

Safer Buildings in Wales: A Consultation

Describe and explain the impact of the proposal on people with protected characteristics as described in the Equality Act 2010.

The Building Safety White Paper sets out proposals for a comprehensive reform of legislation that contributes to building safety in Wales. It focuses on legislative change across the lifecycle of buildings, as well as setting out aspirations for culture change in the way buildings are designed, constructed and managed.

We would be interested to hear from consultation respondents if they consider there are impacts we have not identified or if they consider the impacts are likely to have a greater, or lesser, impact that we anticipate. In order to make the consultation accessible to as broad a range of organisations and individuals as possible, we are providing Quick Read and Easy Read versions of the White Paper, as well as video-explainer, and will be holding a series of consultation events.

We propose that the scope of the new Building Safety Regime covers all multi-occupied residential buildings – that is, buildings where there are two or more dwellings, regardless of whether there is a shared front door to the building. We have defined the buildings in scope of these proposals as Category 1¹ or Category 2². The greatest burden will be for those designing, constructing or managing Category 1 buildings.

Our proposals cover both the design and construction phase of buildings in scope and the occupation phase, when people are living in them. As such, our proposals will have an effect on public and private sector bodies, as well as individuals, although we do not anticipate any direct impact in terms of promoting equality.

The Equality Act 2010³ protects people against discrimination because of the protected characteristics that everyone has. People are protected from discrimination in the workplace, when they use businesses and other organisations that provide services and when they have contact with public bodies.

¹ Category 1 buildings will be multi-occupied residential buildings with six or more storeys or a floor of 18 metres or more in height above ground level, but with scope for this definition to be flexible should evidence suggest it should be widened.

² Category 2 buildings would be residential properties with two or more dwellings that are no more than 18 metres in height.

³ [Equality Act 2010](https://www.legislation.gov.uk/ukpga/2010/15/introduction): <https://www.legislation.gov.uk/ukpga/2010/15/introduction>

For those organisations providing facilities or services (for example, Managing Agents providing a service to residents), they may need to think about what equality law requires them to do. Similarly, businesses in the design and construction industry must consider their impact on their employees. This is relevant for both direct discrimination, because of a protected characteristic, or indirect discrimination such as when an organisation puts a rule or policy in place which has a worse impact on someone with a protected characteristic than someone without one.

The Equality Act 2010 requires public sector bodies to comply with the public sector equality duty. Private sector organisations also have to comply with the duty if they are carrying out public functions (this may include some housing associations when carrying out some of their functions as a social landlord).

Where our proposals may require organisations to revise the way in which they undertake certain tasks, we would expect them to take equalities impacts into account in revising existing procedures where there are new requirements, as they would with any change in regulation or legislation. We do not anticipate this would have a significant impact on the organisations.

We anticipate the greatest impact in equality terms to be for residents living in buildings in scope of the proposed new regime. For the majority of those with protected characteristics, we do not anticipate there to be any difference in the impact (positive or negative) of our proposals compared to those without similar protected characteristics. The protected characteristics most likely to see an impact from our proposals are age and disabled people but – on balance – we anticipate the impacts will be positive.

Residents may be the leaseholder of the dwelling, renting privately from the leaseholder or renting in the social housing sector.

We do not have access to data related to the age or socio-economic profile of residents in buildings within scope of these proposals. However, there is likely to be a greater proportion of those at either end of the age spectrum than the general population – for example, younger or older residents who do not want or need the space of other housing types. While we do not have robust data, we believe it is likely that residents in licensed HMOs or the social housing sector would include residents in low income households, while residents who own leasehold dwellings are likely to be of a high socio-economic status. We do not have data on residents renting privately but who are not in HMOs.

We believe that the type of tenure of a resident is likely to be reflected in the extent to which the impact on them may be positive or negative, but consider that there positive impacts are likely to outweigh the negative ones.

We think it is less likely that residents in the social housing sector will see any equality impact from our proposals, as social landlords are more likely to already take account of equalities in the provision of homes and services for their tenants.

For leaseholders, there is the potential for existing service charges to be increased to cover the cost of some of the additional safety requirements included in our proposals. For tenants in the private rented sector, there is the potential for rents to increase if landlords are faced with additional costs (service charges) as a result of our proposals, which they choose to pass on to their tenants. We believe that, on balance, these additional costs provide sufficient benefit to warrant such a rise.

Any additional cost should be balanced against the positive impact of improved building and fire safety, which is likely to lead to improved mental health and well-being for residents. Further detail is available in the Economic Impact Assessment, which suggests that additional costs would mostly be manageable over a 12 month period.

We believe there will be a positive impact for residents with mobility, sensory or cognitive impairments, or other medical conditions or injuries may have issues that would hamper or preclude self-evacuation in the case of a fire in their building. We are proposing that residents should have the right to supply information to the Accountable Person (see White Paper for details) that would assist firefighters in knowing their location in the building and the nature of any impairment in the event that an evacuation of the building was necessary. The Accountable Person would be under a duty to collate such information, take full account of all data protection issues, and supply the information to the firefighters if required.

Following the consultation on the White Paper, we will review the consultation responses and work to refine our proposals prior to introducing changes and bringing forward legislation in this area. During this process, we will keep this impact assessment under review and revise it as our proposals are further refined.

The section below sets out how we consider our proposals to create a Building Safety Regime could have an impact (positive or negative) on protected groups under the Equality Act 2010.

We are aware the principal group to be impacted by the proposed changes will be residents during the occupation phase and feel there will minimal to no impact on employees. Upskilling will be required following the introduction of the Building Safety Regime, and we feel this should be within the normal professional development of their career. We expect any impact here will be the same as any other part of their development. We would be interested to hear the views of this sector if they feel there is a disproportionate impact.

Record of Impacts by protected characteristic:

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate impacts?
Age (think about different age groups)	<p>May disproportionately impact older and younger people because of the type of home they live in. Positive impact in making their homes safer but negative impact in possibility of costs for additional safety measures and dutyholder roles/responsibilities being passed on to them.</p>	<p>Tenants / leaseholders in properties covered by the proposals would tend to be younger (starting out), or older (retirement / downsizing), although other age groups will also be impacted.</p> <p>Economic impact assessment suggests figures for additional costs, which are considered to be affordable.</p>	<p>For tenants in rented properties (social housing or private rented sector), any additional cost for building safety measures will lie with their landlord although a proportion may be passed on in increased rental fees.</p> <p>Additional safety, and peace of mind, will balance the additional cost, which is not disproportionately expensive.</p>
Disability (think about different types of disability)	<p>We don't think disabled people will be negatively impacted, but would be interested to hear from those living in properties in scope.</p> <p>The Resident Engagement Strategy for Category 1 buildings will be a positive impact as it will require engagement to take account of accessibility issues and so is likely to increase the opportunities of disabled people to engage.</p>	<p>Whilst in social housing, resident engagement already takes place, this is now being extended to cover all high rise buildings. This extension of good practice will benefit residents living in Category 1 buildings.</p>	<p>No mitigating actions as we expect mainly positive impacts.</p>

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
	Positive impact from the proposed requirement to enable residents to provide information on any impairments, disabilities or special requirements they may have in case of a need to evacuate the building to the Accountable Person who would be required to provide this information to firefighters if required.	While there are currently requirements to provide a Personal Emergency Evacuation Plan (PEEP) for anyone in a non-residential building, there is no such requirement at present for residential buildings. Requiring the Accountable Person to collate relevant information (if the resident chooses to provide such information) and make it available in the need of a building evacuation provides additional safety measures for those impacted.	
Gender Reassignment (the act of transitioning and Transgender people)	We have no information on this group to suggest they would be impacted positively or negatively by the proposals.		We would welcome any evidence to suggest this group would be impacted as part of the White Paper consultation.
Pregnancy and maternity	We have no information on this group to suggest they would be impacted positively or negatively by the proposals.		We would welcome any evidence to suggest this group would be impacted as part of the White Paper consultation.
Race (include different ethnic minorities, Gypsies and Travellers and Migrants, Asylum	In producing a Resident Engagement Strategy, account should be taken of the characteristics of the residents in preparing the strategy	At present, only social rented housing would routinely undertake significant levels of resident engagement. Expanding this to all Category 1 properties in	Requirement to produce a Resident Engagement Strategy for Category 1 buildings should ensure the racial profile of residents, and any specific needs identified

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seekers and Refugees)	<p>and ensuring it is accessible.</p> <p>We recognise that HMO-style properties have a more fluid resident profile, which is likely to include migrants, asylum seekers and refugees. There is likely to be a positive impact from the additional building safety, although appreciate there may be a negative impact in terms of additional costs will may be passed on in terms of higher rent by the landlord (private or social sector).</p>	scope will be an advantage.	from such a profile, are taken into account.
Religion, belief and non-belief	We have no information on this group to suggest they would be impacted positively or negatively by the proposals.		We would welcome any evidence to suggest this group would be impacted as part of the White Paper consultation.
Sex / Gender	We have no information on this group to suggest they would be impacted positively or negatively by the proposals.		We would welcome any evidence to suggest this group would be impacted as part of the White Paper consultation.
Sexual orientation (Lesbian, Gay and Bisexual)	We have no information on this group to suggest they would be impacted positively or negatively by the proposals.		We would welcome any evidence to suggest this group would be impacted as part of the White Paper consultation.
Marriage and civil partnership	We have no information on this group to suggest they would be impacted		We would welcome any evidence to suggest this group would be impacted as part of the

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	positively or negatively by the proposals.		White Paper consultation.
Children and young people up to the age of 18	<p>Some positive impact from improvements to building safety for children living in households covered by our proposals.</p> <p>Some additional positive impact for children with disabilities (as for any other individual with disabilities), as set out in the section of this table related to Disability.</p> <p>It is possible that a young person under the age of 18 may be the tenant or leaseholders in their own right. If this is the case, the impact on these young people would be the same as for any other resident over the age of 18.</p>	<p>We have determined a full Children’s Rights impact assessment is not required as the proposed changes do not have any direct bearing or impact on the rights of children. Where our proposals impact on residents living in buildings in scope of our proposals, any impacts would be on children would be indirect in most cases as the impacts would mostly affect the adults of the household.</p> <p>The number of young people who are the main resident of a property within scope of our proposals is likely to be small, as most will still be living with parents/ carers or be placed in supported or shared accommodation by the local authority due to their age.</p>	<p>We will continue to ensure children are considered as we further refine our proposals following the White Paper consultation.</p> <p>The requirement on the Accountable Person to undertake resident engagement sets out that the resident profile should be taken into account and we would expect this to include making any reasonable adjustment for young people as tenants (eg information is accessible, information also provided to nominated representative, such as a support worker).</p>
Low-income households	Our proposals may disproportionately impact low income households who rent their properties because of the type of home they live in, which we think	The economic impact assessment suggests figures for additional costs, which are considered to be affordable.	For tenants in rented properties (social housing or private rented sector), the financial cost will lie with their landlord although a proportion may be

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate impacts?
	are more likely to be within scope of our proposals. We expect a positive impact in making their homes safer but potentially negative impact in possibility of costs being passed on to them as higher rents.		passed on in increased rental fees. Additional safety, and peace of mind, will balance the additional cost, which is not disproportionately expensive.

Human Rights and UN Conventions

In the occupation phase, we have proposed some new duties for residents that will set out ways they can live within their homes that not only ensures their own safety but also the safety of others if they live in multi-occupied buildings. These responsibilities include:

- Providing access to their property for safety check or work to be carried out. Any access would require the Accountable Person to provide reasonable notice to the resident.
- Providing reasonable information on works undertaken within their properties.
- Seeking prior consent for works that were likely to compromise fire safety measures.
- A requirement on residents not to breach the compartmentation of their property.

The proposals set out require dutyholders of Category 1 buildings to actively engage with residents on an ongoing basis and provide information about safety aspects of their homes and buildings. These aspects will be delivered by dutyholders responsible for the building but we can support this by ensuring that there is suitable guidance that highlights these considerations and makes clear that those providing information do so in an age appropriate and accessible way.

Further work needs to be done regarding the Registration and licensing element with particular exploration needed with regard to the impact as to whether an individual is allowed to manage their own property etc.

We are looking to gain the views of residents and experts alike on this matter to help inform our decision making process in this area during the consultation period in early 2021.

Human Rights	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate negative Impacts?
Article 8 Right to respect for private and family life	Access to property to carry out inspections focusing on building safety.		As with rented accommodation, written notification would be required in advance prior to access being requested.
Protocol 1 Article 1 Right to peaceful enjoyment of possessions	<p>Requirement to not damage compartmentation / fire safety measure</p> <p>Dutyholder must be fit & proper person to manage a property (during occupation phase) - A person failing this test would need to employ someone to manage the property on their behalf, which could have additional cost</p>		<p>Education / awareness of the potential consequences of damage to fire safety features</p> <p>There would be negligible negative impact on their individual other than potential reputational issues. The requirements for being a dutyholder will set out so an individual could assess the likelihood of them being unable to pass the test which would mitigate any reputational damage.</p> <p>Any additional costs from employing a managing agent or other person to act as dutyholder would likely be passed on to tenants/leaseholders and so have limited impact on the individual themselves.</p>