may have resource implications on SABs, and a consistent approach/system for asset management may also be of benefit.</p>	Short term
D04	<p>Produce guidance showing milestones on where enforcement officers can be involved.</p> <p>This should include what the next steps are i.e. starting without a consent in place, warning letter, notice served, prosecution, not complying with consent, not maintaining etc.</p> <p>The Welsh Government should consult on this guidance and publish in a future update to the guidance document.</p> <p>Resource implications: The Welsh Government should initiate guidance on this.</p>	Medium term
D05	<p>Provide guidance on what should happen when maintenance of non-adoptable SuDS is not carried out post construction and review whether further access and enforcement powers are needed.</p> <p>The Welsh Government should consult on this guidance and publish in a future update to the guidance document.</p> <p>Resource implications: The Welsh Government should initiate guidance on this.</p>	Medium term
D06	<p>Develop a national enforcement template, available to all SABs to use to ensure national consistency/ develop.</p> <p>It is recommended that this is developed at a national level. This should include relevant legal input and a consultation with both SABs and applicants.</p> <p>Resource implications: The Welsh Government should initiate this.</p>	Medium term
D07	<p>Consider defining a boundary for the enforcement area on a development.</p> <p>This recommendation would require public consultation and a change to secondary legislation.</p> <p>Resource implications: The Welsh Government should initiate guidance on this.</p>	Medium term

Ref.	Recommendations	Time frame
D08	<p>Development of local or regional partnerships to provide a dedicated central resource for enforcement.</p> <p>This recommendation requires funding and possible legislative change to establish a body. Consideration should be given to making this a government appointed body should this be taken forwards.</p> <p>Resource implications: This may require initial funding to establish, but in the longer-term could ease resource pressure relation to enforcement.</p>	Long term

9.3 Appeals

9.3.1 Summary of Issues

The appeals process allows an applicant to appeal against a decision made by a SAB regarding an application. Statutory consultees currently have no provision to appeal against a decision made by the SAB that may contradict their advice. An example of this could be an SAB accepting a proposal for discharge to the combined sewer network, with no process for the sewerage undertaker to appeal. This puts into question the control the sewerage undertaker has over the network. Currently if a statutory consultee were to object to a SAB approval being granted without taking account of their advice or an objection, they would need to instigate a Judicial Review of that decision.

9.3.2 Engagement, Feedback & Discussion

A general question was posed on whether the current guidance is clear enough on when you can appeal a decision made by the SAB and what will happen next. As shown in Figure 42 below, 46% of respondents do not think that the current guidance is clear enough. However, 40% of respondents did not express an opinion on this question.

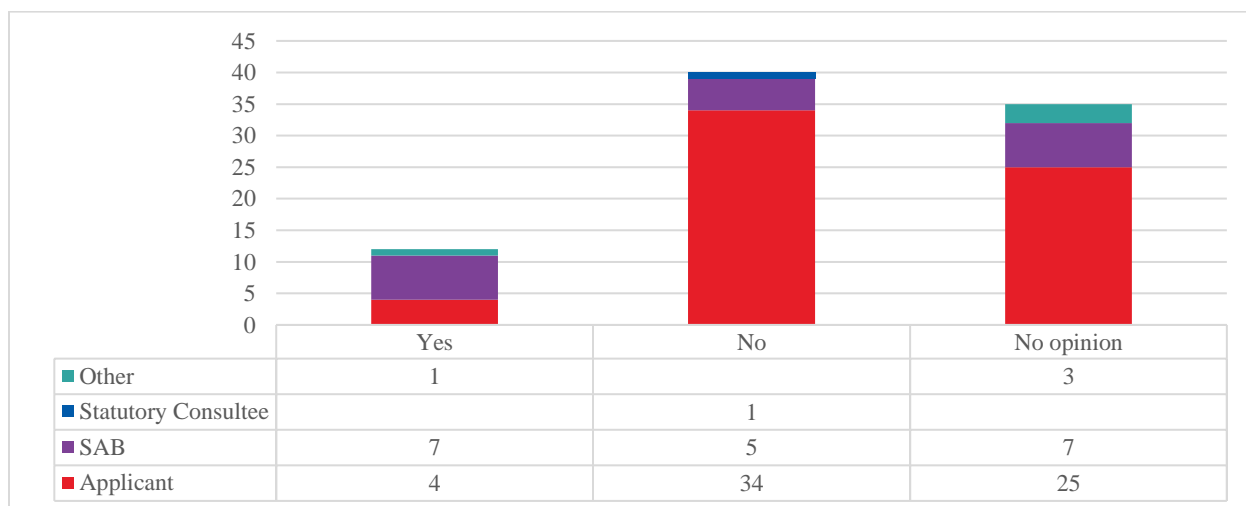


Figure 42 – Feedback on whether current guidance on enforcement is clear

Applicants were also asked whether they had appealed a decision from the SAB and 95% responded that they had not.

9.3.3 Recommendations

The following recommendations are presented for consideration.

Table 19 – Appeals recommendations

Ref.	Recommendations	Time frame
D09	<p>Updated guidance on what can be appealed and the process to be followed.</p> <p>The Welsh Government, in partnership with PEDW, should update the current guidance¹⁰ on what can be appealed and the process which will be followed once an appeal has been submitted to ensure that it is clear for both appellants and SABs.</p> <p>Resource implications: The Welsh Government should initiate guidance on this.</p>	Medium term
D10	<p>Introduce a right of appeal for statutory consultees to an appropriate governing body or Welsh Ministers where their advice has not been taken account of and it has a fundamental impact on their functions or assets.</p> <p>A change to primary legislation would be required to enable this change. The Welsh Government would need to await the appropriate legislative vehicle to propose this change which would also be subject to both public consultation and legislative scrutiny.</p> <p>Resource implications: The Welsh Government should consider this.</p>	Long term

9.4 Adoption

9.4.1 Summary of Issues

Whilst the legislation and guidance provide means of ‘adoption’ (by the SAB or Highway Authority) there is a lack of clarity on who ‘owns’ a SuDS post-adoption which could result in difficulties when repairs or replacements are needed as the asset reaches its lifespan.

There is a lack of consistency in the application of the definition of “single property” for the purpose of adoption, noting there is a clear intention to not use the term “curtilage”. In some instances this is leading to relatively large developments with drainage systems serving multiple buildings and properties not becoming adopted where they remain with a single owner. For example, a social housing development or retail park. Concerns are raised about this approach relating to risk to downstream networks and watercourses should the system not be maintained long-term.

Noting the resource and commercial challenges faced within SAB teams, the lack of legal framework for adoption including standard forms/templates is highlighted by SABs and applicants. Standardisation in this area is needed.

¹⁰ [sustainable-drainage-system-suds-appeals-guidance.pdf \(gov.wales\)](#)

9.4.2 Engagement, Feedback & Discussion

Six questions were posed in the questionnaire on the topic of adoption. The first sought views on whether adoption was an issue that came up in most applications for both SABs and applicants. As shown in Figure 43 below, 72% SABs felt that adoption was an issue on only a few applications. However, 78% of applicants felt that adoption is an issue on more than half of their applications.

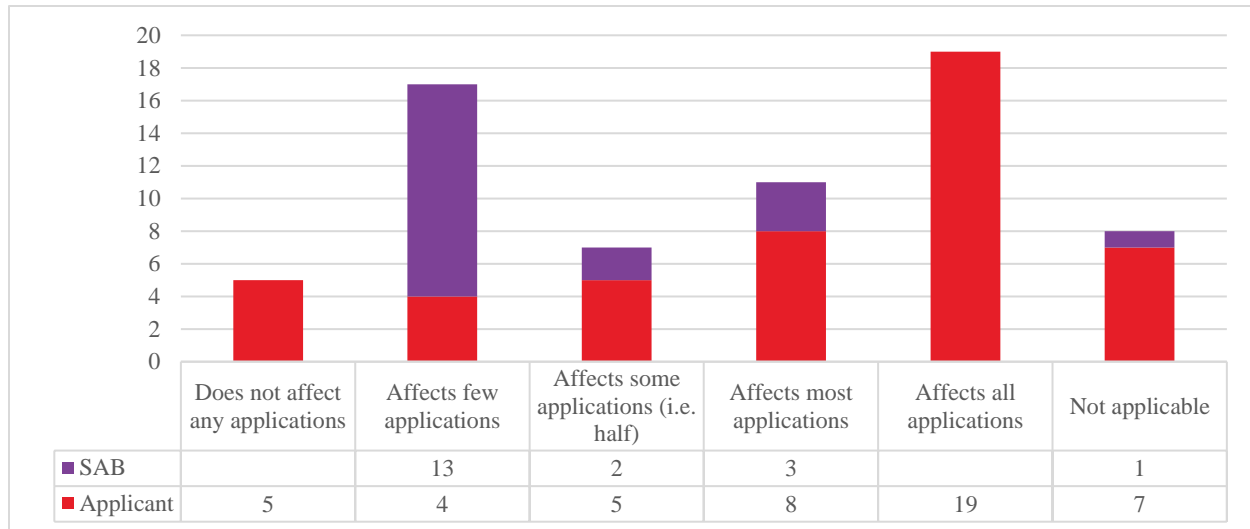


Figure 43 - Feedback on whether adoption is an issue for applications

Of those that expressed an opinion, 61% of SABs felt that the current legislation and associated guidance is clear on what is adoptable, but 67% of applicants disagreed. However, 89% of those that expressed an opinion wanted to see model national adoption agreements developed and published. This was compared to 74% wanting to see model agreements at a local authority level and 62% at a regional level.

Lastly, 77% of those that have had a drainage system adopted believe that it is an issue that the current legislation only extends to operation and maintenance and does not cover ownership.

In addition to the questionnaire, we sought specific feedback from the SABs on topics including adoption. Of the 10 SABs that responded to this request for data, only one confirmed that the adoption process has been completed for several developments in their local authority area. A further eight SABs stated that they had a few developments currently at some stage in the adoption process.

9.4.3 Recommendations

The following are presented for consideration.

Table 20 – Adoption options

Ref.	Recommendations	Time frame
D11	<p>Provide guidance on expectations of the adopting body.</p> <p>This could be achieved by updating the Welsh Government guidance to include clear scenarios of what is adoptable and what is not, and to set expectations on how adoptions should be executed by SABs, including handover and defects periods.</p> <p>Resource implications: The Welsh Government should initiate guidance on this.</p>	Short term

Ref.	Recommendations	Time frame
D12	<p>Provide illustrated examples of what single property means and set expectations of how this would look in practice.</p> <p>This could be achieved by the Welsh Government updating their guidance, taking learning from the guidance published for the 2011 private sewer transfer.</p> <p>Resource implications: The Welsh Government should initiate guidance on this.</p>	Short term
D13	<p>Model adoption agreements to be developed and published.</p> <p>Based on the questionnaire results it is recommended that this is developed at a national level. This should include relevant legal input and a consultation with both SABs and applicants.</p> <p>Resource implications: The Welsh Government should initiate this and seek to obtain local examples currently in place. This then requires refinement of a national model with legal review required.</p>	Medium term
D14	<p>Amend the primary legislation to extend the effect of adoption to include operation and ownership.</p> <p>A change to primary legislation would be required to enable this change as the definition of adoption is currently set out in the FWMA 2010. The Welsh Government would need to await the appropriate legislative vehicle to propose this change which would also be subject to both public consultation and legislative scrutiny.</p> <p>Resource implications: Requires consideration by the Welsh Government, and legal input to implement.</p>	Long term

9.5 Funding of Long-term Maintenance

9.5.1 Summary of Issues

There is a preference to see a consistent approach to funding long-term maintenance across Wales. Current large upfront payments make some developments unviable. A standardised approach to commuted sums would be welcomed, along with an appropriate period for calculation. In addition, it has been raised that other mechanisms for generating revenue for maintenance should be explored. A sustainable hybrid option could be a combination of commuted sum paid by the developer and an ongoing levy paid by benefiting properties.

In some SAB areas allocated maintenance funds are not protected and are determined in the context of the wider Local Authority. For some SABs commuted sums may be at risk of not being available strictly for the purpose for which they were levied, if they are not ringfenced.

Lastly, there is currently a disconnect with regard to those who are receiving surface water management/disposal services and whether they pay for them. Some historic surface water management is undertaken by the sewerage undertaker and therefore attracts surface water charges. However, those served by an asset that is adopted by the SAB or another part of the local authority are not paying for this

service. This is a disparity in charging that could be reviewed to support the above point in relation to revenue generation.

9.5.2 Engagement, Feedback & Discussion

As part of the questionnaire, seven questions focused on the issue of funding of long-term maintenance. Applicants indicated how many of their applications were affected by the issue of funding of long-term maintenance. 86% said that it affected over half of their applications, and almost half said it was an issue on all their applications.

92% of respondents supported the development of a national commuted sums approach including a schedule of rates and length of maintenance period to enable better estimation of maintenance costs and inform feasibility of interventions and viability of development sites. This included 94% of SABs and 91% of applicants.

55% of respondents favoured 30 years as the maintenance period for commuted sums calculation which was also reflected in the free text comments. This period was deemed to be favourable compared to 40 years (21%) and 50 years (24%).

It was also asked whether a property levy/tax would be supported as an alternative to the commuted sum approach. 53% of respondents supported this and said that they would like this to be looked at in more detail.

Of those who expressed an opinion, 89% of respondents were concerned that commuted sums are not being ringfenced for their intended purpose. This included 69% of the SABs who responded.

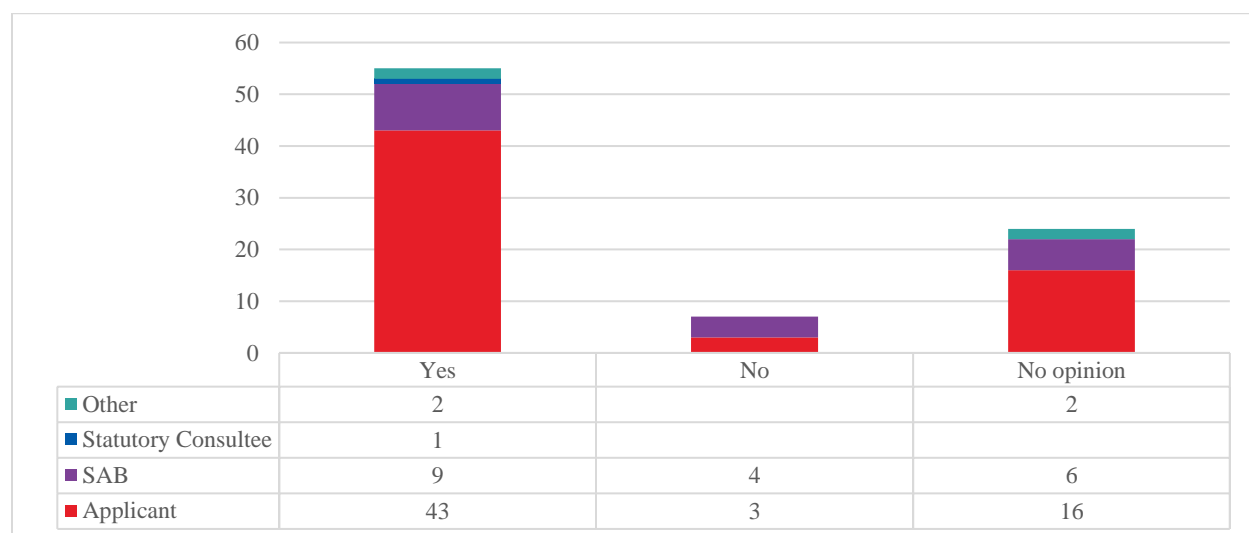


Figure 44 - Feedback on concern around commuted sums being ringfenced

Lastly, it was asked whether guidance was needed to clarify what should be included in maintenance schedules and agreements and what elements could be funded from other Welsh Government allocations (e.g. the local authority allocation determined using the Relative Needs Formula). 97% of respondents agreed that clarity was needed, including 100% of SABs who responded to this question.

9.5.3 Recommendations

The following recommendations are presented for consideration.

Table 21 – Maintenance funding recommendations

Ref.	Recommendations	Time frame
D15	<p>Development of a national commuted sums approach including a schedule of rates and length of maintenance period to enable better estimation of maintenance costs to inform feasibility of interventions and viability of development sites.</p> <p>Clear guidance needs to be developed and published. This task was started as part of the fees and charges sub-group and contact was made with the County Surveyors Society in Wales to transpose their current guidance into a new document specifically for SuDS. The Welsh Government should reinvigorate this work and consider limiting maintenance periods to more feasible timeframe more closely aligned with 30 years.</p> <p>Resource implications: The Welsh Government should initiate this, though this could then be led by a third party (consultant) noting examples exist that could be built upon. Requires input from all stakeholders including the County Surveyors Society in Wales.</p>	Short term
D16	<p>Identify legislative powers and appetite to raise a levy to help fund maintenance.</p> <p>This would be limited to benefitting properties i.e. whose surface water is managed by an adoptable SuDS feature.</p> <p>A short research exercise (legal review) should be undertaken to identify and recommend options as to how it can be implemented.</p> <p>Resource implications: Requires legal input to determine, and consideration by the Welsh Government.</p>	Short term
D17	<p>Clarity to be provided on what should be included in maintenance schedules and agreements and what elements could be funded from other Welsh Government funding allocations such as the local authority allocation determined using the Relative Needs Formula.</p> <p>The Welsh Government should issue guidance on what should be included in maintenance schedules and agreements and what elements could be funded from other Welsh Government funding allocations such as the local authority allocation determined using the Relative Needs Formula.</p> <p>Resource implications: The Welsh Government should initiate guidance on this.</p>	Short term

Ref.	Recommendations	Time frame
D18	<p>Require local authority income (from commuted sums etc) to be used for the purposes of SuDS maintenance.</p> <p>The Welsh Government should provide direction to Local Authorities to ensure that this happens. SABs could be required to return to the developer maintenance funds not used for the purposes of maintenance.</p> <p>Resource implications: Requires initial legal review of whether this is currently required. Legislative change may be required.</p>	Medium term
D19	<p>Draft a maintenance factsheet/guidance.</p> <p>This could consider update of the 2015 CIRIA Susdrain maintenance and adoption factsheet¹¹. The Susdrain factsheet is not relevant to Wales and requires updating to reflect the current legislative framework.</p> <p>Resource implications: Initiated by the Welsh Government, this could be delivered by a third party.</p>	Medium term
D20	<p>If appetite and current provisions require, implement legislation for powers for SABs to raise a levy to fund maintenance of SuDS.</p> <p>Resource implications: Would require legislative change.</p>	Long term
D21	<p>Investigate case for SABs to be legally required to be financially separate and self-sufficient with assured accounts.</p> <p>Local Authorities could be legally precluded from transferring income and commuted sums generated by the SAB for use on other services provided by the Local Authority during the period before they are required. Surplus funds would be protected from being transferred to other parts of the local authority not connected with the SAB.</p> <p>Such an approach (akin to the arrangements of arms-length commercial entities such as Ymgynghoriaeth Gwynedd Consultancy, or Local Authorities functioning as Harbour Authority) would be beneficial in allowing the SAB the ability to plan for the long-term, to have funds available for maintenance, but also to be able to cope with unexpected events where funds are required at short notice. Potential further benefits include not being dependent on the local authority or not needing to compete with other local authority services for funds.</p> <p>Resource implications: Requires further consideration and would require legislative change.</p>	Long term

¹¹ https://www.susdrain.org/files/resources/fact_sheets/09_15_fact_sheet_suds_maintenance_and_adoption_options_england_.pdf

9.6 Inspections

9.6.1 Summary of Issues

Inspection arrangements currently inadequate to identify non-conformities.

Applicants have fed back that the frequency and costs associated with inspections vary considerably between SABs.

9.6.2 Engagement, Feedback & Discussion

Three questions were asked in the questionnaire related to inspections, including the frequency of inspections experienced by applicants, clarity on when inspections are required and the associated costs and the current level of inspection fee which is set at £168 per inspection by legislation.

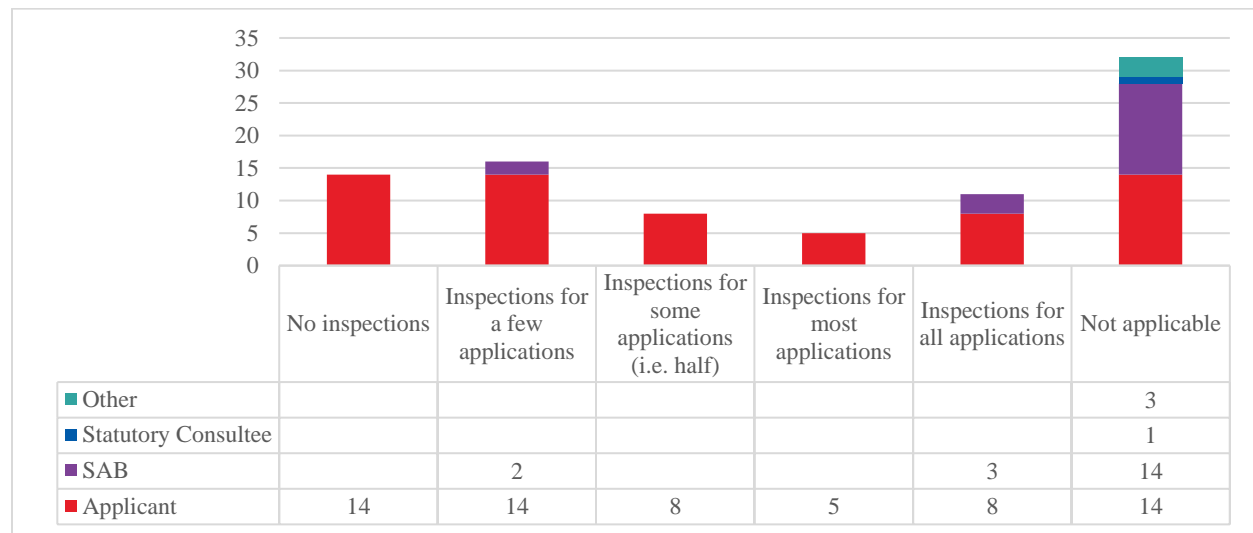


Figure 45 - Feedback on whether drainage systems are inspected

Figure 45 shows that applicants have a varying experience of the frequency of inspections during construction. However, the majority reported that they have either had no inspections or inspections for only a few applications.

The focus groups held in December 2022 highlighted that inspections are not always undertaken, attributed largely to SAB resource pressures.

Subsequent questions in the questionnaire showed that 59% of respondents that expressed an opinion believed that it is not clear when inspections are needed and how much they should cost. Of this 59%, only 12% were SABs. Of all SABs that expressed an opinion, 66% believed that it was clear.

An equivalent number of respondents believed that the inspection fees were just right and too high. However, 100% of those respondents who believed that the inspection fees were too high were developers.

Through the focus groups the general consensus of the SABs in attendance was that the current set inspection fee was covering their costs where inspections were being undertaken. However, it was noted that taking a risk-based approach to inspections and making better use of technology for resource efficiency and offering the benefit of reduced carbon costs.

9.6.3 Recommendations

The following recommendations are presented for consideration.

Table 22 – Inspections recommendations

Ref.	Recommendations	Time frame
D22	<p>Clearer guidance on inspection requirements including a reasonable cost to cover each visit.</p> <p>Noting this may require producing a legal template.</p> <p>The Welsh Government should produce guidance on inspections which should include frequency/quantity of inspections to ensure that there is not a legacy of defects in drainage systems for future generations. In addition, the Welsh Government should produce guidance on how technology can be used to inspect elements, including the use of photos and video calls to reduce the pressure on teams and carbon associated with site travel. This will need to be coupled with a skills capacity plan.</p> <p>At this time, it is not considered that Welsh Government should increase the inspection fees unless data on actual costs can be gathered from the SABs.</p> <p>Resource implications: The Welsh Government should initiate guidance on this, which will require input from SABs.</p>	Short term
D23	<p>Development of local or regional partnerships to provide a dedicated central resource for inspections.</p> <p>Commercial arrangements would need to be made and teams recruited for this recommendation to be progressed. There may also be an opportunity to combine this pool of resource with another function such as highways inspections.</p> <p>Resource implications: This requires Local Authorities to initiate but in the long-term could help ease resource pressures The Welsh Government could offer funding to help initiate and transition.</p>	Long term

9.7 Bonds

9.7.1 Summary of Issues

The guidance is unclear about whether a bond is considered a requirement for all developments (i.e. where the drainage relates to a single property or is unadoptable). In some instances bonds are being requested for very small development which is introducing prohibitive upfront cost. Some SABs are currently not applying bonds to developments at all due to a lack of legal resource.

9.7.2 Engagement, Feedback & Discussion

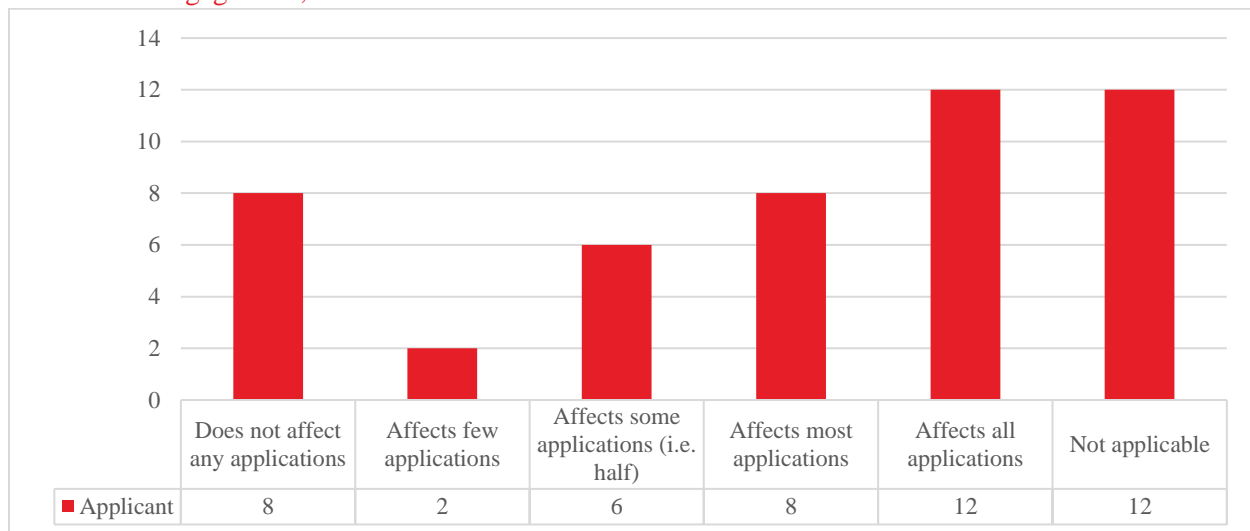


Figure 46 - Feedback from applicants on whether performance bonds are an issue

A high proportion of applicants suggest that bonds effect most or all applications.

95% of those that expressed an opinion believe that there is not currently sufficient guidance on when bonds apply and the level they should be set at to ensure that they are economically viable.

9.7.3 Recommendations

The following recommendation is presented for consideration.

Table 23 – Bonds recommendation

Ref.	Recommendation	Time frame
D24	<p>Amend guidance to ensure clarity on when bonds apply and review current guidance to ensure that they are economically viable.</p> <p>The Welsh Government should review and amend the current guidance to ensure that there is sufficient clarity on when bonds apply. This should be drafted in consultation with both SABs and developers to ensure that it is easy to interpret by all involved. The Welsh Government should also consider sitting guidance on the level that bonds should be set at, ensuring that it is proportionate to the size of the development.</p> <p>Resource implications: The Welsh Government should initiate guidance on this, which will require input from SABs.</p>	Short term

Appendix A

Pitt Review (2008) outstanding recommendations

The relevant recommendations from the Pitt Review (2008)¹² have been listed below with a summary of whether they have been implemented.

Table 24 – Pitt Review outstanding recommendations

Recommendation number	Detail of recommendation	Comments
Recommendation 9	Householders should no longer be able to lay impermeable surfaces as of right on front gardens and the Government should consult on extending this to back gardens and business premises.	<p>Permitted development rights were changed in 2014 in Wales to mean that any new driveway or hardstanding to the principal elevation of a dwelling of over 5m² will require planning permission unless constructed using porous materials.</p> <p>No change has taken place regarding back gardens and business premises.</p>
Recommendation 10	The automatic right to connect surface water drainage of new developments to the sewerage system should be removed.	The automatic right to connect surface water from new developments has been made conditional on the approval from the SAB. This was changed by the implementation of Schedule 3 of the FWMA 2010 which inserted section 106A into the Water Industry Act 1991 in Wales. It is also further undermined by the insertion of section 115(5A) of the Water Industry Act 1991 in Wales which compels the sewerage undertaker to any use by a highway drainage system which is in accordance with a drainage system approved under Schedule 3 of the FWMA 2010.

¹² The Pitt Review: learning lessons from the 2007 floods (2008)
https://webarchive.nationalarchives.gov.uk/ukgwa/20100702215619/http://archive.cabinetoffice.gov.uk/pittreview/thepittreview/final_report.html

Recommendation number	Detail of recommendation	Comments
Recommendation 19	Local authorities should assess and, if appropriate, enhance their technical capabilities to deliver a wide range of responsibilities in relation to local flood risk management.	This is something which is continually raised as an issue in Wales and would benefit from a more strategic review of how to enhance technical capabilities and attract people into roles.
Recommendation 20	The Government should resolve the issue of which organisations should be responsible for the ownership and maintenance of sustainable drainage systems.	This has partially been resolved by Schedule 3 of the FWMA 2010 which provides a duty to adopt systems to the approval body (SAB). The adoption provision explicitly only extends to the maintenance responsibilities for a system and consequently leaves a clear gap in relation to ownership.

Appendix B

Interim Report

An English Language version of the Interim Report can be requested from the Welsh Government.

Appendix C

Applicant Focused Workshop Notes

An English Language version of the workshop notes is available upon request from the Welsh Government.

Appendix D

Focused Questionnaire Results

An English Language version of the questionnaire results is available upon request from the Welsh Government.

Appendix E

Fees Review Note

An English language version of the Fees Review Note is available upon request from the Welsh Government.

Appendix F

Pre-application Process Review Note

An English language version of the Pre-application Process Review Note is available upon request from the Welsh Government.

Appendix G

Virtual Engagement Event Feedback

A collated set of feedback from this engagement event in English language is available upon request from the Welsh Government.