



NATIONAL RESIDENTIAL
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Subject: Safer Buildings in Wales – A Consultation

Dear Sir / Madam,

Thank you for the opportunity to respond to this consultation. The National Residential Landlords Association (NRLA) Wales is grateful for this chance to give our views as an organisation on the Welsh Government's building safety white paper.

In light of the Grenfell Tower tragedy it is important that the fire safety issues that caused it are addressed. We are happy to add our voice to those calling for a re-examination of fire safety standards in Welsh buildings. In light of this, we have kept our response limited to particular areas of concern that we believe will lead to the best outcome for the improved regime; including potential areas of oversight and how best to implement the Welsh Government's proposals.

Simplicity and Assistance

In its approach to building safety, the Welsh Government needs to be acutely aware of the problems that arise from creating multiple overlapping pieces of legislation. The confused existing framework (HHSRS, HMO Management Regulations, Fire Safety Order, etc) has made it unreasonably difficult for landlords to identify a suitable standard and adhere to it. Adding more legislation to this framework is likely to be counter-productive.

At the moment, the [Management of Houses in Multiple Occupation \(Wales\) Regulations 2006](#) and the [Licensing and Management of Houses in Multiple Occupation \(Additional Provisions\) \(Wales\) Regulations 2007](#) already do much of what this White Paper asks of HMO landlords. Rather than adding to this legislative framework, this should be taken as an opportunity to unify the fire safety legislation. We recommend the Welsh Government put all requirements in one piece of law. By unifying the legislation this will reduce the chance of the objectives being compromised.

To be clear, streamlining the legislation like this does not and is not intended to weaken the effectiveness of safety standards. Instead, this action enhances it by minimising the room for error and non-compliance by placing all requirements in a single, logically ordered piece of legislation. This would clearly be preferable to consulting countless laws with subtly different demands. With the Renting Homes (Wales) Act 2016 due to be implemented next year – along with Fitness for Human Habitation standards – there is already a raft of changes on the way, hence the need for clear communication and guidance.

Given the sheer complexity of the existing legislation – not just the amount but the nature of fire safety – and the intention to add more, landlords should be helped by government as much as possible, especially given the rationale behind the reform. This means clear and easy-to-understand communication and guidance to ensure the success of the new building safety regime. Simply put, confusion for landlords (and others) is unsafe.

It has been suggested to us that keeping the regulations as close as possible to England's regime will help to reduce confusion and cost, especially for those that must implement changes in both nations.

Landlords should be assisted in finding suitably competent people to perform fire risk assessments and financial assistance if the costs of ensuring the safety are prohibitively expensive. They also need confidence that individuals like fire risk assessors are properly qualified as they rely on their expertise to give them confidence the work is up to standard. This can be addressed through recognised schemes that ensure professional suppliers meet a recognised legal standard.

We agree that there should be proper enforcement against people who do not take fire safety seriously. However, this should also extend to those who obstruct the account person in performing their duties. A right of access enshrined in law, for those performing their fire safety duties should be available as an alternative to the complex, costly and slow injunction process. Alternatively, a mandatory ground for possession should be added to the Renting Homes Wales Act for situations where the tenant repeatedly prevents the landlord from meeting their fire safety duty. This would help the Accountable Person to protect the majority of tenants from the occasional one who endangers the other tenants.

The new regime should also recognise that the Accountable Person and landlords can only do so much and there must be protections in place where tenant negligence or deliberate damage causes the danger. At the moment, even if a tenant does something grossly wrong, it could be the landlord that gets prosecuted. Whilst not exonerating the duty holder, it is important that where actions by tenants cause the problem, the prosecuting authority takes action against that individual.

Clarification of HMOs

There needs to be a clear definition of what constitutes an HMO within the legislation. As the document stands, an HMO is considered to be a "typical" HMO such as a student house. However, there are a variety of different HMO definitions that could be considered typical.

The white paper also states that *licensed* HMOs come into the scope of the Bill. Consequently, this means such unlicensed buildings do not. This means that the legislation will apply unevenly across Wales, with additional licensing schemes only operating in half of Wales' 22 local authorities. Even within the eleven councils with additional licensing, the schemes do not have to apply to all the different types of HMO in their area.

As a result, the legislation would apply unequally across Wales, with additional licensing determining whether the fire safety legislation applies, rather than the layout of the property. Given the difficulties here we would recommend making the legislation apply to HMOs subject to *mandatory licensing only*. In addition and relation to this, there is potential overlap between the Fire Safety Order and the proposals in this paper when it comes to licensed HMOs. Again, this is down to the lack of definition of what kind of HMO falls into the scope of each regime.

Accountable Person

We agree with the concept of an Accountable Person and broadly agree with the Welsh Government's approach. We believe that a registration and licensing system will be to the benefit of landlords, managers, and tenants alike as a training module on how best to ensure building safety will help those otherwise "out of their depth". However, we note there is no mention of costings in this consultation document (unsurprisingly at this stage).

As already discussed here, the NRLA believes that the legislation surrounding fire safety needs streamlining, but this new regime provides another way the Welsh Government can streamline without compromising on standards. Given the Welsh Government's white paper states licensed HMOs are within the scope of any future Bill, then it is only logical to include all these tests within the same process as local licensing schemes, both mandatory and additional. This will reduce duplication of paperwork, bureaucracy, tests, and costs. The infrastructure already exists, so its potential should be maximised.

However, it could be even better. As the consultation itself states, registration, licensing, training, and fit-and-proper persons tests already exist as requirements to be a landlord and/or agent through Rent Smart Wales (RSW). Even without the new proposals, many landlords are already having to pay two kinds of licensing fees and passing two fit-and-proper-persons tests due to the existence of RSW and other property licensing schemes.

This new Accountable Person qualification criteria provides the perfect opportunity to streamline licensing without compromising standards, making RSW the "one-stop shop" it was described as throughout the passage of the Housing (Wales) Act 2014. Additional standards for HMOs can be incorporated into RSW and the incoming Fitness for Human Habitation Standards, via the Renting Homes Act 2016, thus rendering local licensing redundant and maximising the potential of the infrastructure built by the Welsh Government. More can read about streamlining licensing [here](#), about how to improve RSW [here](#), and by contacting NRLA Wales.

Golden Thread

We agree that the approach taken towards the principle of the golden thread is the correct one. The need to ensure as detailed a record as possible of the design, construction, and maintenance of buildings is a sensible measure to take regardless of fire safety. However, the Welsh Government should be aware that this simply will not be possible for some existing



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buildings where the current management will not be in possession of the desired information due to no fault of their own. It is essential any legislation recognises this and does not punish those that are unable to act.

For new buildings, the Accountable Person will likely have liaised with the duty holders. They will in most cases be relying on their expertise or they may have been involved in the construction themselves. For existing buildings there are no guarantees that the Accountable Person will have access to this professional knowledge. As such, if it is to be implemented then the Accountable Person must have access to clear guidance on what is required.

Categories

We both understand and appreciate the Welsh Government's decision to consult on whether to have two or three categories of buildings. It recognises that fire safety in a block of flats would be unsuitable for a small HMO.

However, the NRLA believes that this should be pursued further than the two or three tiers outlined, ranging from the highest fire risk to the lowest ones. For example, an HMO between friends and/or family would be at lower risk than smaller room-only HMOs and larger HMOs where tenants don't know each other. Under the proposed regime, they will likely fall into the same category, increasing costs, and by extension rents, unnecessarily.

We recommend a wider range of categories based on a tiered system ranked by risk level.

Conclusion

The NRLA shares and is supportive of the Welsh Government's desire to increase the safety of multi-occupier buildings to prevent further tragedies. That is why our response aims to be constructive in order to meet that objective. We believe the best way to do this is through clarity, good communication, and making the process as easy as possible for those who will bear the responsibility of abiding by the legislation.

We would be happy to discuss our response further if requested.

Kind regards,

A handwritten signature in black ink, appearing to read 'Calum Davies'.

Calum Davies
NRLA Wales Policy & Public Affairs Officer

About the NRLA



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The NRLA is the home for great landlords, representing the interests of landlords in the private rented sector (PRS) across England and Wales. With over 85,000 subscribing members and tens of thousands of registered guests who regularly engage with the Association, the NRLA is the leading voice of private landlords. Combined, the NRLA members manage over half of a million properties. We provide support and advice to members and seek to raise standards in the PRS through our code of conduct, training, and accreditation. Many of the NRLA's resources are available free to non-member landlords and tenants. The Association campaigns to improve the PRS for both landlords and tenants, engaging with policymakers at all levels of government to support its mission of making renting better.