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Welsh Government  
Consultation Document

## Rationalising the legislation controlling automatic fire suppression systems in care homes for children

Date of issue: 20 November 2020  
Action required: Responses by 04 January 2021

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

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## Overview

This consultation seeks views on proposals to amend the Building Regulations 2010 to rationalise the regulatory procedures that oversee automatic fire suppression systems in care homes for children.

## How to respond

You can email your response to the questions in this consultation to: [enquiries.brconstruction@gov.wales](mailto:enquiries.brconstruction@gov.wales)

If you are responding in writing, please make it clear that you are responding to the consultation on:

“Fire suppression systems in care homes for children.”

Written responses should be sent to:

Fire suppression systems in care homes for Children Building Regulations, Welsh Government, Cathays Park, Cardiff, CF10 3NQ

When you reply, it would be useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable),
- the name of organisation (if applicable),
- an address (including post code),
- an email address, and
- a contact telephone number

## Further information and related documents

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

## Contact details

For any enquiries about the consultation please contact the Welsh Government Building Regulations team by emailing: [enquiries.brconstruction@gov.wales](mailto:enquiries.brconstruction@gov.wales)

For further information:  
Building Regulations  
Welsh Government  
Cathays Park,  
Cardiff,  
CF10 3NQ  
Telephone: 0300 062 8144

## General Data Protection Regulation (GDPR)

The Welsh Government will be data controller 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. 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. 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.

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 GDPR, please see contact details below:

Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ

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

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 01625 545 745 or  
0303 123 1113

Website: <https://ico.org.uk/>

E mail:

[Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)

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# Introduction

## Background

1. The Building Regulations 2010 (the Building Regulations) control certain types of building work, principally the erection and extension of buildings and provision or extension of certain services or fittings, chiefly to ensure that buildings meet certain standards of health, safety, welfare, convenience and sustainability.
2. Compliance with the Building Regulations is the responsibility of the person carrying out the work and the building control system helps to ensure that the required level of performance has been met. The role of a building control body, either the Local Authority or a private sector Approved Inspector, is to act as an independent third-party check to help achieve compliance. As an alternative to third-party checking by building control, some types of work may be self-certified as being compliant by installers who are registered as a member of a competent person self-certification scheme and have been assessed as competent to do so.
3. Building Regulations greatly influence how our buildings are constructed and used. As such, they help to deliver significant benefits to society. The Building Regulations are made up of different parts. Each part referring to a separate functional requirement. Part B of the Building Regulations covers fire safety matters within and around buildings. This includes provision on fire safety, including means of escape, fire spread, structural fire protection and fire service access. The functional nature of the Building Regulations, by having regulations setting out the broad requirement rather than prescribing how it must be achieved, seeks to minimise cost and support innovation. However there are certain requirements specifically identified that make no allowance for variation.

## Introduction of automatic fire suppression system legislation

4. Prior to the devolution of the Building Regulations to the Welsh Government in 2011, Welsh Ministers considered the number of deaths and injuries from fires in homes in Wales was too high and therefore looked at ways to reduce the likelihood of future deaths and injuries from fire in new and converted residential premises in Wales. As the Building Regulations were not devolved at this time, the National Assembly for Wales passed the Domestic Fire Safety (Wales) Measure 2011 (the Measure) in February 2011. The Measure enabled Welsh Government to introduce regulations to make automatic fire suppression systems compulsory in all new and converted residences. Automatic fire suppression systems are an efficient and effective way of helping protect life and property.
5. Following the transfer of functions in respect of the power to make Building Regulations to the Welsh Ministers, a consultation was undertaken in 2013 on implementation of the Measure. This consultation set out proposals to implement the Measure through an approach that combined the commencement of the Measure with the introduction of additional provisions in the Building Regulations.
6. Whilst recognising that the newly acquired powers over Building Regulations were the appropriate vehicle to provide for the requirement to have automatic fire suppression systems in residences, the Measure had significant profile as laying

the cornerstone for an important policy intervention. Therefore in 2014 the requirement for automatic fire suppression systems was introduced in certain buildings in Wales through both the Measure and the Building Regulations.

#### The legislation – the current position

7. The requirement to provide automatic fire suppression systems in residences is therefore contained in both:
  - the Measure; **and**,
  - the Building Regulations.
8. Regulation 37A of the Building Regulations requires that automatic fire suppression systems are provided in certain buildings as set out in the regulation.
9. For the purposes of the Measure, section 6 defines the residences to which automatic fire suppression systems apply.
10. Where the Building Regulations impose a requirement as to the provision of automatic fire suppression systems in relation to building work the Measure does not apply.
11. The buildings specified in the Measure and the Building Regulations are largely the same. However the Building Regulations include a requirement to provide automatic fire suppression systems in care homes, but only those care homes provided wholly or mainly to persons aged 18 or over.
12. In contrast, the Measure includes both care homes for adults and children as the definition of “*residence*” in section 6 includes both (see paragraphs (c) and (f)) of the definition). As care homes for children are not included in the Building Regulations the requirements for the provision of automatic fire suppression systems for these buildings are only applied through the Measure.
13. This means the Building Regulations provide the vehicle for the installation of automatic fire suppression systems in all relevant new and converted buildings, except care homes for children under the age of 18.

#### The reason for change

14. This dual approach to care homes (for adults and children) has led to confusion amongst stakeholders. In order to clarify the legislative requirements a circular letter was issued to appropriate stakeholders. <https://gov.wales/provision-automatic-fire-suppression-systems-care-homes-children-wgc-0082020>. However Welsh Government considers it necessary, for consistency and clarity, to contain all of the provisions requiring automatic fire suppression systems within the Building Regulations.

# Proposals

15. We consider the current system has led to confusion in the provision. It is proposed that care homes for children are included within regulation 37A of the Building Regulations. This would provide parity between these care homes and care homes for adults where automatic fire suppression systems are already required by the Building Regulations.
16. As automatic fire suppression systems are currently a requirement in care homes for children through the Measure, the amendment to provide the requirement through the Building Regulations serves only as a form of 'housekeeping' in order to rationalise the law. It also has the benefit of applying the processes and procedures of the Building Regulations to care homes for children. Providing this rationalisation will remove confusion by ensuring that one piece of legislation deals with all buildings within the scope of the requirements relating to automatic fire suppression systems.

## Question 1

<b>Q1</b>	Do you support the proposal to move the requirement for automatic fire suppression systems in care homes for children into the Building Regulations 2010?	Yes	No	Unsure
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please explain your reasoning:				

# Assessment of impacts

17. Automatic fire suppression systems are already required in care homes for children (through the Measure) and the amendment to the Building Regulations will rationalise the law. Therefore we do not expect there to be any additional development or build costs associated with the change.
18. Providing this rationalisation will improve accessibility of the law by ensuring all types of building within the scope of the requirements relating to automatic fire suppression systems are encompassed in one piece of legislation.

### Familiarisation costs

19. There will be some time costs to developers as they familiarise themselves with the new regulations. These costs include the time taken to read the regulations and to formulate a plan to respond to them. Whilst there is uncertainty around exactly how long it would take, it is considered the 'development' arm of the effected industries is significantly smaller than the number of staff identified as working within those industries. E.g. staff identified as working in the children's care sector would include all workers employed in the care setting, whereas the

impact will be associated with the persons who develop buildings in this sector. A more relevant figure is considered to be the level of annual development in this area, as this provides an assessment of market activity. The average number of new Care Inspectorate Wales registrations over a three year period between 2017 and 2020y is 23 per annum

20. Using ASHE hourly wage data for ‘Property, housing and estate managers’ gives a rate of £22.35<sup>1</sup>. The cost per business is estimated at a single costs of 2 hours for 2 members of staff at a cost of £89.4 per new development, providing an overall cost of £2,056 per annum. This cost will decrease over a period of three years as industry is aware of the changes.
21. To counter the familiarisation costs associated with understanding the amendment to the Building Regulations, there will be a reduction in costs associated with understanding the complexity of the current situation. At present, the complexity of the relationship between the Measure and Building Regulations results in an industry cost. Evidence of confusion has been seen within both the building regulations and care sectors over the requirements. Removal of this confusion is likely to result in a reduction of familiarisation costs. The base assumptions provided above over the anticipated development levels and staff costs are the same. The cost is considered to be £2,056 per annum.
22. This results in an overall neutral cost impact.

## Question 2

	Do you agree the movement of the requirement for automatic fire suppression systems in care homes for children from the Measure to the Building Regulations 2010 should have no negative cost implications?	Yes	No	Unsure
<b>Q2</b>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If no, please explain and provide evidence of what you consider to be unidentified costs.				

## Time Period and Next Steps

23. This consultation will close on 04 January 2021. This consultation period is shorter than the standard Welsh Government consultation period. A shorter period is considered appropriate for the following reasons:
  - The consultation seeks opinions on changes that seek to rationalise the legislation and as such are a matter of ‘housekeeping’. No change in policy over the need or specification of automatic fire suspension systems is proposed or being consulted upon.

<sup>1</sup><https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitsoc2010as/etable14> ASHE table 14.6a, wage rates are uplifted by 30% to reflect overheads.



- The consultation is targeted at a very specific and limited audience who may be affected by the change, which is providers of care facilities and building control bodies. These bodies have been informed of the consultation. Other stakeholders are unlikely to have an interest in this specific matter.
24. Responses to this consultation will be analysed and a Welsh Government Response will follow.