

Consultation on a proposal for regulations required by the Historic Environment (Wales) Act 2016 and four guidance documents

Consultation response form

Since this consultation treats a range of topics relating to the historic environment, you may find that some of the following questions fall outside your interest or experience. Therefore, please feel free to answer as many or as few of the questions as you like.

Please return this form to reach the Welsh Government no later than 13 January 2017.

If you have any questions, please email:

historicenvironmentleg@wales.gsi.gov.uk

or telephone:

01443 336091 / 01443 336090

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Annex 5 — Consultation response form

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Date	11 January 2017	
Name	Fiona Newton	
Organisation	Institute of Historic Building Conservation	
Address	IHBC Business Office, Jubilee House, High Street, Tisbury SP3 6HA	
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Type <i>(please select one from the following)</i>	Individual	
	Business	
	Local planning authority	
	Government agency/Other public sector body	
	Professional body/Interest group	x
	Voluntary sector (community group, volunteer group, self-help group, cooperative, enterprise, religious group, not-for-profit organisation)	
	Other group not listed above	

Confidentiality — Responses to consultations may be made public on the internet or in a report.	
If you do not want your name and address to be shown in any documents that we produce, please indicate here	
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A. Proposal for regulations under the Historic Environment (Wales) Act 2016 to set out procedures for a review of a decision to designate a scheduled monument or listed building

Grounds for review

Q1.	Do you agree with the grounds of review for designations of scheduled monuments?			
	Yes	x	No	

Q2.	Do you agree with the grounds of review for designations of listed buildings?			
	Yes	x	No	
<p>Yes except that some clarification should be given on what is meant by “that there is a factual error in the identification of the building” to ensure this means if the wrong building has been listed rather than as a loophole for not protecting a building which should actually be Listed but has been wrongly described.</p>				

When and how should a review application be made?

Q3.	Do you agree that a request for a review should be made within 3 months of receipt of a notice of designation?			
	Yes	x	No	
<p>Although three months is a reasonable period in which to ask for a review of designation six months might be more reasonable</p>				

Q4.	Should any other information be required in the review application?			
	Yes		No	

Review procedures

Q5.	Do you believe that the procedures outlined are reasonable and fair for all involved in designation reviews?		
	Yes		No
<p>The procedure outlined sits alongside the appeal process for Planning Applications & Listed Building Consents. It is an established process and should work well in deciding reviews. However the process may be too formal, complex and daunting for property owners which have not, unlike planning applicants, chosen to engage with the process. The designation process has been done to them rather than them trying to carry out works they wish to do. In view of this the process should be as simple and free from bureaucracy as possible.</p> <p>There may be a need to clarify initially the definition of 'unreasonable behaviour.'</p> <p>The proposals say that the Planning Inspectorate 'may visit the historic asset', we suggest that a site visit would be essential in the review process.</p> <p>Inspectors appointed to decide the review should have appropriate skills and qualifications in architectural history, archaeology etc specifically to judge the importance of the actual item being designated.</p>			

Award of costs

Q6.	Do you agree with the measures proposed for the award of costs to deter unreasonable behaviour in designation reviews?		
	Yes		No
<p>Whilst the imposition of costs might deter unreasonable behaviour in review it is also a further level of concern for those in receipt of the designation on their property. They may not understand that it will only apply where they have acted unreasonably or might back out of the review causing costs.</p>			

B. Draft statutory guidance for certain public bodies —
Historic Environment Records in Wales: Compilation and

Use — as required by the Historic Environment (Wales) Act 2016

Q7.	Does the draft statutory guidance, <i>Historic Environment Records in Wales: Compilation and Use</i> , clearly set out the roles and responsibilities of the relevant public bodies?		
	Yes		No x
How could this section be improved?			
<p>We welcome the statement 2.5 which states that “in addition to historic environment records, there are other sources of information about the historic environment.” But we note that the other sources of information listed are still only some that are relevant to conservation and history. This section should be expanded to cover all those relevant sources. It will then offer a context to the HER services and show all sources available which are not included in the HER. It will help to ensure that the erroneous assumption is not made that the HER includes all relevant information and are limited in certain areas, especially buildings and more recent historical periods.</p>			
<p>We would suggest that the paragraph below is amended to include comment about the need to systematically widen the scope of coverage of traditional sites and monuments records, with the addition of adequate information on historic buildings, to enable the development of historic environment records. “The four historic environment records in Wales are the direct descendants of the sites and monuments records established in the 1970s. They were compiled to assist the trusts’ work programmes and in response to the lack of archaeological information available to owners, developers and planners, and the consequent loss of archaeological remains through urban and rural development. The present system has been developed through a partnership of the four trusts to provide improved and wider public access”</p>			
<p>The relationship between the trusts and the Local Authorities in developing and using the HER could be better articulated.</p>			
<p>How to make the HER accessible and user friendly to the public if it is to be used for education, engagement and cultural tourism.</p>			

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Q8.	Does the draft statutory guidance, <i>Historic Environment Records in Wales: Compilation and Use</i>, give the relevant public bodies adequate guidance on how they may contribute to the compilation of historic environment records?		
	Yes	No	X
<p>How could this section be improved?</p> <p>We welcome '3.1 Historic environment records must be kept up to date with accurate information...' but we note currently that most HERs cover archaeology and related sources, and there needs to be a specific requirement to broaden skills, capacity and interest in the HER management beyond the current archaeological boundaries. Most importantly in our view this should be through a greater diversification in skills and competences and recognition of the need for buildings and related skills within the HER infrastructure, perhaps through SLAs.</p> <p>The simple bullet listing and general statements offered in this section are not an adequate framework for critical service developments, as demonstrated by research in England (such as the HER21 programme of research), especially with regard to the requirements in the panel at 3.2.5 H, 3.2.6 I, and 3.2.7 J, and for responding to the wide-ranging planning and development service needs outlined in Section 4, and especially 4.4 on conservation, and after.</p> <p>We also suggest that the guidance - notably in the end sections - highlights the dangerous lack of clarity in sourcing and accessing records, as these, typically, only reflect a small part of the records relevant to conservation outcomes, and mostly relating to archaeological considerations and eras. Clearly there is an urgent need for an effective and coherent strategy for developing coherent and integrated heritage-related information resources focussed on conservation outcomes.</p>			

Q9.	Does the draft statutory guidance, <i>Historic Environment Records in Wales: Compilation and Use</i>, clearly set out how the relevant public bodies should use the historic environment records in the exercise of their functions?		
	Yes	No	x
<p>How could this section be improved?</p> <p>In section 4.2 public bodies are told they should use HERs in the development of policies and plans. In the others similar sections the word should is also used but then in section 4.3 local authorities are told they "Local planning authorities must use the historic environment record for the local authority area as a key source of evidence in the formulation of development plans". Should would be a more appropriate word for use in all.</p>			

C. Draft best-practice guidance: *Managing Listed Buildings at Risk in Wales*

Q10.	Will the draft guidance, <i>Managing Listed Buildings at Risk in Wales</i> , support the more effective management of historic buildings at risk?		
	Yes		No x
<p>How could it be improved?</p> <p>We strongly support the introduction of guidance to help and support the management and reuse of buildings at risk.</p> <p>The guidance offers good basic advice however we do not feel that this guidance goes far enough in its scope and advice. It could describe more thoroughly and definitively the various courses of action possible, not just through the planning legislation but through other routes, and offer comprehensive advice on how these are achieved. The guidance could cover the type of material found in 'Stopping the Rot' which was produced for Historic England by the IHBC. This would cover the wider opportunities to work on Buildings at Risk and include helpful case studies.</p> <p>The enforcement tools are among the most important to secure works to buildings at risk. Their location in the appendix seem and so should be included in the main text close to the beginning and not simply as an appendix.</p>			

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Q11.	Does the advice on condition, use and ownership contained in the draft guidance, <i>Managing Listed Buildings at Risk in Wales</i>, cover the key issues?		
	Yes	No	x
<p>If not, what is missing?</p> <p>The guidance is not sufficiently practical. Case studies would make this guidance more useful (see comments in Question 10 above).</p> <p>The guidance should identify how the national BAR helps funding bodies generally to identify need and priority for the investment of scarce resources.</p> <p>It should address market pressures or perceived pressures. An unrealistic perception of value or expectation of sale income is generally placing pressure on developers to seek to over develop and damage.</p> <p>The disposal of historic assets to the highest bidder without a proper assessment of significance or development potential established prior to sale leads to unrealistic expectations and ultimately the issues being shifted from central government budgets to already overstretched local government budgets.</p> <p>significance.</p> <p>There is no mention of Local Authorities or other public bodies (housing associations etc) taking on Listed Buildings in need to new uses and owners. The point needs to be made an guidance offered to show that it is not just the private sector that are the solution to Buildings At Risk.</p> <p>A number of bodies referenced in the text have since been merged (PRT) or changed (APT) and the test should be as up to date as possible.</p>			

D. Draft best-practice guidance: *Managing Change to Registered Historic Parks and Gardens in Wales*

Q12.	Does the draft guidance, <i>Managing Change to Registered Historic Parks and Gardens in Wales</i>, clearly explain the implications of owning a historic park or garden included in the statutory register?		
	Yes	x	No
<p>How could it be improved?</p> <p>Historic Parks and Gardens on the Register vary widely and it is difficult to provide appropriate guidance on them all. The possibility that sites may lie outside the scope of the guidance should be noted.</p>			

Q13.	Will <i>Managing Change to Registered Historic Parks and Gardens in Wales</i> help owners and their agents to manage historic parks and gardens to achieve high-quality, sensitive change?		
	Yes	x	No
How could it be improved?			

E. Draft best-practice guidance: *Managing Historic Character in Wales*

Q14.	Does the draft guidance, <i>Managing Historic Character in Wales</i>, clearly explain what historic character is?		
	Yes	x	No
How could it be improved? The guidance should be amended how it can continue to describe the previous work of Civic Trust Cymru and how it can be continued in its absence.			

Q15.	Does the draft guidance, <i>Managing Historic Character in Wales</i>, give sufficient information to support the effective management of historic character?		
	Yes	x	No
If not, what is missing?			

Additional comments

Q16.	We have asked a number of specific questions. If you have any related issues that we have not specifically addressed, please raise them here.		

How to respond

Please submit your comments by 13 January 2017 by email or post.

Email

Please send the consultation form to:

historicensvironmentleg@wales.gsi.gov.uk

[Please include '**Consultation on historic environment regulations and guidance 2**' in the subject line.]

Post

Please send the consultation form to:

Regulations and Guidance Consultation 2
Legislation and Policy Team
Historic Environment Service (Cadw)
Welsh Government
Plas Carew
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