



Safer buildings in Wales

Consultation Response Form

Your name:

Timothy Douglas

Organisation (if applicable):

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| Section 5: Setting out the Scope of the Building Safety Regime | |
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| Q 1. | <p>Do you agree that the Building Safety Regime in Wales should apply to all multi-occupied residential buildings with two or more dwellings? Please support your view.</p> <ul style="list-style-type: none">No, we do not agree that the Building Safety Regime in Wales should apply to all multi-occupied residential buildings with two or more dwellings. We believe that the Welsh Government should, instead, focus on the height of buildings, occupation and material used to build property to determine risk rather than simply the number of dwellings. For instance, the risk of death from fire is significantly reduced in a two-storey house that has been converted into separate dwellings because people are able to escape the building, rather than a purpose-built block of flats that contains multiple units. It is vital that the Building Safety Regime is proportionate and considers the administration and costs involved in managing property.In relation to rented property we have two additional concerns. Firstly, for all private rented property in Wales there is already an existing registration and licensing regime for landlords and letting agents under Rent Smart Wales.¹ This includes the letting of houses, purpose-built flats, Houses in Multiple Occupation and houses converted into flats. Secondly, under the Renting Homes (Wales) Act 2016, there will be a requirement for landlords to ensure functioning smoke alarms, carbon monoxide detectors and electrical and gas safety certificates be in place for each dwelling they let.² The Welsh Government must ensure that any new Building Safety Regime compliments |

¹ <https://www.rentsmart.gov.wales/en/home/>

² <https://gov.wales/renting-homes>

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| | rather than duplicates existing legislation and regulatory requirements for owners and managers of residential buildings. |
| Q 2. | <p>Do you agree that there should be two 'Risk Categories' for the Building Safety Regime? Please your views.</p> <ul style="list-style-type: none"> No, we do not agree that there should be two 'Risk Categories' for the Building Safety Regime. In order to better focus on risk, the Welsh Government should look to create additional 'Risk Categories' that include the height of buildings, occupation and material used to build the property rather than simply the number of dwellings. |
| Q 3. | <p>Do you agree with the proposed scope of Category 1 buildings? Please support your view.</p> <ul style="list-style-type: none"> Yes, we agree with the proposed scope of Category 1 buildings. This is because buildings that are 18 metres or more in height or more than 6 storeys and contain two or more dwellings, have a greater fire risk. |
| Q 4. | <p>Do you agree with the proposed scope of Category 2 buildings? Please support your view.</p> <ul style="list-style-type: none"> No, we do not agree with the proposed scope of Category 2 buildings. We believe the category is too broad. The Welsh Government should do two things. Firstly, introduce additional categories. This should include buildings between 11 metres to 18 metres in order to strengthen the requirements for high-risk property. Secondly, establish a list of risk factors that apply to buildings in each category to explain how the new Building Safety Regime will apply to them. This will allow a more proportionate approach which considers the risk of fire in different property types. |
| Q 5. | <p>Do you agree that licensed HMOs should be included within the scope of the Building Safety Regime?</p> <ul style="list-style-type: none"> No, we do not agree that licensed HMOs should be included within the scope of the Building Safety Regime. We think this for two reasons. Firstly, the letting agent or landlord managing the property is already registered with Rent Smart Wales, and thus acting as a de facto Accountable Person. Secondly, mandatory licensing already exists with the intention of controlling housing standards in higher risk HMOs, such as those with the highest risk of death or injury by fire.³ Therefore, we are concerned that under the new Building Safety Regime, two separate pieces of legislation will be tackling the same issue. |
| Q 6. | <p>Do you agree with the exemptions as set out at Figure 6? Are there any other categories of building that should be included within the scope of the regime during occupation? Please support views.</p> <ul style="list-style-type: none"> No, we do not agree with the exemptions. As outline in the consultation document and based on the Welsh Government's principle that buildings with two or more dwellings (including purpose-built student accommodation) will |

³ <https://gov.wales/houses-multiple-occupation-hmo-guidance-local-authorities>

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| | fall under the new Building Safety Regime, we believe that care homes, hospitals and hotels should also be in scope. |
| Q 7. | <p>Do you think that any extra measures should be taken as regards single flats above high-risk premises like restaurants and takeaways? Please support your views.</p> <ul style="list-style-type: none"> No, we do not think that any extra measures should be taken as regards single flats above high-risk premises like restaurants and takeaways. It is our understanding that the risks can be adequately addressed within the Fire Safety Order. |
| Q 8. | <p>Do you have any other comments on the issues we have raised in this section?</p> <ul style="list-style-type: none"> No, we have no further comments on the issues raised in this section. |
| Section 6: The Building Safety Regime (Design and Construction Phase) | |
| Q 9. | <p>Do you agree that a consistent approach with England to the information set out in the Golden Thread and Key dataset is appropriate? If no, please support your views.</p> <ul style="list-style-type: none"> Yes, we agree that a consistent approach with England to the information set out in the Golden Thread and Key dataset is appropriate. Many duty holders and property professionals (sales, lettings and managing agents) work in both England and Wales so a consistent approach between the two countries will avoid confusion and improve implementation of any new Building Safety Regime. |
| Q 10. | <p>Do you agree that it is appropriate for all buildings within scope of the Building Safety Regime to provide information in relation to the key dataset? Please support your views.</p> <ul style="list-style-type: none"> To support transparency, we agree that it is appropriate for all buildings within scope of the Building Safety Regime to provide information in relation to the key dataset. |
| Q 11. | <p>Do you agree that the broad duties set out are appropriate?</p> <ul style="list-style-type: none"> We do not have enough relevant information to answer this question. |
| Q 12. | <p>Are there any additional duties we should include? Please support your views</p> <ul style="list-style-type: none"> We do not have enough relevant information to answer this question. |
| Q 13. | <p>Do you agree that there should be a named individual identified where the dutyholder is a legal entity? Please support your views.</p> <ul style="list-style-type: none"> Yes, we agree that there should be a name individual identified where the dutyholder is a legal entity. |
| Q 14. | <p>How effective are the existing arrangements for Local Authorities and Fire and Rescue Authorities to consider issues of availability of water during the preparation of Local Development Plans?</p> <ul style="list-style-type: none"> We do not have enough relevant information to answer this question. |

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| Q 15. | <p>Should Fire and Rescue Authorities become “specific consultation bodies” as defined by the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005?</p> <ul style="list-style-type: none"> • We do not have enough relevant information to answer this question. |
| Q 16. | <p>To what extent do you agree with the proposed content of a Fire Statement?</p> <ul style="list-style-type: none"> • We strongly agree with the proposed content of a Fire Statement. |
| Q 17. | <p>Do you agree responsibility for the content of a fire statement should rest with the dutyholder?</p> <ul style="list-style-type: none"> • Yes, we agree responsibility for the content of a fire statement should rest with the dutyholder or where one is appointed the Principal Designer. |
| Q 18. | <p>Do you agree that Gateway Two should be a ‘hard’ stop point where construction cannot begin without permission to proceed? Please support your views.</p> <ul style="list-style-type: none"> • Yes, we agree that Gateway Two should be a ‘hard’ stop point where construction cannot begin without permission to proceed. |
| Q 19. | <p>Should the Local Authority Building Control Body have discretion to allow a staged approval approach? Please support your views.</p> <ul style="list-style-type: none"> • We do not have enough relevant information to answer this question. |
| Q 20. | <p>What is an appropriate timescale for the Local Authority Building Control to respond to Gateway Two applications? Please support your views.</p> <ul style="list-style-type: none"> • We do not have enough relevant information to answer this question. |
| Q 21. | <p>Should the Local Authority Building Control be allowed to extend these time scales? If so what would the circumstances be? Please support your views.</p> <ul style="list-style-type: none"> • We do not have enough relevant information to answer this question. |
| Q 22. | <p>Do you agree that the Principal Contractor should be required to consult the Client and Principal Designer on changes to plans?</p> <ul style="list-style-type: none"> • We do not have enough relevant information to answer this question. |
| Q 23. | <p>Do you agree the Principal Contractor should be required to notify the Local Authority Building Control of any proposed major changes before carrying out works?</p> <ul style="list-style-type: none"> • We do not have enough relevant information to answer this question. |
| Q 24. | <p>Do you agree that the where major changes are made to the approved plans there should be a “hard” stop and work should not proceed until the revised plans have been approved by the local authority.</p> <ul style="list-style-type: none"> • We do not have enough relevant information to answer this question. |

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| Q 25. | <p>What is an appropriate timescale for the Local Authority Building Control to respond to proposed major changes? Please support your views.</p> <ul style="list-style-type: none"> We do not have enough relevant information to answer this question. |
| Q 26. | <p>Do you agree that for new Category 1 buildings an Accountable Person must be registered before occupation of the building can begin?</p> <ul style="list-style-type: none"> Yes, we agree that for new Category 1 buildings an Accountable Person must be registered before occupation of the building begins. |
| Q 27. | <p>Do you agree that a final declaration should be produced by the Principal Contractor with the Principal Designer to confirm that the building complies with building regulations? Please support your view.</p> <ul style="list-style-type: none"> We do not have enough relevant information to answer this question. |
| Q 28. | <p>Should Local Authority Building Control be required to respond to gateway three submissions within a particular timescale? If so, what is an appropriate timescale?</p> <ul style="list-style-type: none"> We do not have enough relevant information to answer this question. |
| Q 29. | <p>Are there any circumstances where we might need to prescribe local authority Building Control's ability to extend these timescales? If so, please support your view with examples.</p> <ul style="list-style-type: none"> We do not have enough relevant information to answer this question. |
| Q 30. | <p>Do you agree that the Client during Gateway Two (if not continuing in the role as Accountable Person) must hand over building safety information about the final, as built building to the Accountable Person before occupation is permitted?</p> <ul style="list-style-type: none"> Yes, we agree that the Client during Gateway Two (if not continuing in the role as Accountable Person) must hand over building safety information about the final, as built building to the Accountable Person before occupation is permitted. |
| Q 31. | <p>Do you agree it is appropriate to allow staged occupation (where previously agreed during Gateway Two) e.g. a mixed use development?? Please support your views</p> <ul style="list-style-type: none"> Yes, we agree it is appropriate to allow staged occupation (where previously agreed during Gateway Two). Here we would flag that the client and Accountable Person should both agree that it is safe to do so. |
| Q 32. | <p>Do you agree that Category 1 buildings undergoing major refurbishment should also be subject to the Gateway approach? Please support your views.</p> <ul style="list-style-type: none"> Yes, we agree that Category 1 buildings undergoing major refurbishment should also be subject to the Gateway approach. |
| Q 33. | <p>Are there any other types of residential building or characteristics of a residential building that should require it to go through the Gateway process? Please support</p> |

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| | <p>your views.</p> <ul style="list-style-type: none"> • Yes, as highlighted previously in our response we believe that under the current principles of the new Building Safety Regime it should be extended to care homes, hospitals and hotel accommodation. |
| Q 34. | <p>We will be undertaking further consultation in this area when we set out regulations. Would you be interested in being added to our stakeholder list in relation to the Design and construction phase? Please provide your details</p> <ul style="list-style-type: none"> • Yes, PropertyMark would like to be added to your stakeholder list. Please contact Daryl McIntosh, Policy Manager at PropertyMark via email address darylmcintosh@propertymark.co.uk |
| Section 7: The Building Safety Regime (Occupation phase) | |
| Q 35. | <p>Do you agree that there should be a single and clearly identified Accountable Person for all premises covered by the Building Safety Regime?</p> <ul style="list-style-type: none"> • Yes, we agree that there should be a single and clearly identified Accountable Person for all premises covered by the Building Safety Regime. |
| Q 36. | <p>Do you agree with the proposed approach in identifying the Accountable Person? Please support your view.</p> <ul style="list-style-type: none"> • No, we do not agree with the proposed approach because greater clarity is needed in one important area. More detail is needed on how the duty to register all in-scope buildings under the ownership or control of the Accountable Person and ensuring compliance with the statutory duties in occupation will interact with the letting of residential property under the registration requirements for Rent Smart Wales. This is because if HMOs fall under the scope of the Building Safety Regime, the Accountable Person could be a landlord or letting agent. Without integrating the administration of the schemes this will complicate the registration process as well as increase training and costs for property professionals who are already registered trained and licenced to manage property. The Welsh Government must consider how the new Building Safety Regime will relate to letting agents and estate agents who interact with consumers when buying, selling or renting property. |
| Q 37. | <p>Are there specific examples of building ownership and management arrangements where it might be difficult to apply the concept of an Accountable Person? If yes, please provide examples of such arrangements and how these difficulties could be overcome.</p> <ul style="list-style-type: none"> • We do not have enough relevant information to answer this question. |
| Q 38. | <p>Do you agree that the default position should be that the Accountable Person is the freeholder?</p> <ul style="list-style-type: none"> • Yes, in principle we agree that the default position should be that the Accountable Person is the freeholder. |
| Q 39. | <p>For mixed-use buildings there will be a 'Responsible Person' under the FSO for the</p> |

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| | <p>business premises, and an 'Accountable Person' under the Building Safety Regime for residential parts. Are there any requirements we should consider about how these responsible parties should work together to support and ensure fire safety of the whole building?</p> <ul style="list-style-type: none"> • It is likely that agreements will need to be made on how to split costs for the building as a whole. |
| Q 40. | <p>Do you agree with the proposed duties of the building safety manager for Category 1 buildings? Please support your view.</p> <ul style="list-style-type: none"> • No, we do not agree with the proposed duties of the Building Safety Manager for Category 1 buildings. We have two concerns. Firstly, despite Building Safety Managers carrying out the role of the Accountable Person, under the Welsh Government's proposals liability is not transferred to the Building Safety Manager. Therefore, we are concerned about accountability to carry out the relevant functions. Secondly, there is no requirement for the Building Safety Manager to liaise with sales and letting agents who will be marketing these properties to be bought, sold and rented as well as managing the letting of individual units to consumers. It is important that sales and letting agents understand and can access relevant information relating to buildings, including costs and charges, in order to advertise property correctly and consumers can make informed decisions. |
| Q 41. | <p>Do you agree with the proposed division of roles and responsibilities between the Accountable Person and Building Safety Manager?</p> <ul style="list-style-type: none"> • No, we do not agree with the proposed division of roles and responsibilities between the Accountable Person and Building Safety Manager. We believe that Building Safety Managers will need greater legal responsibility and accountability. |
| Q 42. | <p>Is the relationship between the Accountable Person and Building Safety Manager sufficiently clear? Please explain your answer.</p> <ul style="list-style-type: none"> • No, we do not think that the relationship between the Accountable Person and Building Safety Manager is sufficiently clear. We are concerned about the liability of requirements not transferring from the Accountable Person and Building Safety Manager. |
| Q 43. | <p>Do you agree that the proposed duties and functions set out in Figure 8 for Accountable Persons for Category 1 buildings are appropriate?</p> <ul style="list-style-type: none"> • No, we do not agree fully with the proposed duties and functions for Accountable Persons for Category 1 buildings. This is because it is not clear from the 'working with others' section whether this includes engagement with landlords, letting and estate agents who will be marketing, letting, and selling these types of property. For instance, under the Consumer Protection Regulations, letting and estate agents must provide all material information about the property to all perspective tenants and buyers so they can make a reasonable assessment as to whether to continue with the transaction or not.⁴ |

⁴ <https://en.powys.gov.uk/article/4854/Advice-for-Estate-Agents>

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| | <p>To this end, a route of communication will need to be established between the Accountable Person and those who interact with the property and provide information on building safety. This will also help to ensure that Building Safety Managers and Accountable Persons know who owns a flat and who is living in the property as and when these change throughout the life cycle of the building.</p> |
| Q 44. | <p>Do you agree that the proposed duties and functions set out in Figure 8 for Accountable Persons for Category 2 buildings are appropriate? Please support your views.</p> <ul style="list-style-type: none"> No, we do not agree that the proposed duties and functions set out in Figure 8 for Accountable Persons for Category 2 buildings are appropriate. This is because the consultation document on page 99 says, “we are working to fully understand the number of Category 2 buildings in Wales, but best estimates at the moment are 13,000-37,000 properties, around 130,000 flats.”⁵ Consequently, there should be a requirement to develop and deliver a resident engagement strategy, record maintenance or inspections and training for those who plan to manage and monitor fire and structural safety in Category 2 buildings. This will help to provide a consistent approach to building safety across the country. |
| Q 45. | <p>Do you think that the different roles and responsibilities for Category 1 and Category 2 Accountable Persons are sufficiently clear and proportionate?</p> <ul style="list-style-type: none"> We are unable to decide whether the roles and responsibilities for Category 1 and Category 2 Accountable Persons are sufficiently clear and proportionate because there is no breakdown of costs and cost recovery. |
| Q 46. | <p>Are there any additional duties that should be placed on dutyholders? Please support your views.</p> <ul style="list-style-type: none"> We do not have enough relevant information to answer this question. |
| Q 47. | <p>Do you agree with our proposed fire safety outcomes? Please support your views.</p> <ul style="list-style-type: none"> Yes, we agree with our proposed fire safety outcomes. |
| Q 48. | <p>Do you agree with our proposed overall purpose of a fire risk assessment? Please support your views.</p> <ul style="list-style-type: none"> Yes, we agree with the proposed overall purpose of a fire risk assessment. |
| Q 49. | <p>Do you agree with our proposed risk areas? Please support your views.</p> <ul style="list-style-type: none"> Yes, we broadly agree with the proposed risk areas. To this end, we do not think that any new standards should require fire and smoke alarms to be interlinked in different flats in the same building. This could lead to unwanted fire alarm signals. However, interlinked alarms could be deemed necessary in higher risk properties. If interlinked alarms were introduced, we recommend that residents in flats receive clear guidance on evacuation procedures. |

⁵ <https://gov.wales/sites/default/files/consultations/2021-01/consultation.pdf>

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| Q 50. | <p>Do you agree that a fire risk assessment must be reviewed annually, and whenever premises are subject to major works or alterations for all buildings within scope?</p> <ul style="list-style-type: none"> • Yes, we agree that a fire risk assessment must be reviewed annually, and whenever premises are subject to major works or alterations for all buildings within scope. |
| Q 51. | <p>Do you agree that only a suitable qualified and experienced fire risk assessor should undertake fire risk assessments for buildings within scope? Please support your views.</p> <ul style="list-style-type: none"> • Yes, we agree that only a suitable qualified and experienced fire risk assessor should undertake fire risk assessments for buildings within scope. To this end, as highlighted previously in our response, it is essential that the standards are common in both Wales and England. |
| Q 52. | <p>Do you agree that fire risk assessments must be permanently recorded?</p> <ul style="list-style-type: none"> • Yes, we agree that fire risk assessments must be permanently recorded. |
| Q 53. | <p>Do you have any views about whether Accountable Persons or their employees should be precluded from conducting fire risk assessments themselves?</p> <ul style="list-style-type: none"> • We believe that fire risk assessments should be conducted by an independent assessor. |
| Q 54. | <p>Do you have any views on enforcement or sanctions for non-compliance with regards to the Accountable Person?</p> <ul style="list-style-type: none"> • Enforcement and sanctions should include a compliance notice, fine and criminal prosecution including prison depending on the severity of the offence. |
| Q 55. | <p>Do you have any views on enforcement or sanctions for a person undertaking a fire risk assessment without suitable qualifications or experience?</p> <ul style="list-style-type: none"> • We do not have enough relevant information to answer this question. |
| Q 56. | <p>Do you agree with our proposal to create duties with regards to compartmentation on Accountable Persons? Please provide information to support your views.</p> <ul style="list-style-type: none"> • Yes, we agree with the proposal to create duties with regards to compartmentation on Accountable Persons. |
| Q 57. | <p>Do you agree with our proposal to create duties with regards to compartmentation on residents? Please provide information to support your views.</p> <ul style="list-style-type: none"> • Yes, we agree with the proposal to create duties with regards to compartmentation on residents. |
| Q 58. | <p>Do you agree the concept of a Safety Case for Category 1 buildings is an appropriate way to assess and manage the risk of building safety issues?</p> |

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| | <ul style="list-style-type: none"> No, we do not agree with the concept as presented of a Safety Case for Category 1 buildings being an appropriate way to assess and manage the risk of building safety issues. We believe that the Safety Case should enhance and work alongside the fire risk assessment rather than duplicate it. |
| Q 59. | <p>What do you believe would be a reasonable timescale for existing Category 1 buildings to create a Safety Case?</p> <ul style="list-style-type: none"> We do not have enough relevant information to answer this question. |
| Q 60. | <p>Do you agree there should be a mandatory reporting duty on dutyholders in the occupation phase?</p> <ul style="list-style-type: none"> Yes, we agree there should be a mandatory reporting duty on dutyholders in the occupation phase. |
| Q 61. | <p>Which incidents/issues do you think should trigger such a duty and why? Please provide examples.</p> <ul style="list-style-type: none"> There are three main issues that we think should trigger a mandatory reporting duty. Firstly, fire. Secondly, regulator enforcement notice. Thirdly, a structural defect. |
| Q 62. | <p>Should there be a requirement for the Accountable Person to register under the building safety regime during the occupation phase?</p> <ul style="list-style-type: none"> Yes, we do think there should be a requirement for the Accountable Person to register under the building safety regime during the occupation phase. |
| Q 63. | <p>Are the registration process requirements sufficient? Are there any others that should be included? If so, please outline and explain.</p> <ul style="list-style-type: none"> Yes, the registration process requirements are sufficient. |
| Q 64. | <p>Should there be a requirement for duty holders (both the Accountable Person and the Building Safety Manager) to obtain a building safety licence in the occupation phase? Please explain your answer.</p> <ul style="list-style-type: none"> Yes, there should be a requirement for duty holders (both Accountable Person and the Building Safety Manager) to obtain a building safety licence in the occupation phase. |
| Q 65. | <p>Are there any other requirements that should form part of the licensing process for Accountable Persons in addition to completion of basic training about the building safety regime and the fit and proper persons test (Category 1 buildings only)?</p> <ul style="list-style-type: none"> We have nothing further to add. |
| Q 66. | <p>Should there be a competence requirement and/or minimum qualifications for those managing Category 2 buildings? If so, what criteria should those engaging in such services meet?</p> |

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| | <ul style="list-style-type: none"> • Yes, there should be a competence requirement and/or minimum qualifications for those managing Category 2 buildings. All people managing category two buildings should have an appropriate level 4 qualification. |
| Q 67. | <p>Do you agree that there should be regulation of all residential property management? Please support your views.</p> <ul style="list-style-type: none"> • Yes, we agree that there should be regulation of all residential property management. Regulation of the sector as a whole offers huge potential for the professionalisation of the industry and to stamp out bad practice. To this end, the Welsh Government should be working with the UK Government to support the implementation of the Regulation of Property Agents Work Group recommendations, which cover estate agents across the UK and letting and managing agents in England.⁶ |
| Q 68. | <p>What standards should those carrying out residential management functions meet? Should there be a differentiation between the standards required for those managing Category 2 buildings, and those managing unadopted spaces? Please support your views.</p> <ul style="list-style-type: none"> • We believe there are six standards that those carrying out residential management functions should meet. Firstly, all agencies operating a residential property business should be licensed and licensing should include a fit and proper person test for company directors. Secondly, all staff employed within the residential agency business should be licensed, adhere to a Code of Practice and be suitably trained and qualified. Thirdly, all company directors and managing agents should be qualified to a minimum of Level 4. Fifthly, managing agents must sign up to a government-approved redress scheme. In addition, where there is no managing agent, freeholders must sign up to a redress scheme. Sixthly, managing agents holding client money must belong to a government approved Client Money Protection scheme. |
| Q 69. | <p>How could the issues of probity and responsibility be evidenced in such a system? Please support your views.</p> <ul style="list-style-type: none"> • There are two ways of evidencing the issues of probity and responsibility. Firstly, through an approved register of licences to operate. Secondly, ensuring that anyone operating without a licence or failing to appoint a third party from the register is liable for criminal prosecution. |
| Section 8: Residents: Roles and Responsibilities | |
| Q 70. | <p>Do you agree that all Accountable Persons should be required to promote building safety (as set out at para 8.2.4)? Please support your views.</p> <ul style="list-style-type: none"> • Yes, we agree that all Accountable Persons should be required to promote building safety. |
| Q 71. | <p>Do you agree that this information should be provided in a way that is accessible and understandable, and should where relevant reflect the specific needs of residents? Please support your views.</p> |

⁶ <https://www.gov.uk/government/publications/regulation-of-property-agents-working-group-report>

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| | <ul style="list-style-type: none"> • Yes, we agree that information should be provided in a way that is accessible and understandable and should where relevant reflect the specific needs of residents. This should include both online and paper-based information. |
| Q 72. | <p>Do you agree that a nominated person who is a non-resident would be able to request information on behalf of a resident who lives there? If yes who do believe that nominated person should be? (Relative, carer, person with lasting power of attorney, other)</p> <ul style="list-style-type: none"> • Yes, we agree that a nominated person who is a non-resident would be able to request information on behalf of a resident who lives there. As highlighted previously in our response, for letting and estate agents to market property they may need to access certain information. Furthermore, a landlord or leaseholder should receive information which they can then provide to tenants or co-occupiers. |
| Q 73. | <p>Is there any other information that an Accountable Person should be required to provide on request? Please provide information on the two different categories of building if relevant.</p> <ul style="list-style-type: none"> • We have nothing further to add. |
| Q 74. | <p>Do you agree that for Category 1 buildings the Accountable Person must provide the information as set out at para 8.2.10? Please support your views.</p> <ul style="list-style-type: none"> • Yes, we agree that for Category 1 buildings the Accountable Person must provide the information as set out at para 8.2.10. |
| Q 75. | <p>Is there any other information that you think it would be useful to provide? Please support your views.</p> <ul style="list-style-type: none"> • No, we do not think there is any other information that would be useful to provide. |
| Q 76. | <p>In what ways could an Accountable Person demonstrate that they have established effective two-way communication?</p> <ul style="list-style-type: none"> • We believe that there are two ways in which an Accountable Person can demonstrate that they have established effective two-way communication. Firstly, by providing relevant information and being accessible. Secondly, responding to communication via telephone, email, post or online live chat service. |
| Q 77. | <p>Do you agree that there should be a new requirement on all residents of buildings within scope to co-operate with the Accountable Person (and their appointed representative) to allow them to fulfil their duties under the Building Safety Regime? Please support your views.</p> <ul style="list-style-type: none"> • Yes, we agree that there should be a new requirement on all residents of buildings within scope to co-operate with the Accountable Person to allow them to fulfil their duties under the Building Safety Regime. |

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| Q 78. | <p>Do you think there should be any specific requirements to facilitate this? Please support your views.</p> <ul style="list-style-type: none"> In order to assist the Accountable Person to fulfil their duties, enough notice in writing and within a specified period should be implemented for rights of access to a property. |
| Q 79. | <p>What safeguards should be put in place to protect residents rights in relation to this requirement? Please support your views.</p> <ul style="list-style-type: none"> To protect residents, an Accountable Person should not be able to enter a flat or enforce any action unless the resident agrees, or the matter has been enforced by the courts. |
| Q 80. | <p>Do you agree that there should be a new requirement on all residents of buildings within scope not to knowingly breach compartmentation? Please support your views.</p> <ul style="list-style-type: none"> Yes, we agree that there should be a new requirement on all residents of buildings within scope not to knowingly breach compartmentation. |
| Q 81. | <p>Do you agree that there should be a single process for escalating concerns to the regulator in relation to the Building Safety Regime, regardless of the Category of building or where it is in the building lifecycle? Please support your views.</p> <ul style="list-style-type: none"> Yes, we agree that there should be a single process for escalating concerns to the regulator in relation to the Building Safety Regime, regardless of the Category of building or where it is in the building lifecycle. |
| Q 82. | <p>Should a similar model be established to allow leaseholders to apply for a change/ removal of a Building Safety Managers? What would be an appropriate mechanism to do this? Please support your views.</p> <ul style="list-style-type: none"> Yes, a model should be established to allow leaseholders to apply for a change/ removal of a Building Safety Managers. The appointment of a manager under the Commonhold and Leasehold Reform Act 2002⁷ can act a template to follow. |
| Q 83. | <p>What roles and responsibilities are appropriate for Accountable Persons with regards to people who cannot safely self-evacuate? Please support your views.</p> <ul style="list-style-type: none"> To support people who cannot safely self-evacuate, Accountable Persons can do three things. Firstly, require residents to provide any relevant information on an annual basis. Secondly, pass this information on to the local fire service. Thirdly, include relevant details at the building to residents so they are aware of the collection and passing on of this information. |
| Q 84. | <p>Should Accountable Persons be required to collate details of all those who would require assistance?</p> <ul style="list-style-type: none"> Please see our response to the previous question. |

⁷ <https://www.legislation.gov.uk/ukpga/2002/15/contents>

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| Q 85. | <p>Should Accountable Persons be required to provide this information immediately to the FRS in the event that an evacuation was necessary?</p> <ul style="list-style-type: none"> In the event of an evacuation, we believe that Accountable Persons should provide the information as soon as practically possible or within a certain time period for an evacuation. This is because not all buildings will have permanent staff. |
| Q 86. | <p>Should this be the case for all Categories of buildings? Please support your views.</p> <ul style="list-style-type: none"> Yes, we believe this should be the case for all Categories of buildings. |
| Section 9: Raising Concerns | |
| Q 87. | <p>Do you agree that Welsh Government should pursue a means to protect workers from raising concerns with regards to building safety? Please support your views.</p> <ul style="list-style-type: none"> Yes, we agree that Welsh Government should pursue a means to protect workers from raising concerns with regards to building safety. |
| Section 10: Regulating the Building Safety Regime | |
| Q 88. | <p>Are there any actions that could be taken ahead of legislative reform that would support Local Authorities and the Fire and Rescue Authorities to manage multi-occupied residential buildings in a more holistic way?</p> <p>We believe there are five actions that can be taken ahead of legislative reform that would support Local Authorities and the Fire and Rescue Authorities to manage multi-occupied residential buildings in a more holistic way. Firstly, local authorities need to have more resources and ensure that enforcement is a high priority. Secondly, where enforcement does take place there needs to be better joined up working between local enforcement agencies. Thirdly, local authorities and the Fire and Rescue Authorities should review and understand the practical implication of how legislation will work. Fourthly, collaborative working between a range of statutory and industry bodies can help to drive up standards and remove bad practice. Fifthly, make greater use of Primary Authority Advice.</p> <p>More needs to be done to resource local authority enforcement teams rather than creating new legislation that will not be enforced. For instance, there is very poor enforcement of current regulations in the private rented sector. These include both recently created and long-standing laws. To this end, it is essential that prosecuting bodies are given the powers to become revenue generators for local authorities rather than revenue drains. Fines collected as a result of housing breaches must be ring-fenced with the money going towards further enforcement.</p> <p>Where enforcement does take place there needs to be better joined up working between local enforcement agencies. It is our view that within local authorities, planning departments rarely speak to environmental health teams. Consequently, there have been situations where landlords cannot comply with the requirements of both Planning and Environmental Health. This fundamentally undermines the local enforcement regime.</p> <p>Local authorities and the Fire and Rescue Authorities should review and understand the practical implication of how legislation will work. For example, since October 2015, in private rented property in England, a smoke alarm must be fitted on every</p> |

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| | <p>floor on which there is a room used wholly or partly as living accommodation and a Carbon Monoxide alarm placed in any room where a solid fuel is burnt such as wood, coal or biomass. Checks must be made by the landlord or letting agent to make sure that each alarm is in proper working order on the first day of the tenancy.⁸ When these regulations were passed, insufficient consideration was given to whether and how they could be enforced. Furthermore, it is difficult to see how enforcing bodies are monitoring these rules consistently.</p> <p>Collaborative working between a range of statutory and industry bodies can help to drive up standards and remove bad practice. HomeStamp in the West Midlands is an example of where statutory and industry bodies work closely on enforcement and sector regulation to improve the supply of good quality private rented homes. The organisation is a multi-agency partnership comprising of local authorities, private rented sector bodies, universities, Police and Fire services. HomeStamp also consider and respond to regional and national issues affecting the private rented sector in addition to providing information and training for landlords. This approach should be encouraged as it will help to resolve issues before problems arise. We believe that collaborative working is more important than ever and can help improve standards within multi-occupied residential buildings due to the range of ownership and management of these types of property.</p> <p>Propertymark along with The Property Ombudsman has entered into a Primary Authority partnership with Warwickshire County Council Trading Standards to benefit our respective member firms through the provision of assured advice on a range of matters. Primary Authority enables businesses to form a legal partnership with one local authority which then provides assured advice on trading standards regulations that other local authorities must respect ensuring a consistent approach to regulation and enforcement across the country. As a result of our agreement, organisations who have registered with Propertymark benefit from consistent advice from Warwickshire County Council Trading Standards on a range of issues that are subject to Trading Standards enforcement.⁹ This means that when a member's company adheres to such Assured Advice they will be protected from inconsistent interpretation of the rules; regardless of which county in England, Wales or Scotland their offices are based. Where members comply with the Assured Advice Warwickshire County Council can step in to stop prosecutions if the agent's local Trading Standards takes on a different interpretation of the legislation. Organisations that are not registered cannot rely on such protection.</p> |
| Q 89. | <p>Do you agree with the list of key functions for the regulator as proposed?</p> <ul style="list-style-type: none"> • Yes, we agree with the key functions (oversight, collaboration and compliance) for the regulator as proposed. |
| Q 90. | <p>Are there are additional functions which are not listed that you believe are required in order to achieve our building safety aims?</p> <ul style="list-style-type: none"> • We have nothing further to add. |
| Q 91. | <p>Do you think that some of these functions are more essential than others? Please explain your answer.</p> |

⁸ <https://www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords>

⁹ <https://www.propertymark.co.uk/working-in-the-industry/primary-authority-advice.aspx>

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| | <ul style="list-style-type: none"> We believe that there are three most essential functions. Firstly, ensuring competence. Secondly, working with others. Thirdly, Investigations and Enforcement. |
| Q 92. | <p>In your view, do any of the regulatory model options outlined provide a preferred approach to regulating the regime in occupation.</p> <ul style="list-style-type: none"> The new regulatory model must involve a single regulator covering both England and Wales. |
| Q 93. | <p>Are there other regulatory models that are not presented here that we should consider? Please set out any alternatives.</p> <ul style="list-style-type: none"> We have nothing further to add. |
| Q 94. | <p>Do you think a local, regional or national approach to regulation would be appropriate? Please explain your answer, highlighting any positives and negatives you identify.</p> <ul style="list-style-type: none"> We think that a national approach to regulation would be most appropriate. |
| Q 95. | <p>Do you agree that there should be a framework for escalating enforcement and sanctions? Please support your views.</p> <ul style="list-style-type: none"> Yes, we do agree that there should be a framework for escalating enforcement and sanctions. |
| Q 96. | <p>Do the levels set out at Figure 13 sufficiently reflect these levels? Please support your views.</p> <ul style="list-style-type: none"> Yes, we think that the levels set out at Figure 13 sufficiently reflect these levels. |
| Q 97. | <p>What penalties or offences should we consider being created as part of the enforcement and sanctions regime associated with building safety? Please support your views.</p> <ul style="list-style-type: none"> In addition to our responses to questions 54 and 69, we believe that the regular will need powers to prosecute individuals or agencies for non-compliance itself and/or have the powers to require local enforcement agencies to undertake the prosecutions on its behalf. It is also likely to need to be able to keep any fines received from prosecutions in order to help fund itself. |
| Q 98. | <p>Do you agree that access rights should also be provided to the Fire and Rescue Authorities, along similar lines to those available to Environment Health Officers in relation to their powers under the HHSRS? Please support your views.</p> <ul style="list-style-type: none"> Yes, we agree that access rights should also be provided to the Fire and Rescue Authorities, along similar lines to those available to Environment Health Officers in relation to their powers under the HHSRS. |

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| Q 99. | <p>What safeguards should be put in place to protect residents' rights in relation providing access to their properties? Please support you views.</p> <ul style="list-style-type: none"> To protect resident's rights in relation to providing access to their property they should be provided with sufficient information in a timeframe that provides them adequate notice. |
| Q 100. | <p>Do you agree with the proposal to establish a Joint Inspection Team as outlined?</p> <ul style="list-style-type: none"> Yes, we agree with the proposal to establish a Joint Inspection Team. |
| Q 101. | <p>Do you agree that the Joint Inspection Team's scope should be limited to Category 1 buildings initially with potential to expand? Please support your views.</p> <ul style="list-style-type: none"> No, we do not agree that the Joint Inspection Team's scope should be limited to Category 1 buildings initially with potential to expand. It is important that there is adequate inspection and enforcement is consistent across all buildings in Wales. |
| Q 102. | <p>Do you agree with the proposed composition of the Joint Inspection Team?</p> <ul style="list-style-type: none"> Yes, we agree with the proposed composition of the Joint Inspection Team. |
| Q 103. | <p>Are there other functions the Joint Inspection Team could perform in addition to those outlined (i.e. enforcement advice and evidence gathering)?</p> <ul style="list-style-type: none"> We have nothing further to add. |
| Section 11: General Requirements in Relation to Fire Safety Equipment | |
| Q 104. | <p>Do you agree that Welsh Government should pursue requirements around additional fire alarm systems as outlined above that would apply to all residential dwellings? Please support your views.</p> <ul style="list-style-type: none"> Yes, we do agree that the Welsh Government should pursue requirements around additional fire alarm systems that would apply to all residential dwellings. We have three observations. Firstly, we believe that these requirements will be difficult to enforce in the owner-occupied sector. Consequently, the Welsh Government should initially focus their attention on improving compliance in new build properties and then at the point of sale on the second-hand homes market. Secondly, a large-scale government communications campaign will be required to reach existing homeowners. Thirdly, the Welsh Government should check supply chain and manufacturing capacity before implementing any new measures to extend requirements for fire alarm systems. |