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Ymateb gan: Steve Evans, National House Building Council (NHBC) | Evidence from: Steve Evans, National House Building Council (NHBC)

Senedd Cymru | Welsh Parliament

Y Pwyllgor Llywodraeth Leol a Thai | Local Government and Housing Committee

Bil Diogelwch Adeiladau (Cymru) | Building Safety (Wales) Bill

You do not need to answer every question, only those on which you wish to share information or have a view.

1. What are your views on the general principles of the Bill, and whether there is a need for legislation to deliver the stated policy intention?

NHBC are supportive of the general principles of the Building Safety (Wales) Bill of enhancing safety, accountability and ensuring residents have clear pathways to raise safety concerns.

It is vital to ensure there is appropriate legislation in place to deliver these intentions and ensure that the legal obligations placed on duty holders are clear and robust.

2. What are your views on the provisions set out in Part 1 of the Bill – Safety of buildings containing two or more residential units (sections 1 -66 and Schedule 1)? In particular, are the provisions workable and will they deliver the stated policy intention?

Sections 2 to 5 of the Bill define key terms including the meaning of “regulated building”, “building”, “independent part” and “residential unit”. It would be beneficial to consider aligning these definitions with those currently adopted in England, to support consistency for stakeholders managing buildings across both jurisdictions. Harmonisation of terminology can reduce confusion and facilitate smoother compliance processes for stakeholders operating across the border.

Section 6 outlines the categories of regulated buildings and provides Welsh Ministers with powers to make further regulations, including determining how the height and number of storeys of a building are calculated. It also introduces

the power to determine the definition of the term “storey”. To ensure clarity and consistency, it would be beneficial to consider how these definitions align with both,

- The Building Safety (Definition of Higher-Risk Building) (Design and Construction Phase) (Wales) Regulations 2023,
- The First-tier Tribunal decision in England on 3 July 2024, which raised concerns about the definition of Higher-Risk Buildings (HRBs) in relation to roof gardens.

The tribunal’s interpretation suggested that roof gardens might constitute a storey, which conflicted with the UK Government’s guidance and the intended application of,

- Section 120D of The Building Act 1984 (design and construction phase),
- Section 65 of The Building Safety Act 2022 (occupation phase),
- The Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023.

Following the Tribunal’s decision, the UK Government issued a statement on 18 October 2024, reaffirming its position and announced its intention to consult on potential amendments to clarify this point in law.

It is important to have clear and consistent interpretation of these definitions. Misunderstandings could lead to unintended inclusion or exclusion of buildings from the regulatory regime, with significant implications for compliance obligations and safety oversight. It would be beneficial for the Welsh Government to ensure that its guidance and terms within the legislation are clear and unambiguous. This will ensure they are not subject to legal challenge and are aligned with broader UK policy to promote consistency across both regions.

Chapter 3 sets out the registration requirements for category 1 & 2 buildings. NHBC support the principle of requiring registration prior to occupation of these buildings, as it strengthens oversight and accountability. In addition to the current proposals, it may be beneficial to consider including a requirement for new buildings or newly created buildings which were subject to a change of use to submit evidence of building control approval as part of the registration process. This could include,

- A completion certificate where works were overseen by Local Authority Building Control, or
- A final certificate where a Registered Building Control Approver was involved.

This additional step would help provide assurance to regulators and residents that buildings entering the regulated regime are complete and have met the necessary standards.

3. What are your views on the provisions set out in Part 2 of the Bill – Fire safety in certain houses in multiple occupation (sections 67 – 80)? In particular, are the provisions workable and will they deliver the stated policy intention?

4. What are your views on the provisions set out in Part 3 of the Bill – Enforcement and investigatory powers (sections 81 – 97 and Schedule 2)? In particular, are the provisions workable and will they deliver the stated policy intention?

5. What are your views on the provisions set out in Part 4 of the Bill – Supplementary and general (sections 98 – 114 and Schedules 3-4)? In particular, are the provisions workable and will they deliver the stated policy intention?

6. What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

7. How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation, as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?

8. Are there any unintended consequences likely to arise from the Bill?

9. What are your views on the Welsh Government's assessment of the financial implications of the Bill, as set out in Part 2 of the Explanatory Memorandum?

10. Are there any other issues you would like to raise about the Bill and the Explanatory Memorandum or any related matters?
