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Welsh Government Response and Summary of Responses

Implementing the Domestic Fire Safety (Wales) Measure 2011

July 2013

Consultation on implementing the Domestic Fire Safety (Wales) Measure

Summary of consultation responses, and Welsh Government response

Introduction

1. The consultation on proposals to implement the Domestic Fire Safety (Wales) Measure began on 25 March 2013 and finished on 17 June 2013. It included 2 consultation events, in Llandudno and Cardiff attended by around 170 stakeholders in total. The Welsh Government would like to thank all those who responded to the consultation, and all those who attended the consultation events.
2. The consultation attracted 169 responses, from the following sectors:

Sector Response	n=	%=
Fire and Rescue Service (Wales)	35	21%
Fire and Rescue Service (English Borders)	8	5%
Fire and Rescue Service (Other)	31	18%
Fire Protection Industry (including sprinklers)	23	14%
Fire Safety Organisations		
Insurance industry	1	1%
House building industry	28	17%
Water Companies	1	1%
Private care home sector	3	2%
Social Landlords	8	5%
Local Authorities	8	5%
Educational establishments	1	1%
Members of public	12	7%
Architects		
Approved Inspectors		
Others	10	6%
Total Replies =	169	100%

3. However, in some cases different individuals within the same organisation responded. The next table show the number of responses when we have counted as a single response any multiple responses from the same organisation.

Sector Response	n	%
Fire and Rescue Service (Wales)	3	3%
Fire and Rescue Service (English Borders)	4	3%
Fire and Rescue Service (Other)	24	20%
Fire Protection Industry (including sprinklers)	19	16%
Fire Safety Organisations	3	3%
Insurance industry	1	1%
House building industry	19	16%
Water Companies	1	1%
Private care home sector	2	2%
Social Landlords	8	7%
Local Authorities	6	5%
Educational establishments	1	1%
Members of public	12	10%
Architects	5	4%
Approved Inspectors	1	1%
Others	10	8%
Total Replies =	119	100%

4. The next table shows the total number of questionnaires returned. This is different from the number of responses as some responses were in the form of emailed comments or letters, but did not included “yes”/”no” responses to the questions asked. This data forms the baseline from which we extract the % responses to the “yes”/”no” questions.

Sector Response	n	%
Fire and Rescue Service (Wales)	3	3%
Fire and Rescue Service (English Borders)	4	4%
Fire and Rescue Service (Other)	23	22%
Fire Protection Industry (including sprinklers)	18	17%
Fire Safety Organisations	3	3%
Insurance industry	1	1%
House building industry	17	16%
Water Companies	1	1%
Private care home sector	2	2%
Social Landlords	7	7%
Local Authorities	6	6%
Educational establishments	0	0%
Members of public	5	5%
Architects	4	4%
Approved Inspectors	1	1%
Others	10	9%
Total Replies =	105	100%

5. Of the 12 questions asked the respondents' agreement with the proposals can be summarised as follows:

		N = 105
Question		Agree
Q1	Do you agree with the proposed approach of implementing the Measure through commencing section 1 of the Measure and through making required changes to the Building Regulations?	71.2%
Q2	Do you agree with the proposed list of residences to which the regulations should apply?	56.3%
Q3	Do you agree that the guidance should refer to BS 9251 as the main standard by which the regulatory requirement can be met?	87.1%
Q4	Do you agree that the guidance should retain the flexibility to refer to other fire suppression systems when such systems achieve a British Standard?	98.0%
Q5	Do you agree with the proposal not to regulate to require the maintenance of fire suppression systems?	50.7%
Q6	Do you agree with the proposal to produce a householder's guide to encourage the maintenance of fire suppression systems?	91.1%
Q7	Do you agree with the proposed approach to commencing the changes to the Building Regulations?	74.8%
Q8	Do you agree that the suite of National Occupational Standards covering Mechanical Fire Protection remain relevant given the proposals covered by the new legislation?	82.9%
Q9	Do you agree that existing sources of training will remain fit for purpose when the new legislation is implemented?	63.6%
Q10	Do you agree with the proposed changes to the Approved Documents?	73.2%
Q11	Do you agree that the cost benefit analysis is a reasonable estimation of the estimated costs and benefits of the proposed regulations?	53.2%
Q12	Do you agree that the Regulatory Impact Assessment has correctly identified the main risks and issues associated with the proposed regulations?	56.9%

Issues raised in consultation

6. Overall, the responses to the consultation were polarised. Some responses strongly supported the proposals and argued that the regulations would be a welcome addition to the regulatory framework governing fire safety, and would advance the cause of saving the lives of, and preventing injuries to, householders and firefighters. One respondent argued that the policy should be seen in context of promoting sustainable buildings, and not just in terms of saving lives.

7. Other respondents strongly opposed the proposed, on the grounds of impact on development viability, costs and evidence (see below).

Viability

8. Some respondents argued that there would be a strong and negative impact on development viability, especially when combined with proposed changes to Part L. One respondent requested an assessment of the implications for each local authority in Wales. One noted that they have already written to 9 local authorities in Wales notifying them that they have withdrawn investment for new projects in all or part of their areas.

9. Other respondents argued that the regulations will require a greater subsidy per property for affordable homes to be developed; and, for a given size of grant, will result in fewer affordable homes being built. Others argued that the new regulations will generate additional set up costs for new build which will act as a disincentive to care home providers to enter or expand in the current market

10. These respondents tended to support policy option 2 in the RIA (cost effective residences only)

11. The Welsh Government has considered the issues concerning the difficult economic circumstances that housebuilders find themselves operating within, and decided to:
- Introduce a requirement to install automatic fire suppression systems (such as fire sprinklers) for residences with medium and high levels of risk of death and injury from fire (care homes (as defined in the Care Standards Act 2000), children's residential homes, hospices, halls of residence, boarding houses and hostels other than hostels intended for temporary accommodation for leisure purposes) from **April 2014**; and
 - introduce this requirement for residences with low levels of risk of death and injury from fire (houses and flats) from **January 2016**.

Costs

12. Some respondents considered that the Cost Benefit Analysis (CBA) had underestimated the costs. For example, some advocated a tank and pump, with the tank buried outside. A cost in excess of £5k is quoted, and problems of maintenance highlighted. Another respondent quoted £3.7k for tank and pump, excluding profits, overheads and any additional water company charges.
13. One respondent considered that tank and pump is not appropriate in flatted developments. Another respondent stated that pump and tank in 2 storey homes is not a viable option. Additional structural costs are inevitable. Another view was that there is not a realistic alternative to pump and tank.
14. Another respondent quoted a cost of £500/house for fitting a surface mounted hard wired smoke detector in older properties, as an alternative to sprinklers in new and converted residences.
15. A respondent noted that the certification cost £2250/year will be passed on the developer.

16. Other respondents identified other cost savings that they thought should be included in the CBA. For example, the cost to the state of providing care to an individual with severe burns is very substantial and likely savings should be included within the cost benefit analysis. Other respondents considered that the CBA had excluded the reduced burden upon the Fire and Rescue Services arising from the introduction of the regulations, and the reduced emotional trauma on families affected by fire.

17. The Welsh Government view is that the CBA was based on the base available data. The assumptions and costing were considered in detail by our Domestic Fire Safety Working Group, and views of this Working Group informed the range of sensitivity analyses that were carried out. Whilst the sensitivity analyses had some impact on the results on the CBA none of changes were sufficient to alter any of the conclusions of the CBA.

Evidence – underpinning data

18. Some respondents called for Welsh Government to undertake further research to provide data linking fire deaths and injury to age of property, and the presence of hard wired smoke detectors, & challenged the analysis in the CBA and RIA on these grounds. They called for the preferred option to be reconsidered. They argued that the CBA overestimated the benefits. One respondent provided data suggesting that 78% of fire deaths & 61% of fire injuries in south Wales occurred in properties without a hard wired smoke detector – equivalent figures for mid Wales are given as 77% and 56%, & north Wales as 73% and 49%.

19. Some respondents suggested that an analysis of the costs and benefits of retrofitting fire detection to existing building stock should be carried out.

20. The Welsh Government acknowledged at the consultation events that we were unable to correlate risk of residential fire and injury data with age of property data

21. We are committed to improving the evidence base so we are able to assess, in the future, the impact on residential fire death and injury of the new requirement to install fire suppression systems.

Residences covered

22. Some respondents called for short term youth hostels and residential nursing homes to be covered – arguing that any defects in the Measure (that may prevent these types of residences from being included) should be remedied to include these residences. Several respondents noted that vulnerable occupants will be within short stay hostels and suggested that the base requirements of the measure are changed to cover these premises.

23. One respondent considered that there was confusion in respect of apartment-hotels which combine self contained living accommodation in short term hotel type arrangements. They called for a clear definition of "hotel" in the regulations.

24. Another respondent questioned whether schools used for accommodation should be included.

25. The Welsh Government has noted these comments, and the types of residence now covered by the new regulations has been extended to include:
 - children's residential homes;
 - boarding houses;
 - Hospices; and
 - Hostels other than hostels intended for temporary accommodation for leisure purposes.

BS 9251

26. Many respondents made the point that the BS is clear that for a system to be operating effectively a flow rate of 60l/min and that this operational effectiveness should be maintained at all times (reference to the line in the Measure "in S(1)(4) that "the system is operating effectively"). Since the water companies cannot guarantee a pressure and flow rate to meet this – there is a requirement on the designer/installer to design a system to meet this requirement. A pump and tank is the only feasible solution to meet this requirement.
27. Many respondents felt that flexibility in standards should include reference to appropriate EU and other international standards. Other respondents felt that the focus on BS 9251 risked stifling innovation in the market for new systems. Some called for water mist systems to be included.
28. One respondent suggested that the text within ADB is reviewed on the basis of systems being 'fit for purpose' and requested further clarity on the third party accreditation schemes that are currently in use.
29. One respondent stated that restricting installations to the use of systems only covered by a BS would be in breach of regulation 7. Other types of accreditation should be provided in line with regulation 7 provided they afford the same level of life safety as BS9251.
30. The Welsh Government has noted these comments and concerns and had decided that:
- the Approved Document B Volumes 1 and 2 will refer to BS 9251 as the main standard by which the regulatory requirement can be met; and that where residences fall outside the scope of BS 9251 then the relevant standard will be BS 12845 (Sprinkler systems for commercial occupancies); and
 - if, in the future, a full British Standard or other appropriate technical standard is available for other fire suppression systems (such as water mist systems) for residential premises, we retain the flexibility to refer to such systems through a revision to the Approved Documents.

Water supply, water pressure and water meters

31. One respondent stated that customers will be required to install a single check valve on their supply pipe work, which will need to be replaced every 5 years. Another point made was that rainwater harvesting systems, if used, must be fitted so as not to cause cross contamination issues with domestic water quality.

32. Some respondents considered that if the water companies inform that water pressure is no longer suitable for the effective operation of sprinklers, then the onus will be on the occupier to make the necessary adjustment to the sprinkler system retrospectively (such as retrofitted pump and tank). The occupier will expect this to be covered in the warranty from the developer or NHBC.

33. One respondent noted that there is no indication of costs of existing commercial meters (as an interim measure) or developing new meters that do not restrict flow to sprinklers.

34. One respondent stated that the potential for microbial risk exists during installation and maintenance: heterotrophic bacteria; stagnant water; opportunity for inadequately protected drinking water to become contaminated if maintenance is not carried out by a competent person.

35. The Welsh Government will continue to consider issues concerning the supply of water for automatic fire suppression systems, and proposes to establish a Fire Sprinkler Implementation Group, which we hope will involve relevant water companies, at which these issues can be considered by stakeholders. We will make further details of the Implementation Group available in due course.

Maintenance

36. Many respondents made the point that sprinkler systems must be maintained to ensure effectiveness (as required in the wording of the Measure), and that not to legislate for maintenance is a weakness in the proposals. Changes to the AD refer to "essential that fire suppression systems are properly designed, installed and maintained". Assumptions in CBA are based on 100% maintenance. It was considered that regular maintenance should be given far more weight in the proposals, and should be considered in more detail with reference to water flow and pressure.

37. Some respondents argued that householders should be required, upon the sale or letting of the residence, to produce a certificate, signed by a properly qualified person, demonstrating that the system is properly functioning. Another suggestion was that a fire suppression system maintenance record should be provided annually to local authorities. In the case of rented properties, some respondents argued that maintenance could be assured by way of a system of control similar to that of the landlord's gas safe certification scheme. Other consultees, however, considered that it was essential that private homeowners and social landlords should be under the same requirements to maintain the systems.
38. Some respondents noted the availability, on the market, of self testing pumps, allowing the water pump to "turn over" on a weekly basis and prevent the pump from seizing
39. Other respondents argued that a legal requirement for maintenance by private householders would not be practical, could not be properly enforced and could be burdensome. They agreed that the best route to secure maintenance was through education and not regulation. One respondent argued that if owners are given the relevant information, then a majority should be capable of ensuring their systems remain at operational readiness.
40. Respondents strongly supported the proposal of a Householder's Guide. One respondent noted that this should be incorporated into fire safety week campaigning and general fire and rescue service community fire safety activity. Another would not support the provision of a householders guide made a condition of issuing a final certificate or the issuing of the guide being a further burden.
41. The Welsh Government's view is that to regulate for the maintenance of fire suppression systems risks being unduly costly to householders and an additional burden to the relevant enforcement body. Our view is that the most practical solution to improve fire sprinkler system maintenance is through education. We intend to produce, in due course, a householder's guide to the maintenance of fire suppression systems

Common areas

42. Many respondents called for more investigation and are concerned about the proposals not to require sprinklers in common areas.
43. The Welsh Government's view is that in most cases an automatic fire suppression system need only be provided within the individual flats; they would not normally be required in the common areas such as stairs, corridors or landings.
44. However, if there are concerns at the design stage related to fire safety management – or the level of fire safety management is unknown – the provision of automatic fire suppression may provide suitable risk reduction measures within those common areas, particularly where a single means of escape exists. It is our view this would need to be assessed on a case by case basis in consultation between the developer and the relevant Building Control Body. This level of negotiation over implementation detail of Building Regulations and its associated guidance is standard practice within the construction sector.

Back up power supply

45. Some respondents called for the issue of a back-up power supply for pump-fed systems to be addressed.
46. The Welsh Government's view is that this represents low level of risk and it will not be necessary to require the provision of a back-up power supply for pump-fed systems.

Transitional period

47. Many respondents called for a longer transitional period to allow for adequate training and for implementation issues identified to be addressed. Another respondent said that the transition timetable would be challenging due to the need to produce a new meter, and with regard to the training and educations required.
48. The Welsh Government will announce the transitional provisions in due course.

Welsh Government

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