

HE 22

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Communities, Equality and Local Government Committee

Bil yr Amgylchedd Hanesyddol (Cymru)/Historic Environment (Wales) Bill

Ymateb gan: Cytun – Eglwysi Ynghyd yng Nghymru

Response from: Cytun – Churches Together in Wales

1. Cytûn is the umbrella body for twelve major Christian denominations in Wales. It has consulted with the Property Officers of our member churches and Category B members (other Christian bodies working in the field) in compiling this response.
2. CADW estimates that there are at least 30,000 listed buildings in Wales, and a ministerial answer to Mike Hedges AM indicated that approximately 4,500 of these are religious buildings or structures. The vast majority of these are in the care of Christian churches in membership of Cytûn, although some are in the hands of other Christian bodies, some have been purchased by other religious communities and some are now put to non-religious uses. We therefore have a considerable interest in the matters covered by this Bill.
3. In what follows, we refer on occasions to the procedures for Ecclesiastical Exemption, as the absence of explanation regarding the effect of the proposed legislation and guidance on these processes in the documentation so far issued (see paras 5-6 below) is of concern to the denominations affected. However, the remainder of our response relates to all historic church buildings in Wales.
4. We welcome the publication of draft guidance and a draft TAN 24 alongside the Bill, although we regret that the **Strategic Action Plan for Historic Religious Buildings** is not yet available. Almost all church buildings in Wales are in some sense 'historic', and the provisions of this Action Plan will be of key importance to our member churches' management of these assets in the coming years. The Heritage officers from the Local Authorities in South Wales have formed an informal partnership – the churches are represented by Sanctaidd on this partnership. Sanctaidd is a Category B member of Cytûn and is party to this response.
5. We are concerned that the only mention of **Ecclesiastical Exemption** in any of the draft guidance which has been published is in paragraph 5.17 of the draft TAN 24. We understand that the draft regulations regarding the application of the provisions of the Bill to those buildings which enjoy Ecclesiastical Exemption from secular Listed Building Consent procedures will be published alongside the Strategic Action Plan. Only when we see those draft regulations will we know exactly how some of the legislative changes currently proposed affect those Christian churches covered by Ecclesiastical Exemption. It is important to note that the Ecclesiastical Exemption procedures were devised in order to preserve an appropriate balance between protecting the historic features of the building and permitting the continued use of places of worship for the purpose for which they were intended as styles of worship evolve and change.
6. We believe that it would be helpful if a statement similar to that of para 5.17 of draft TAN 24, in less technical language, could be included in all of the relevant documents. Religious buildings subject to Exemption are often managed by local volunteers who are not fully conversant with the intricacies of Exemption, and even professional advisers who do not work regularly in the field of religious buildings may be unaware that they should follow a different process from usual in seeking Listed Building Consent. We are also concerned that

the wording in para 5.17 could be taken, erroneously, to imply that no consent is required for altering or demolishing such buildings. We suggest a wording along the following lines should be inserted at an early point in each relevant document:

Listed building and conservation area consent operates differently in the case of ecclesiastical buildings belonging to the Church of England, the Church in Wales, the Roman Catholic Church, the Methodist Church, the Baptist Union of Great Britain and the Baptist Union of Wales. When consideration is being given to changing, extending or demolishing a listed building in the care of one of these Christian denominations, the denomination concerned should be contacted for guidance.

(This wording assumes that the United Reformed Church in Wales will be excluded from Ecclesiastical Exemption by regulation, as it has requested).

7. We are also puzzled that fn 64 to para 5.17 of TAN 24 states that the current guidance on Ecclesiastical Exemption *is under review to put in line with that published in England in 2010*. We presume that the guidance for Wales would need to be different from the 2010 English guidance in order that the provisions of this Bill, once passed, may be taken into account.
8. We would remind the Committee that the procedures operated by the denominations covered by Ecclesiastical Exemption (a more accurate term would be *Ecclesiastical Consent*) are if anything more rigorous than those operated in the secular system – for example, notification is required of like for like repairs, which is not required in the secular system. The church denominations concerned, together with the Presbyterian Church of Wales (which does not have Ecclesiastical Exemption) also ensure that a quinquennial inspection is made of each listed building in their care. The Church in Wales will be submitting to the Committee more detailed evidence regarding its procedures.
9. **Heritage Impact Assessments** (TAN 24, para 5.6, B.10). We welcome this proposal to bring together into one document several existing documents which are currently required (such as the Statement of Significance and Statement of Need). This should avoid duplication of effort and make reading the material simpler. Are we correct in assuming that this new requirement will apply to Ecclesiastically Exempt buildings?
10. **Heritage Partnership Agreements** (TAN 24, para 5.13). We welcome this proposal, although we are unclear how (if at all) it would relate to Ecclesiastically Exempt buildings. We would note that on a practical level bringing together all the parties concerned in a Partnership may not be easy, and that the effective operation of a time-limited agreement will depend on there being funding in place. It is lack of funding which often requires work on a group of buildings to be phased over a period of years. Some Christian denominations are opposed to applying for lottery based grants for repairs or projects due to ethical opposition to the way in which the funds are raised. This places an even greater challenge to create a financially secure position from which to develop a medium to long term strategy.
11. **Pre-application discussions** (TAN 24 Appendix B, para B.9). We welcome the sensible suggestion that pre-application discussions should take place, and we would note that this is standard practice within Ecclesiastical Exemption procedures. We are concerned, however, at the possible financial implications when a local authority conservation officer is involved in such discussions, as a fee is usually charged. This is a particular problem for religious bodies and other not for profit organisations when they are trying to make conserving a listed building financially viable. The charging of a fee could discourage any form of pre-application discussion. We suggest that the Government consider regulating the fees that

are charged in such circumstances. No fees are payable on applications for listed building consent, either via Ecclesiastical Exemption or in the secular system.

12. **Application process** (TAN 24 Appendix B, para B.10). We note that the secular system uses a digital application process. This has not yet proved possible (for cost reasons) for Ecclesiastically Exempt denominations. If smaller denominations had to install IT and train staff to operate online systems the financial impact would be crippling and disproportionate. We wonder, therefore, whether it might be possible for Exempt churches to use the secular online portals. This would also improve the transparency of the ecclesiastical consent processes, and help with ensuring the completeness of records of listed buildings in an area (see para 13 below).
13. **Managing Historic Environment Records in Wales.** We welcome this guidance note and the intentions behind it, and fully support the maintenance and enhancement of the existing record base. Clearly, these records need to be as comprehensive as possible. We would note that we are not aware how, if at all, the agents who manage these records currently source information regarding historic places of worship for inclusion, and we would hope that a way can be found for this to be done more systematically, in partnership with the churches concerned.
14. **Unauthorised works.** We welcome the clearer powers proposed for Local Planning Authorities (and, in extremis, Welsh Ministers) to intervene in the case of unauthorised works to listed buildings. We would urge that these powers be used in a proportionate manner, recognising that some unauthorised works involve inadvertent and superficial damage to properties, and that this can apply especially to buildings such as religious buildings which are perforce managed by unqualified volunteers with very limited resources, both in terms of finance and in terms of their knowledge base.
15. **Appeals procedure.** We note with concern that it is not proposed to introduce a formal process to appeal against the listing of a building or to ask for review of the designation of a building. We would commend to the attention of the Committee the provisions in England which are outlined at <https://www.gov.uk/how-to-challenge-our-decision-to-list-or-not-list-a-building> and especially the straightforward Listing Review Request Form and the user friendly Guidance Notes which accompany it, and would commend the introduction of such a procedure in Wales.

There are in Wales, sadly, a large number of redundant listed places of worship. In some cases, the burdens imposed by listing have contributed to the redundancy. In others, the absence of a clear review process prevents the development of the building or site for uses of benefit to the community, such as affordable housing. We believe that a streamlined process of appeal and review would offer benefits both to keeping some places of worship in use as such, and also in allowing redevelopment which would benefit the community as a whole, and that this is the ideal opportunity to introduce such procedures.
16. **Certificate of immunity from listing.** We note with interest the proposal to introduce such a certificate, and we can see that it might have some value in certain circumstances. However, we would suspect that the making of an application for such a certificate would draw attention to the possibility that a building should be listed, and also that it would often result in the building being included on a local list of historic assets, with possible deleterious consequences for the owner of the building and the work s/he might have hoped to carry out on the building (see paras 18-19 below).

17. **Wales Advisory Panel.** We welcome the establishment of this Panel to ensure that appropriate advice is available to Welsh Ministers. We would be grateful for clarification as to the Panel's role with regard to historic places of worship in general, and Ecclesiastically Exempt buildings in particular. We would hope that at least one panel member would have the relevant knowledge and expertise to represent our unique situation.
18. **Managing Lists of Historic Assets of Special Local Interest in Wales.** We have read this Guidance Note with considerable concern. We understand the value of maintaining lists of historic assets which are not Scheduled Monuments or Listed Buildings. However, we do not understand what the status of this Guidance and, especially, of inclusion on the local list would be. We are also concerned about the lack of any clear process for inclusion of a building on these lists. It appears that the process lacks independent decision making based on agreed criteria – and that these decisions might possibly be made by an arbitrary group drawn from specific local interest groups and without any consultation with the building owners. Cadw apply recognised criteria when considering any request for a building to be protected which are carefully judged by an Inspector with appropriate expertise and knowledge.
19. We note with particular concern the statement in section 3 (page 4) that these local lists would have some status in the Local Development Plan. However, there is no consent process similar to that for Listed Buildings other than the ordinary planning application process. It appears therefore that there could be a paradoxical outcome in that buildings included on a local list might be more vigorously protected than those on the Lists maintained by Welsh Ministers, as a local planning authority could refuse consent for making changes to such a building even though were it Listed by Welsh Ministers consent might be given. We suspect that religious buildings are amongst those most likely to be listed as of local significance. Small local congregations are unlikely to be in a position to appeal such a refusal of consent. Even those in denominations which benefit from Ecclesiastical Exemption would not have the protection of Ecclesiastical Exemption procedures in the case of a building not Listed by Welsh Ministers. We would therefore urge that this Guidance be clarified, and that the paradoxical consequences suggested above be avoided.

We are grateful to the Committee for the opportunity to submit this response, and would be happy to provide any further information that might be helpful to the Committee in its deliberations.

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