



Llywodraeth Cymru  
Welsh Government

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## Welsh Government Consultation Document

Infrastructure (Wales) Bill

Fees for performance of infrastructure consent functions and services

Date of issue: 13 May 2024

Responses by: 22 July 2024

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh  
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

## Overview

The Infrastructure (Wales) Bill introduces a modern and simplified regime for the consenting of significant infrastructure projects in Wales, both on land and at sea.

The Bill contains the broad detail of the overall consenting process, and the powers to make subordinate legislation. Much of the procedural detail needed to make the consenting process fully operational will be contained in subordinate legislation, including fees.

This consultation seeks evidence to ensure that the fees are set at the correct level for the services and functions provided by stakeholders.

## How to respond

The closing date for responses is **22 July 2024** and you can respond in any of the following ways:

Email: Please complete the consultation response form and send it to: [InfrastructureConsenting@gov.wales](mailto:InfrastructureConsenting@gov.wales) (please include 'Infrastructure (Wales) Bill – Fees consultation' in the subject line).

Post: Please complete the consultation response form and send it to:

Infrastructure (Wales) Bill – Fees consultation  
Planning Directorate  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

## Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

## Contact details

For further information:

Email: [InfrastructureConsenting@gov.wales](mailto:InfrastructureConsenting@gov.wales)

Tel: Kym Scott on 0300 025 8638

This document is also available in Welsh: [hyperlink](#)

## UK General Data Protection Regulation (UK GDPR)

The Welsh Government will be data controller for Welsh Government consultations and for any personal data you provide as part of your response to the consultation.

Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. The lawful basis for processing information in this data collection exercise is our public task; that is, exercising our official authority to undertake the core role and functions of the Welsh Government. (Art 6(1)(e))

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. In the case of joint consultations this may also include other public authorities. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, 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. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation and that the Welsh Government may be under a legal obligation to disclose some information.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

### Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ  
e-mail: [dataprotectionofficer@gov.wales](mailto:dataprotectionofficer@gov.wales)

The contact details for the Information  
Commissioner's Office are:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF  
Tel: 0303 123 1113  
Website: <https://ico.org.uk/>

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# CONSULTATION PAPER

## Infrastructure (Wales) Bill

### Fees

#### 1. Introduction

- 1.1 The Infrastructure (Wales) Bill (“the Bill”) introduces a modern and simplified regime for the consenting of significant infrastructure projects in Wales, both on land and at sea. The need for this Bill has arisen as a result of the Wales Act 2017, which devolved further powers to Wales for the consenting of energy generating projects, overhead electric lines, ports and harbours and other infrastructure works.
- 1.2 As a consequence of the way these powers were devolved, Wales was placed into older and outdated consenting processes by the UK Government which are not fit for purpose. To address this, the Bill introduces a new unified consenting process.
- 1.3 The Bill contains the broad detail of the overall consenting process, and the powers to make subordinate legislation. Much of the procedural detail needed to make the consenting process fully operational will be contained in subordinate legislation, including fees.
- 1.4 The purpose of this consultation is to seek views, ideas and suggestions for the level of fees for the services and functions provided by stakeholders in relation to consenting process, and how pre-application consultation requirements could be specified in the subordinate legislation which will supplement the Bill.
- 1.5 This consultation will close on 22 July 2024. This consultation period is shorter than the standard Welsh Government consultation period. A shorter period is considered appropriate because the consultation is focused on a very specific part of the process that was recently subject to publicity through the Bill scrutiny. This paper is also the initial consultation on the topic, with a more in-depth consultation to follow based on these results. A period of 10 weeks is therefore considered suitable.

#### 2. Current position on the Bill

- 2.1 On 16 April 2024, Senedd Cymru voted to pass the final text of the Bill at Stage 4. The Bill will now be submitted for Royal Assent.

### **3. Current Bill drafting**

#### *Primary legislation*

- 3.1 There are wide ranging fee powers contained within the Bill which are intended to resource those organisations who will provide services and functions in relation to infrastructure consent.
- 3.2 Section 124 provides the Welsh Ministers with the power to make regulations in relation to the charging of fees by a specified public authority for performing an infrastructure consent function and for the provision of an infrastructure consent service.
- 3.3 Section 124 also ensures that any costs incurred as part of the application process for an infrastructure consent order can be recovered.
- 3.4 Section 130 provides the ability for those public authorities to recover their costs for things carried out under direction from the Welsh Ministers. Where certain functions are carried out (e.g posting of a site notice).

#### *Subordinate legislation*

- 3.5 To accompany the Bill, a 'Statement of Policy Intent' has been published which sets out what matters are envisaged to be specified in subordinate legislation. Any matters proposed for subordinate legislation will be subject to further consultation. A copy of the link to the Statement of Policy Intent can be found below:

[Statement of Policy Intent - 1 September 2023.pdf \(senedd.wales\)](#)

[Addendum to Statement of Policy Intent - 15 March 2024.pdf \(senedd.wales\)](#)

### **4. Principles of setting fees**

#### *Enable cost recovery*

- 4.1 It is intended that the consenting process will operate on the basis of full cost recovery, and the Bill provides the framework to achieve this. The idea of cost recovery is to allow those stakeholders who undertake a function in relation to the infrastructure consenting process, to recover their costs of doing so. This is on the basis that neither profit nor a loss is made on undertaking such functions. The intention is that these costs will be factored into costs associated with the application, funded by the developer.
- 4.2 The process for applying for infrastructure consent will require significant input from the Welsh Ministers, Local Planning Authorities (LPAs) and other specialist consultees. It is our intention that these parties will be able to recover their costs for any input required.

- 4.3 The specific details of what full cost recovery means for this process is intended to be informed by this consultation and other engagement with stakeholders. There are many issues to consider, such as, some consultees are already government funded and there is a potential issue of 'double counting' of fees that needs to be considered.

**Question 1:**

**Do you agree that the Bill should operate on a full cost recovery basis?**

**Please provide any evidence you may have to support your position.**

*Simple and transparent*

- 4.4 The fee regime should be simple and transparent. To achieve this, we propose that the fee system will contain fees charged at fixed and variable levels. For example, a fixed fee to accompany validation, and a variable fee to cover the examination cost (based on the number of examiners and number of days taken).
- 4.5 Costs may also vary depending on size, scale and location of a proposed development and other factors such as inflation may impact on costs.

**Question 2:**

**Do you agree that fees should be able to take into account factors such as inflation? Please provide any evidence you may have to support your position.**

*Proportionate*

- 4.5 Fees may also be scaled, depending on the complexity of a case, for example if the application requires a Statutory Instrument (SI) or not. If an application is more complex, requiring an SI, a higher fee could be charged compared to a less complex case that does not require an SI.

**Question 3:**

**Do you agree that fees should vary depending on size, scale and location of proposed developments? Please provide any evidence you may have to support your position.**

*Fair*

- 4.6 Any relevant fees will be based on the full cost of providing services. Where a service is not provided, should the fee system provide a recovery mechanism?

**Question 4:**

**Do you agree that fees should provide a recovery mechanism where the service is not provided?**

**Please provide any evidence you may have to support your position.**

*National and Local Fees*

- 4.7 As the regulation-making power is wide ranging, there is also the potential for fees to be charged at the local and national level. This could mean bodies set their own fees for SIPs based on set principles of cost recovery. For example, this could be a nationally set fee, like the planning system, or a locally set fee like the building regulations system.

**Question 5:**

**Do you have any comments on local and national level fees?**

**Please provide any evidence you have to support your position.**

**Question 6:**

**Do safeguards need to be placed on a locally set system of fees (e.g. consultation on a proposed fee level, performance reporting)?**

**5. Potential stages in the process where a fee could be charged**

- 5.1 The Bill takes account of lessons learned from Development of National Significance (DNS) and Development Consent Order (DCO) processes. Similar to these existing consents, the new consenting regime is a process whereby an application will have to pass through various stages to a decision. Each stage, like DNS and DCO, has an associated cost for the Welsh Ministers and relevant stakeholders.
- 5.2 Similar to applications for DNS, the intention is to base fees on the cost of providing the various services and functions required to determine an application for infrastructure consent, rather than on the size or type of proposed development. Each stage of the process where we anticipate an associated cost is detailed below.

*Fees for Pre-application Services*

- 5.3 It is proposed that there will be fees for pre-application services provided by Welsh Ministers, LPAs and NRW.



**Question 7:**

**Do you agree that fees should be charged for pre-application services?**

**Please provide any evidence you may have to support your position.**

*Fees for Pre-Application Notification*

- 5.4 Prior to applying for infrastructure consent, applicants will be required to inform the Welsh Ministers and other relevant stakeholders of their intention to commence pre-application consultation. This will be in the form of a pre-application notification. It is proposed that a fixed fee will be charged to offset the cost of processing and responding to a pre-application notification.

**Question 8:**

**Do you agree that there should be a fixed fee for submitting a pre-application notification?**

**Please provide any evidence you may have to support your position.**

*Fees for Application and Examination*

- 5.5 Application fees will consist of both fixed and variable fees, as certain elements of the process will be of a standard nature and others will depend on the size and scale of a proposed development. The examination of an application will be charged on a variable rate, and this will help to reduce examination costs, and ensure applicants are only being charged for the time spent examining and determining their application.

**Question 9:**

**Do you agree that application fees should be both fixed and variable? For example, a fixed fee could be paid on the submission of an application, and a variable fee could be paid in relation to the length and complexity of the examination.**

**Question 10:**

**Do you agree that examination fees should be variable? (ie daily rates)**

**Please provide any evidence you may have to support your position.**

*Fees for Local or Marine Impact Report*

5.6 It is our intention that LPAs and Natural Resources Wales (NRW) will receive a fee for submitting a Local or Marine Impact Report (MIR/LIR), during the application process. This will be a fixed fee, as the LIR or MIR will likely contain standard information.

**Question 11:**

**Do you agree that LPAs and NRW should receive a fee for submitting a LIR/MIR?**

**Question 12:**

**Do you agree this should be a fixed fee?**

**Please provide any evidence you may have to support your position.**

*Fees for Determination and Post-Decision*

5.7 It is our intention for Welsh Ministers to charge a fixed fee for the determination of an infrastructure consent order. There will also be fees for applying to amend or revoke an infrastructure consent order.

**Question 13:**

**Do you agree that there should be a fee for the determination of an infrastructure consent order?**

**Question 14:**

**Do you agree this should be a fixed fee?**

**Question 15:**

**Do you agree that there should be fees for the amendment or revocation of an infrastructure consent order?**

**Please provide any evidence you may have to support your position.**

### *Other Fees*

- 5.8 There is the potential for other fees to be included in regulations, such as the charging of fees by a specified public authority, such as statutory consultees.

#### **Question 16:**

**Do you have any comments on statutory consultees charging fees?**

**In giving your answer please consider:**

- **The stage in the process a public body should charge a fee.**
- **If specified public bodies are paid a fee, should this be a fixed fee?**
- **If specified public bodies are paid a fee, should the fee be the same for all bodies?**

**Please provide any evidence you may have to support your position.**

#### **Question 17:**

**Do you consider any other fees or costs should be included in the process?**

#### **Question 18:**

**Do you have any comments to make, or evidence to put forward in relation to the proposed fees, or any suggestions for improvements?**

#### **Question 19:**

**We would like to know your views on the effects that charging of fees in connect with infrastructure consent would have on the Welsh language, specifically, on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.**

**What effects to you think there would be? How could positive effects be increased, or negative effects be mitigated?**

#### **Question 20:**

**Please also explain how you believe the proposed policy for charging fees could be formulated or changed so as to have positive effects or increased**

positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

## Annex A – Current fees for DNS applications

The DNS regime charges fees at various stages of the consenting process, and below are the current fees<sup>1</sup>, as of 2024.

### Development of National Significance Fees

<b>Pre- Application Services</b>	LPA - £1,500
	PEDW – Hourly rate of £55 (plus VAT)
<b>Notification</b>	£580
<b>Initial Fee (paid on submission)</b>	£15,350
<b>Fee for LIR (paid on submission)</b>	£7,750
<b>Fees for Examining the Application</b>	Written Representation – Daily rate of £870
	Hearing or Inquiry – Daily rate of £920
<b>Determination fee (applicable to all DNS projects, except applications for overhead electric lines)</b>	£14,700 (paid directly to Welsh Government)

<sup>1</sup> [developments-of-national-significance-guidance-fees-and-finance.pdf](#)