

Response Form for the Consultation on Remediation and Building Heights and Storeys (WG54492)

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We agree with Environmental Health Wales in broadly supporting the policy aims of the Building Safety (Wales) Act 2026 remediation framework, including the use of remediation orders, remediation contribution orders and leaseholder protections.

The proposals could provide an effective structure for identifying, funding and securing the remediation of relevant building safety defects. In practice, their success will depend on:

- clear statutory guidance and supporting regulations
- prescribed application forms, certificates, evidential requirements and model templates
- worked examples dealing with complex ownership, management and tenure arrangements
- clear delineation of responsibilities between building safety authorities, fire and rescue authorities, tribunals, landlords and leaseholders
- sufficient tribunal capacity and prompt determination of applications
- clarity on enforcement, appeal routes and compliance monitoring
- ready access to specialist legal, financial, surveying and building safety expertise
- adequate resourcing and recognition of new burdens for local authorities and building safety authorities

We agree with Environmental Health Wales that the Welsh Government should establish a national technical support function or centre of expertise to assist building safety authorities and local authorities with complex remediation matters and to support consistent implementation across Wales.

Our principal concern is that, without adequate guidance, resource, expert support and tribunal capacity, the framework could lead to delay, inconsistent decision-making and uncertainty for residents, leaseholders, regulators and responsible persons. Furthermore, there appears to be no provision for where defects have been caused or created by residents or their contractors and therefore fall outside the definition of “relevant works”.

Question 1

Our proposals in relation to remediation orders can be found in sections 8 to 13 of the consultation document. With regard to those proposals do you:

☐

Agree

☐

Disagree

☒

Neither agree nor disagree

Please include here any comments to support your response:

We are concerned about the capacity of the tribunal service to determine orders made under this scheme within appropriate timescales. We highlighted in our oral evidence to the Senedd Local Government and Housing Committee during its scrutiny of the Building Safety (Wales) Bill that the legislation will create a need for specific expertise and that this is likely to drive up housing costs (see [transcript](#) of meeting on 24/09/2025, para. 209). We agree with Environmental Health Wales that clarity is required in the following areas:

- expected timescales for validation, hearings and determinations
- availability of interim directions and arrangements for urgent safety measures pending determination
- what will happen where defects have been caused or created by residents or their contractors and therefore fall outside the definition of “relevant works”
- standard application templates and evidential requirements
- competence expectations for expert reports and who meets the costs of those reports
- practical arrangements for county court enforcement

- responsibility for monitoring compliance after an order is made
- the effect of appeals on the timing and enforceability of remediation requirements
- interaction with existing statutory powers under the Housing Act 2004, the Regulatory Reform (Fire Safety) Order 2005 and other relevant regimes

We are also concerned that action is focused on corporate bodies. There is provision to pursue someone setting up a new company by taking action on that company but other legislation has addressed the issue of ‘phoenixing’ to avoid fiscal and legal responsibilities by allowing action against and/or requiring measures to be taken by an officer of a body corporate (e.g. the Renters’ Rights Act 2025). Some provision needs to be made to address this sort of malfeasance. There is also the option of making bodies/individuals jointly and severally liable where responsibilities are unclear such as in the complex ownership models seen in larger buildings. These models are not explicitly covered in the proposals.

Question 2

Our proposals in relation to remediation contribution orders can be found in sections 14 to 20 of the consultation document. With regard to those proposals: do you:

☒

Agree

☐

Disagree

☐

Neither agree nor disagree

Please include here any comments to support your response:

Please see our comments in response to question 1.

The consultation indicates that the proposed regulations will identify specific areas of costs that remediation contribution orders should be capable of including. Since there are likely to be a wide range of situations posed to tribunals, the use of broader language and less specificity in the drafting of this section of the regulations would be preferable. This approach and the points in our response to question 1 would help to address the following areas of concern that have also been raised by Environmental Health Wales:

- establishing ownership, corporate and financial information will be resource intensive and may require specialist legal or financial advice
- cases involving complex, layered or overseas ownership structures may be difficult to progress
- authorities will need access to reliable Companies House, Land Registry and other relevant information sources
- clear arrangements are needed for funding urgent works and interim measures before recovery proceedings conclude
- further provisions are needed on enforcement, recovery of costs and interest, and insolvency scenarios

Question 3

Our proposals in relation to remediation costs under qualifying leases etc can be found in sections 21 to 31 of the consultation document. With regard to those proposals: do you:

☒

Agree

☐

Disagree

☐

Neither agree nor disagree

Please include here any comments to support your response:

Consideration must be given to how to deal with inaccurate, incomplete or misleading information provision in relation to these matters. We agree with Environmental Health Wales that comprehensive public guidance and a national advice route for leaseholders would be helpful, so that individual leaseholders are not dependent on building safety authorities for advice on protections and liability.

Question 4

Our proposals in relation to the landlord's certificate can be found in section 32 of the consultation document. With regard to those proposals: do you:

☒

Agree

☐

Disagree

☐

Neither agree nor disagree

Please include here any comments to support your response:

A prescribed form would be helpful in facilitating this process. There should also be clear measures for dealing with the provision of inaccurate or misleading information, consideration of what will happen when timescales are not met, dispute resolution arrangements and clarification of any role expected of the building safety authorities in relation to these functions.

Question 5

Our proposals in relation to the leaseholder's certificate can be found in section 33 of the consultation document. With regard to those proposals: do you:

☒

Agree

☐

Disagree

☐

Neither agree nor disagree

Please include here any comments to support your response:

Please see our comments in response to question 4 as they also apply here.

Question 6

Our proposals in relation to connecting replacement leases can be found in section 34 of the consultation document. With regard to those proposals: do you:

☒

Agree

☐

Disagree

☐

Neither agree nor disagree

Please include here any comments to support your response:

Question 7

Our proposals in relation to the recovery of amounts from other landlords can be found in section 35 of the consultation document. With regard to those proposals: do you:

- ☒ Agree
- ☐ Disagree
- ☐ Neither agree nor disagree

Please include here any comments to support your response:

Question 8

Our proposals in relation to the meaning of ‘relevant building’ can be found in section 38 of the consultation document. With regard to those proposals: do you:

- ☐ Agree
- ☐ Disagree
- ☒ Neither agree nor disagree

Please include here any comments to support your response:

We support the proposals, in principle, but are concerned about the potential for defects to be identified without there being a clear mechanism to force their remediation when this is required.

Question 9

Our proposals in relation to how the height of a building is determined can be found in sections 41 to 43 of the consultation document. With regard to those proposals: do you:

- ☐ Agree
- ☒ Disagree
- ☐ Neither agree nor disagree

Please include here any comments to support your response:

We broadly support the proposed approach but would like to see more clarity over what constitutes the top of the floor surface on the top storey of the building. For example, where the top storey has a split level, would the building be measured to the lowest or highest part of the floor surface?

We agree with the request made by Environmental Health Wales for clear diagrams and worked examples covering:

- sloping sites
- stepped buildings
- podium developments
- undercroft parking
- rooftop plants
- split-level layout
- mixed-use configurations
- clarification of who determines disputes about measurement and whether a formal review or appeal mechanism applies

These have proved helpful in other regulatory regimes where building layout and design dictates regulatory duties (for example mandatory licensing under the Housing Act 2004).

Question 10

Our proposals in relation to how the number of storeys is determined can be found in sections 44 to 46 of the consultation document. With regard to those proposals: do you:

☒

Agree

☐

Disagree

☐

Neither agree nor disagree

Please include here any comments to support your response:

Question 11

We are interested in your opinion as to whether any changes could be made to the proposals listed in the consultation document that would promote positive effects, or reduce negative effects, on persons with [protected characteristics](#).

Please provide your view on this in the text box below. Please ensure that you refer to specific proposals listed in the consultation document in your response.

The various notices, certificates, guidance and other communications relating to the specific proposals should be made available in accessible formats.

Question 12

What, in your opinion, would be the likely effects of proposals 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?

Please record your answer here:

We do not anticipate positive or adverse effects on the Welsh language.

Question 13

In your opinion, could the proposals 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?

Please record your answer here:

Question 14

We have asked a number of specific questions. If you have any other related comments you wish to make not specifically addressed by the questions, please record them in the box below:

Please see our comments at the beginning of this response form.

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