

Consultation Response Form

Your name: Mark Hope

Organisation (if applicable): Chartered Institute of Environmental Health (CIEH)

email / telephone number: m.hope@cieh.org / 020 7827 5822

Your address: Chadwick Court, 15 Hatfields, London, SE1 8DJ

Question 1: The two local authorities which we propose to designate as building safety authorities are set out in paragraph 6 of the consultation document.

a) With regard to the proposal for the North Wales Fire and Rescue Authority area, do you:

☐

Agree

☐

Disagree

☒

Neither agree nor disagree

Please include here any comments to support your response:

We would emphasise the need for local authorities taking on these extra functions to receive sustained and predictable funding from the Welsh Government to cover all the additional costs involved in administration and enforcement of the new scheme. Where fees are charged for registration, the functions should be fully self-funding. The funding for the additional burdens should not need to come from council tax and business rates revenue.

Respondents to our survey of environmental health practitioners in relation to the primary authority scheme introduced by the UK Government for environmental health, trading standards and fire safety said full recovery of the costs that local authorities incur in providing primary authority services is rarely achieved.¹

¹ Chartered Institute of Environmental Health, [Perspectives on Primary Authority](#), November 2019, pp. 13-14.

b) With regard to the proposal for South Wales Fire and Rescue Authority area, do you:

☐

Agree

☐

Disagree

☒

Neither agree nor disagree

Please include here any comments to support your response:

Please see our comments relating to our response to part a).

Question 2: If you consider another local authority should be designated in either the North Wales Fire and Rescue Authority area or the South Wales Fire and Rescue Authority area, please provide the name of that local authority and any supporting comments in the text box below.

Question 3: We have not proposed which local authority in the Mid and West Wales Fire and Rescue Authority area should be designated as the building safety authority for that area.

If you have and views in relation to which local authority should be designated, please provide the name of that local authority and any supporting comments in the text box below.

If a local authority in Mid and West Wales is designated, the regulations and accompanying materials should clearly set out:

- the rationale for the designation
- the criteria used to assess the available options
- how consultation responses have been considered
- why the chosen authority is considered able to discharge the functions safely and effectively
- how conflicts of interest will be managed
- what funding will be provided and for how long
- what contributions, services or facilities will be required from other authorities
- what legal protections, indemnities or risk-sharing provisions will apply
- what transitional arrangements will be provided
- how the arrangements will be reviewed if they prove undeliverable or unsustainable

Question 4: Section 122(4) of the Act allows for the inclusion of further provision in regulations (see paragraph 3 of the consultation document). We are not currently proposing to use that power but would be interested to consultees hear views about this.

a) Do you think provision should be included in the regulations requiring another local authority to make payments to the building safety authority

- ☐ Yes
- ☐ No
- ☐ Have no view

Please include here any comments to support your response:

This question is difficult to answer without further clarification of what this provision would be used for. Local authorities must budget for payments at the start of each financial cycle. If a building safety authority were able to require payments from local authorities, these would need due prior notification in order to be budgeted for. We believe it is important for the Welsh Government to provide adequate funding for building safety authorities. They should not be required to rely on funding from council tax and business rates revenue. The financial arrangements should be clear and transparent. The designated authority should not be required to carry regional statutory responsibilities while bearing disproportionate financial exposure, cash-flow risk, staffing liability, legal costs, litigation risk, insurance costs, procurement costs, IT costs or redundancy risk or any unfunded implementation costs.

Costing and payment arrangements should cover setup costs; legal, enforcement, appeal and litigation costs; obtaining expert inspections, reports and advice; insurance, progressive inflation, national insurance and pay award considerations; reporting requirements; dispute resolution and review mechanisms.

The Welsh Government should also clarify the relationship between Welsh Government funding, fee income and contributions from other local authorities, so that the designated authority and partner authorities understand their exposure before functions commence. A provision of this kind should not be included in the regulations without clear constraints on how it will be used and clear information on what it will be used for. An appropriate provision might help to ensure adequate funding for public sector activities in the area of fire safety. A broad provision allowing payments to be required from local authorities, however, would leave the system open to a variety of potentially undesirable future outcomes.

b) Do you think provision should be included in the regulations requiring another local authority to provide facilities or services to the building safety authority

☒

Yes

☐

No

☐

Have no view

Please include here any comments to support your response:

If one local authority is designated to act for a whole fire and rescue authority area, the regulations should include provision requiring other local authorities to provide operational support where needed. This should cover information sharing, communications support and connections with relevant staff members and services.

The regulations should enable or require participating authorities to provide, where relevant:

- data and records about regulated buildings
- local intelligence and enforcement history
- access to relevant officers and professional expertise
- building control, housing, environmental health, legal and democratic services support where needed
- facilities for inspections, meetings and resident engagement
- information-sharing arrangements
- support for service of notices, local communications and enforcement activity
- input into risk prioritisation and local implementation planning
- cooperation with the building safety authority and fire and rescue service

These duties should be underpinned by formal governance arrangements, memoranda of understanding, information-sharing protocols and inter-authority agreements.

c) Is there any other provision that should be included in the regulations in connection with the exercise of functions by a building safety authority?

☐

Yes

☐

No

☐

Have no view

Please include here any comments to support your response:

Question 5: What, in your opinion, would be the likely effects of the regulations on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

Do you think that there are opportunities to promote any positive effects?

Do you think that there are opportunities to mitigate any adverse effects?

Question 6: In your opinion, could the regulations be formulated or changed so as to:

- have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English; or
- mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?

The designated authority will need capacity to provide communications, resident engagement, complaints handling, enforcement documents, public information, digital services and committee/governance materials in Welsh and English. This may require additional staffing, translation, interpretation and communications resources.

Question 7: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

The questions put forward in this consultation come without information on how the Welsh Government will fund the new regime. This needs to be clarified before organisations can adopt a clear position on the planned regulations.

There is a lack of clarity over some issues, for example the mechanism used to manage conflicts of interest and how existing local authorities should manage the pay structures outside of typical local authority ones that will be required to attract certain types of expertise essential to the daily operation of the building safety authorities.

Responses to consultations may be made public. Your response will be anonymous.

However, if you would like your name to be published alongside your response, please insert an x in the box.

I agree to the name of my organisation being published alongside this response to the consultation.	X
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