

Communities, Equality and Local Government Committee

Meeting Venue:
Committee Room 2 – Senedd

Meeting date:
Thursday, 18 June 2015

Meeting time:
09.00

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

Sarah Beasley
Committee Clerk
0300 200 6565
SeneddCELG@Assembly.Wales

Agenda

1 Introductions, apologies, substitutions and declarations of interest

2 Historic Environment (Wales) Bill: evidence session 4 – Royal Commission on the Ancient and Historical Monuments of Wales (9.15 – 10.15) (Pages 1 – 26)

Christopher Catling, Chief Executive
Jonathan Hudson, Commissioner
David Thomas, Head of Public Services

Break (10.15 – 10.30)

3 Historic Environment (Wales) Bill: evidence session 5 – National Trust Wales (10.30 – 11.30) (Pages 27 – 31)

Dr Emma Plunkett-Dillon, Vice-Chair

4 Papers to note (Pages 32 – 38)

5 Motion under Standing Order 17.42 (vi) to resolve to exclude the public from the remainder of the meeting

6 Historic Environment (Wales) Bill: discussion of evidence received in sessions 4 and 5 (11.30 – 11.45)

7 Consideration of forward work programme (11.45 – 11.55) (Pages 39 – 41)

8 Renting Homes (Wales) Bill: consideration of final report (11.55 – 12.55) (Pages 42 – 146)

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The Historic Environment (Wales) Bill

Written evidence in support of the bill from the Royal Commission on the Ancient and Historical Monuments of Wales (RCAHMW)

1.0 Background

1.1 We are the national body of historical environment survey and record for Wales, established by Royal Warrant in 1908. One of our principal activities is the maintenance of the National Monuments Record for Wales, and in that capacity we are responsible for monitoring the development of the Historic Environment Records (HERs) that are maintained by the four regional Welsh Archaeological Trusts.

1.2 These two different types of record are different but complementary. In essence HERs constitute a catalogue of information about the past, containing high-level data. The National Monuments Record adds depth of information, consisting of many different types of data, including and interpretative drawings, plans, sections, excavation reports, field notes and 150-years' worth of photographs.

1.3 Because of our role in maintaining National Monuments Record for Wales and for monitoring the development of the Historic Environment Records, our evidence to the Communities, Equality and Local Government Committee will focus mainly on Part 4 of the Historic Environment (Wales) Bill, dealing with the requirement for local planning authorities in Wales to create and maintain HERs.

2.0 The value of HERs

2.1 We very much welcome clauses 33 to 36 of the Bill, requiring each local planning authority in Wales to 'prepare and publish a historic environment record relating to its area'. There are several reasons why we support this measure. HERs are a valuable and accessible source of knowledge about the historic environment that can be used to:

- i. support conservation efforts and responsible stewardship of the historic environment
- ii. inform property owners and developers of any heritage assets that might have an impact on the ways in which they can use their land and property, and thus provide them with the clarity they need in order to prepare successful planning applications

- iii. inform decision-making within the planning and development control system, including pre-application discussions and consent applications
- iv. support environmental improvement, cultural tourism and educational initiatives
- v. empower people to explore, enjoy and understand local heritage.

2.2 The need for high standards

In order to achieve all these objectives, HERs need to be accessible, accurate and up to date: and for that reason we very much welcome the emphasis in the Bill and Statutory Guidance on HER service providers being subject to audit by the Royal Commission at five-year intervals. We also welcome the statement that Welsh Ministers will regularly review the discharge of their HER responsibilities by local authorities and work with those that fail to comply to agree a plan of rectification.

3.0 Existing HERs

3.1 HERs do, of course, already exist, and have been managed and developed by the four regional Welsh Archaeological Trusts over a number of decades, so we do not consider the Bill places an especially onerous burden on local planning authorities. The initial start-up investment has already been made, but HERs could rapidly cease to perform their proper role within the planning system if they become out of date. So there is a need for continuing investment in their maintenance and enhancement. The Statutory Guidance makes clear that appropriately qualified and competent curatorial staff should be employed to undertake this task. As the responsibility for having access to a HER will rest with local planning authorities it will be important to ensure that there is recognition on the part of these authorities that they will need to provide a reasonable and proportionate share of these essential costs.

4.0 Alternative service providers and

4.1 However we note that the Bill does not specify that the existing HERs should be used and the associated Statutory Guidance on Historic Environment Records in Wales does not assume that this will be the case. Instead the Statutory Guidance sets out what a HER should contain, how it should be managed and what standards must be met, and it is theoretically possible that some local authorities might decide to go outside the existing HER provision to set up and maintain their own HER, or to contract the work to different service providers than the Welsh Archaeological Trusts.

4.2 There is therefore a risk of a multiplicity of approaches to HERs and we are concerned that this could lead to fragmentation; notwithstanding the Statutory Guidance on standards, this could lead to regrettable a lack of national consistency that could confuse users and present barriers to the wider use of HERs. This should be avoided and emphasis placed on the key role of the Historic Wales Portal in providing a clear entry point to a number

of records that have been devised for different purposes and which are complementary

5.0 The Historic Wales portal

- 5.1 The Royal Commission has worked hard in recent years to bring the historic environment data held by various bodies in Wales under one umbrella: the Historic Wales on-line portal brings together HERs data and information held by such organisations as Cadw, the National Trust, National Museum Wales and our own National Monuments Record Wales, thus creating what might be termed the 'extended national HER'. This extended HER is critically important for anyone needing a greater depth of information than is held within the existing, and the move towards common standards and greater integration is one that we would commend in preference to greater plurality.
- 5.2 Our own experience of working with the existing HERs held by the Welsh Archaeological Trusts has demonstrated that they are well managed. We undertook audits in 2005 and 2010 and we are currently undertaking another five-year audit in order to inform their forward work programmes. We would especially like to commend their creativity in providing for wider public access and enabling the public to access HERs data, and upload their own observations, via tablets and mobile phones.

6.0 Section 17 of the Bill

- 6.1 We are pleased to see an effort being made to strengthen the law in relation to the 'defence of ignorance' relating to Metal Detecting. To allow 'ignorance' to be used as a defence means that it will be almost impossible to prosecute illegal activity, because the onus will be on the prosecutor to prove that the detectorist was fully aware of any protective designations in force.
- 6.2 Instead it is right that, just as a metal detectorist should seek the landowner's permission before undertaking a search, so the onus should be on the detectorist to check whether or not a place is protected. The level of easily accessible information on line via the Historic Wales portal means that it is very easy to check whether land is designated or not, and the 'ignorance' defence is even more difficult to justify now than at any time in the past.

7.0 Section 37 of the Bill

- 7.1 We note that Section 37 of the Bill places a requirement on Welsh Ministers to establish an Advisory Panel for the Welsh Historic Environment, to 'give advice on matters relating to the formulation, development and implementation of policy and strategy in relation to the historic environment of Wales'. The Panel will be required to publish a work programme setting out the 'matters on which it plans to provide the Welsh Ministers with advice during the subsequent three years'.
- 7.2 We would like to seek reassurance that such an advisory panel will draw on a wide range of advice in setting its agenda, and seek evidence in their

deliberations from the wide range of heritage bodies that exist in Wales. We would be happy to offer some assistance to Cadw in supporting the operation of the Panel, so as to ensure that its work programme is representative of the functions that we and others carry out as well as those led by Cadw.

8.0 Maritime provision

- 8.1 Finally, as the national body that is charged with the task of making a record of maritime and offshore heritage, we are concerned that the current Bill and the supporting guidance are primarily concerned with terrestrial heritage. At a time when our territorial waters are subject to ever greater development pressures, there is an urgent need for comprehensive and up to date information about the rich maritime heritage of Wales to underpin future planning decisions. We hope that measures to address this need will be incorporated into this Bill or future legislation and guidance addressing maritime heritage and offshore development.



**Ymddiriedolaeth
Genedlaethol
National Trust**

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
CELG(4)-17-15 Papur 2 / Paper 2

Agenda Item 3

Emily.Keenan@nationaltrust.org.uk
07766820767

Written Evidence Submission- National Trust Wales to the Communities, Equality and Local Government Committee on the Historic Environment Bill June 2015

Introduction

National Trust Wales places great importance on the conservation and management of all aspects of the historic environment, including archaeological sites, designed and cultural landscapes, buildings, architecture and parks and gardens. We want the special places of Wales to be available forever, for everyone.

We care for 175 Scheduled Ancient Monuments and 381 listed buildings. We have three sites in guardianship – managed by Cadw on behalf of Welsh Government. We have 15 registered Parks and Gardens and own a significant part of Wales' registered historic landscapes. We work with many partners to protect and promote enjoyment of the historic environment, including Cadw, the Royal Commission for Ancient and Historic Monuments Wales, four archaeological trusts, Natural Resources Wales, the Institute of Historic Building Conservation, Wales Environment Link, the Campaign for the Protection of Rural Wales and the Council for British Archaeology. We are also an active member of the Historic Environment Group.

We welcome the Historic Environment (Wales) Bill as the first Wales-only legislation for the care and protection of our distinct historic environment. In many ways the Bill shows a willingness to build on and expand the current legislative framework for protection of our historic environment and as such it is a consolidation and enhancement rather than a radical new approach. We support the direction of travel and believe many of the provisions do represent a positive change for our historic environment. Our primary concern is around the implementation of the new measures, specifically those at Local Authority level, where resource pressures may lead to a lack of capacity to take work forward. Our hope is, that Welsh Government will go beyond this Bill to take a proactive approach to our historic environment and bring forward more radical solutions to reduce the number of historic buildings, monuments and landscapes at risk.

Bill Formation Process

We have found the process of the formation of the Historic Environment Bill to be consultative and

Llywydd/President: HRH The Prince of Wales
Cadeirydd Pwyllgor Cymru/ Chair of the Wales Committee: Mr Keith James OBE
Cyfarwyddwr Cymru/Director for Wales: Mr Justin Albert

Registered office:
Heelis, Kemble Drive, Swindon, Wiltshire SN2 2NA
Registered charity number 205846

well-communicated.

The National Trust was part of process from the beginning and greatly welcomed the opportunity to participate. We support the open approach taken by Cadw when first exploring the potential opportunities provided by new legislation such as the horizon scanning workshops. It could be argued that such an approach will raise expectations beyond what can actually be achieved through any given piece of legislation. However, we feel this risk is more than justified by the engagement and ideas generated by such exercises.

We particularly appreciated working with Cadw on the specific aspects of the bill especially the 'Landscapes, Parks and Gardens and Battlefields' workshop at Stackpole which we jointly hosted.

Once the process was clarified we supported the steady progress through the legislative process and believe that the level of consultation was appropriate. Towards the end of the process the steps being taken and their justification was easy to understand. The connection between the Bill and the supporting documents such as changes to planning guidance and statutory guidance is clear.

The General Principles of the Historic Environment (Wales) Bill

Below we outline our views on individual elements of the Bill;

Greater Protection for Scheduled Ancient Monuments

We strongly support the measures in the Bill that will give greater parity to the protection of Scheduled Ancient Monuments. Provision of the same type of statutory care as Listed Buildings will provide better protection to much of our Welsh heritage.

Interim Protection and Temporary Stop Notices

National Trust Wales can see the value in introducing temporary stop notices in providing more effective protection to Listed Buildings and Scheduled Ancient Monuments. However, we believe that a major issue currently inhibiting the effective use of stop notices is that Local Planning Authorities are wary of the potential cost of delaying works which they might later have to compensate the owner for. This issue is not currently addressed in the Bill, but if it could be the use of stop notices would be more frequent and so heritage protection more effective.

We agree that interim protection is essential in preventing damage to a monument or building while consultation is being undertaken prior to designation. Interim protection should apply for all assets from when an application is made to throughout the consultation, decision-making and review period.

Control of Works Affecting Scheduled Monuments

National Trust Wales wholly welcomes measures outlined in the Bill which place a responsibility on the individual to take reasonable steps to find out whether there is a scheduled monument in the area where works are planned, in order to prevent damage and destruction of them. We agree that there has been a need to better defend our protected monuments and places and believe that the proposed measures will make a valuable contribution to this protection in the future.

Buildings at Risk

We are pleased to see the Bill's provisions to lend greater protection to Listed Buildings, however, we would have wished to see far greater emphasis on Buildings at Risk in the Historic Environment Bill. We wish to see greater monitoring, greater intervention, greater reporting, and far more emphasis on reducing the buildings at risk in Wales. The Bill needs to stimulate a far more proactive approach to partnership solutions to Buildings at Risk in Wales, and a greater dialogue on solutions to loss of heritage.

Landscapes

As an organisation particularly concerned with the protection and conservation of the Welsh landscape we feel that the proposals in this document which address landscape are weak. From our perspective this is an area in which the Historic Environment Bill has failed to deliver. We acknowledge the difficulties in registering and protecting large areas, but this legislation has failed to address the issue. In doing so misses the 'bigger picture' in terms of protecting our Historic Environment.

We do not agree that the register of historic landscapes delivers the Welsh Government's contribution to the European Landscape Convention. An active and holistic approach is needed. In order to achieve this holistic approach it must be ensured that provisions relating to landscape in the Heritage and Environment Bill are integrated and the management and protection of the historic environment is firmly embedded in any ecosystems approach to landscape management.

The complexity of working with the Natural Resources Management Plan have not been considered by this Bill. Our understanding is that the proposed natural resources planning areas will be established through the Environment Bill. The strong suggestion is that these will be catchment based which will conflict with the boundaries of the registered historic landscapes. We are extremely concerned that how to marry these approaches has not been considered. Without evidence of real joined up thought and working we cannot feel confident that the historic environment will be given due consideration in what will be a complex and multi-stakeholder process. We would still like to see a formal process through which Cadw and other bodies with expertise in heritage and the historic landscape can provide input to the Natural Resource Management Planning.

Register of Historic Parks and Gardens

We very much welcome a statutory basis to the Register of Historic Parks and Gardens in Wales as provided in the Bill. We hope that the Welsh Government to commit the necessary resources to maintain and enhance the register.

However, we are concerned about the Minister's power of deletion of parks and gardens from the register. We would welcome clarification about the circumstances under which a park or garden might be deleted from the register and the process by which this would be judged in an open and public manner.

Heritage Partnership Agreements

We strongly support introduction of Heritage Partnership Agreements and contributed to early discussions as to how this might work. We are encouraged to see that the proposal for Heritage

Partnership Agreements has been based on pilot schemes in England and Wales which we hope have provided valuable lessons for implementation.

This approach could help to avoid duplication of work for us, for Local Planning Authorities and for Welsh Government. Such a system would benefit properties like Dolaucothi where large areas are protected but the significance of the archaeology varies. It would help us carry out routine tasks such as erecting signs and temporary structures and cyclical maintenance which is needed at such a property.

There will, however, be front-loaded resource implications if the establishment of such partnerships is going to be successful. If there are delays in establishing this process at LA level then take up of such agreements will suffer and potential for efficiency savings in the future will be lost.

Historic Environment Registers

We are pleased with the Bill's provisions which place a duty on LPAs to create and maintain HERs either within their own organisational or by a third party is being revisited. We view statutory footing for HERs as essential to effective planning. Organisations such as National Trust Wales are reliant on accessing sound HER data as are many other organisations. We would advocate learning from the Welsh Archaeological Trusts who have run a successful system up to this point.

Again we would like to raise the issue of resource in LAs for work on HERs. It may be the case that a service level agreement will allow the current arrangement to continue. If however, the work on the registers is to be bought inside LAs then resources need to be allocated to maintaining the registers and their conversion to SPG. Many of the staff who have a suitable skill set may find their jobs under threat due to cuts at Local Government level, making us question the feasibility of this role being performed by LAs long term.

Advisory Panel for the Historic Environment

National Trust Wales believes that the establishment of an Advisory Panel for the Historic Environment is a good idea. We support the Welsh Government taking a consultative approach to the historic environment in Wales and utilising expertise which sit outside of government.

However, we have previously raised concerns about the lack of differentiation between the role on the Advisory Panel for the Welsh Historic Environment and the Historic Environment Group currently in existence, and these concerns have not been addressed by the wording on the face of the Bill.

Duplication and overlap between the two groups will mean additional and unnecessary work for all involved. There is also a high cost associated with the creation of such a panel and given the stretched resources we refer to elsewhere in this document we feel consideration could be given to how else this money might be used.

Barriers to Implementation

1. Resource

The primary barrier to implementation will undoubtedly be resource at Local Authority

Level. Existing arrangements do not work to their full potential where they are not properly resourced and this will be no different for the new provisions made in the Bill. Our concern is that, at a time when Heritage and Built Conservation staff are at the front line of staffing cuts at Local Authority level the Bill may place additional requirements on these individuals without provision of additional resource. The HERs, for example, if bought back into LAs will require staff time to create and maintain, and will need to be followed up with all the process requirements for converting the register to formal Statutory Planning Guidance. Again when it comes to HPAs Welsh Government must ensure that resource and training are provided to ensure that the Authority is capable of putting the provisions of the Bill are put into practice.

2. Prioritisation at LA level

Going hand in hand with this is the recognition of the importance the historic environment in Local Authorities. Where the Planning Bill addresses culture change in Local Authorities this is not addressed in the Historic Environment Bill. If the Bill is going to place extra requirements on local authorities at a time of resource reduction there may be a need to look into how local authorities prioritise and resource decision making in the historic environment.

3. Supporting Documents

Although the Historic Environment (Wales) Bill will make important legislative changes, it cannot stand alone. There is a need for new draft policy, advice and guidance documents to be brought forward alongside the Bill. We are aware that this process is being undertaken within Welsh Government, and that many documents are coming forward from Cadw currently, and would value the opportunity to comment on supporting documents as they are brought forward.

In order to discuss this evidence further please contact;

Emily Keenan
External Affairs Consultant
Emily.keenan@nationaltrust.org.uk
07766820767

Agenda Item 4

18 June 2015 – Papers to note cover sheet

Paper No:	Issue	From	Action Point
Public papers to note			
3	Renting Homes (Wales) Bill	Minister for Communities and Tackling Poverty	Additional information following the meeting on 20 May 2015
4	Inquiry into Welsh in Education Strategic Plans (WESPs)	Chair of the Children, Young People and Education Committee	
5	Historic Environment (Wales) Bill	Deputy Minister for Culture, Sport and Tourism	

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
CELG(4)-17-15 Papur 3 / Paper 3



Ein cyf/Our ref: LF/LG/0571/15

Christine Chapman AM
Chair
Communities, Equality and Local Government Committee
National Assembly for Wales
Cardiff
CF99 1NA

9 June 2015

Dear Christine

Renting Homes (Wales) Bill

At the Communities, Equality and Local Government Committee meeting on 20 May, I offered to share the calculation behind the estimated cost of solicitors becoming familiar with the Bill's provisions. As you know, the cost features in the Bill's Explanatory Memorandum and Regulatory Impact Assessment.

Legal professionals update their knowledge of changes in law as part of their day to day business and through continuing professional development activity. They are highly skilled at absorbing the detail of legislation and changes to it. As set out in the Regulatory Impact Assessment, it is considered that one day is a reasonable amount of time for lawyers to become familiar with the changes that will be brought about by the Renting Homes (Wales) Bill.

The cost of one day's familiarisation was calculated using information from the Law Society publication *Private practice solicitor's salaries 2013 – The Law Society's PC Holder Survey 2013*. This report is available online at:

<https://www.lawsociety.org.uk/policy-campaigns/research-trends/fact-sheets/documents/private-practice-earnings-2013/>

The calculation within the Regulatory Impact Assessment is based upon an estimate of 2,600 solicitors in Wales. However, additional research and discussions with the sector have shown that not all solicitors would be required or need to undertake this familiarisation; for example, many senior partners or those specialising in criminal or non-housing matters.

Therefore, based on an estimate of 1,800 solicitors undertaking this training, which is on the generous side, and calculated on an average income of £48,632 per annum and an average of 253 working days per annum, the daily cost is £192.00. The rounded cost of £346,000 in the Explanatory Memorandum is derived by multiplying £192.00 by the number of solicitors, which equates to £346,000.

I hope this provides the necessary clarification and I look forward to publication of the Committee's report.

Regards
Lesley

Lesley Griffiths AC / AM

Y Gweinidog Cymunedau a Threchgu Tlodi
Minister for Communities and Tackling Poverty

Christine Chapman AM
Chair of Communities, Equality and Local Government
Committee

11 June 2015

Dear Christine

Inquiry into Welsh in Education Strategic Plans (WESPs)

I'm writing to make you aware of the Children Young People and Education Committee current inquiry into Welsh in Education Strategic Plans.

I thought it would be useful to draw your Committee's attention to this inquiry as the Welsh Language falls within your remit.

Further details of the inquiry are available on the [Committee's webpage](#). We will of course share our findings with you in due course.

Yours Sincerely



Ann Jones AC / AM
Cadeirydd / Chair




Ken Skates AC / AM
Y Dirprwy Weinidog Diwylliant, Chwaraeon a Thwristiaeth
Deputy Minister for Culture, Sport and Tourism



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Eich cyf/Your ref:
Ein cyf/Our ref: LF/KS/0583/15

Christine Chapman AM
Chair of the Communities, Equality and Local Government Committee

 June 2015

Dear Christine,

Historic Environment (Wales) Bill

I write further to the letter that you received from Jocelyn Davies AM, Chair of the Finance Committee, identifying some financial issues that the Communities, Equality and Local Government Committee might like to consider during its scrutiny of the Bill. I thought it might be helpful if I clarified some of the points raised in order to inform your further considerations.

A number of the Finance Committee's concerns echo those of respondents to the 2013 consultation on proposals for the historic environment, *The future of our past*. For instance, the Finance Committee has questioned the financial impact of the Bill on local authorities, citing concerns expressed by consultees, including Pembrokeshire County Council, in 2013. A similar point was raised with regard to Blaenau Gwent County Borough Council during my appearance before your committee on 4 June.

I should like to take this opportunity to stress that there are significant differences between the proposals that were put forward in 2013 and the provisions in the Bill.

Some of the consultation proposals were rejected because respondents believed that they would add costs for local authorities without bringing real benefits, such as a formal system for certifying that works would not require listed building consent. Other proposals were ruled out because local planning authorities were concerned that they might compromise the protection afforded to historic assets, such as the merging of conservation area consent and planning permission.

I believe, therefore, that the Regulatory Impact Assessment is correct in concluding that the additional costs imposed on local authorities by the Bill will be very modest.

Nevertheless, as Jocelyn Davies AM has pointed out, there will be potential costs for local authorities arising from the exercise of new discretionary powers in the Bill, including the extension in the scope of urgent works to listed buildings and the introduction of heritage partnership agreements. The Finance Committee expressed particular concern about the

likely costs and saving for local authorities entering into HPAs. These are, of course, voluntary arrangements and the expectation is that there will be long-term cost benefits and, more importantly, very real conservation gains.

I look forward to discussing these issues with the Communities, Equality and Local Government Committee in due course.

I am copying this letter to Jocelyn Davies AM, Chair of the Finance Committee.

Yours ever,

A handwritten signature in black ink, appearing to read 'Ken', written in a cursive style.

Ken Skates AC / AM

Y Dirprwy Weinidog Diwylliant, Chwaraeon a Thwristiaeth
Deputy Minister for Culture, Sport and Tourism

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Agenda Item 8

By virtue of paragraph(s) vi of Standing Order 17.42

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