

CABINET

Date of Meeting	Tuesday, 18 th June 2024
Report Subject	Audit Wales Cracks in the Foundations – Building Safety in Wales
Cabinet Member	Cabinet Member for Planning, Public Health and Public Protection
Report Author	Chief Officer (Planning, Environment & Economy)
Type of Report	Operational

EXECUTIVE SUMMARY

Following the Grenfell Tower fire in 2017 an independent review into Building Regulations and fire safety was undertaken by Dame Judith Hackett with the findings published in 2018. The review exposed long-standing and serious issues with the building safety regime and recommended a new framework to replace the complex system that had grown over decades. In addressing the findings and recommendations of the Hackett Review, the Building Safety Act was introduced in 2022 and represents the biggest changes of building safety regulations in Wales (and England) since 1984.

The 2022 Act aims to improve the safety of high rise and other in scope buildings by establishing new regulations for the design, construction, maintenance and occupation of such buildings. It also sets a requirement for all practicing Building Control Inspectors to demonstrate competency at one of three levels (Domestic, General and Specialist) and to become registered by 1st October 2024.

In August 2023, Audit Wales published a report on Building Control in Wales entitled 'Cracks in the Foundations' to understand how well the Welsh Government, local authorities and their partners are strengthening and improving Building Control and building safety services following the introduction of the Building Safety Act 2022. The Audit Wales report looked at all Building Control Authorities in Wales and how each is prepared to take on the enhanced responsibilities and requirements of the 2022 Act. It focused on the resilience of existing services and the robustness of building safety assurance systems.

The findings from the report give a critical oversight and raise concerns that not enough priority is being given to Building Control services. It suggests that there is an absence of robust planning and clear decision making and inadequate resources raising fears that the new responsibilities and requirements of the 2022 Act will not be delivered as intended in Wales.

Eight recommendations were made by Audit Wales, four directed at Welsh Government and four directed at Local Authorities.

The purpose of this report is to give an overview of the Audit Wales review, their recommendations and the response to those recommendations and actions required.

RECOMMENDATIONS

1	That Cabinet notes the outcome of the Audit Wales report and supports the actions to be taken to address the four recommendations made for Local Authorities.
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REPORT DETAILS

1.00	EXPLAINING THE AUDIT WALES REPORT AND ITS RECOMMENDATIONS & THE COUNCIL'S RESPONSE
1.01	<p>Building Regulations are a set of legal requirements for the design and construction of new buildings, extensions and material alterations to, and certain changes of use of, existing buildings. They help to ensure that new buildings, conversions, renovations and extensions (domestic or commercial) are safe, accessible and energy efficient.</p> <p>The Building Regulations are defined by Welsh Government and cover specific topics including structural integrity, fire protection, accessibility, electrical installations, standards for drains, ventilation and protection against contamination amongst other matters. These are set out in Approved Documents.</p> <p>There are two routes by which developers and building owners can seek approval for their works. They can choose to pay for either:</p> <ul style="list-style-type: none"> • a local authority inspector from the local council and run through Local Authority Building Control (LABC); or • an approved inspector from a government-approved private building control company <p>They both work in the same way, checking plans prior to work commencing, physically inspecting works during the development, advising any changes as necessary and any re-inspections as required before signing the works off.</p> <p>However, only the local authority has powers of enforcement and prosecution where breaches of the Regulations have occurred.</p>

1.02	<p>The building regulations regime has remained unchanged for many years until the Grenfell Tower fire in 2017 in which 72 people died. An independent review into Building Regulations and fire safety was commissioned by the UK Government (known as the Hackett Inquiry) and the review's report was published in May 2018.</p> <p>The report recommended a new framework to replace the complex system that had grown over decades and both the Welsh and UK Governments prioritised work on addressing the review findings which culminated in the Building Safety Act 2022. The Act aims to improve the safety of buildings in England and Wales by establishing a new set of regulations for the design, construction, maintenance and occupation of buildings. It also sets a requirement for all practicing Building Control inspectors to demonstrate competency at one of three levels (domestic, general, specialist) and to become registered by 6 April 2024.</p>
1.03	<p>In August 2023, Audit Wales published a report on Building Control in Wales entitled "Cracks in the Foundations – Building Safety in Wales." Their approach was to understand how well the Welsh Government, local authorities and their partners are strengthening and improving building control and building safety following the Building Safety Act 2022 coming into force. They looked at the robustness of needs information, plans and policies, the resilience of existing services and plans to strengthen these and considered the robustness of assurance systems.</p> <p>The overall conclusion reached by Audit Wales was that responsible bodies – particularly local authorities and fire and rescue – are unable to effectively discharge their responsibilities and ensure buildings in Wales are safe.</p> <p>Other key findings from their review include:</p> <ul style="list-style-type: none"> • The Welsh and UK Governments are diverging in key policy areas and some doubt remains on how the 2022 Act will be implemented in Wales, mainly because decisions in key areas are yet to be decided and agreed. This is creating uncertainty and plans that set out how new and revised responsibilities are to be delivered are yet to be developed. • As a profession, Building Control and building safety face significant staffing challenges, with an ageing workforce, poor succession planning, a wider lack of investment in services and training and development that highlight that these services are neither resilient nor fit for the future. • Concerns were raised around the financial management of building control, concluding that some authorities' current practices are not operating in line with regulations and guidance. Whilst the Covid-19 pandemic helped some local authorities to modernise their services (such as moving to more online cloud-based IT and remote working) their resilience remains weak with opportunities to strengthen services by exploring collaboration and regionalisation not being prioritised. • An absence of a national framework for monitoring and evaluating Building Control and building safety means that local authorities and

	<p>their partners are not working to agreed appropriate outcome measures, targets or benchmarks.</p>
1.04	<p>Eight recommendations were made by Audit Wales. Four were directed at Welsh Government (R1 to R4) and four were directed at Local Authorities (R5 to R8).</p> <p>The recommendations made for Welsh Government include providing greater clarity on the implementation and expectations of the Building Safety Act 2022 to ensure local authorities are able to deliver their new responsibilities and duties; ensure it has sufficient resources to deliver the legislative and policy changes for Building Safety; review the mixed market approach to building control and conclude whether it continues to be appropriate and effective in keeping buildings in Wales safe; and increase its oversight and management of the building control sector to ensure there is a robust assurance system in place for building control and safety.</p> <p>The four recommendations made for Local Authorities are:</p> <ul style="list-style-type: none"> R5 Develop local action plans that articulate a clear vision for Building Control to be able to plan effectively to implement the requirements of the 2022 Act. R6 Urgently review their financial management of Building Control and ensure they are fully complying with Regulations. R7 Work with partners to make better use of limited resources by exploring the potential for collaboration and regionalisation to strengthen resilience through a cost benefit analysis of partnering with neighbouring authorities, establishing joint ventures and/or adopting a regional model where beneficial. R8 Review risk management to ensure risks are systematically identified, recorded, assessed, mitigated and subject to regular evaluation and scrutiny
1.05	<p>With regards to R5, ongoing discussions are being held with Local Authority Building Control (LABC) who are the body representing Building Control authorities in England and Wales and with other local authorities on a format and approach to Local Action Plans. It is acknowledged that producing a Local Action Plan is an important piece of work and is currently in progress.</p>
1.06	<p>R6 recommends that Local Authorities urgently review their financial management of the Building Control function. This piece of work is already underway with a review of the Council's fees and charges for Building Regulations.</p> <p>This is also an area of work identified to be looked at with colleagues from Internal Audit as part of their programme for audits for 2024/25.</p>
1.07	<p>R7 says that local authorities should work with partners to make better use of limited resources, exploring collaboration and regionalisation to strengthen resilience.</p> <p>The Building Control team works closely with partners and stakeholders already, including local police and fire services, local builders and others to</p>

	ensure the best use of resources. Staff recruitment and retention is a nationwide issue and not just restricted to Building Control or Flintshire. Flintshire's Building Control Team is well staffed compared to neighbouring authorities, particularly in Denbighshire and Conwy.
1.08	<p>R8 says Local Authorities should review risk management processes to ensure that risks are systematically identified, reviewed and recorded.</p> <p>Risk Management will form part of the internal audit review of the Building Control service which, in turn, will inform and shape the risk management processes for this service. This will have regard to the Council's Risk Management Strategy and Framework and will seek to apply best practice to the identification, assessment and control of key risks within the Building Control service.</p>
1.09	<p>Appendix 1: Cracks in the Foundations – Updates & Actions gives additional information in respect of the four recommendations outlined above.</p> <p>Whilst some progress has been made on some of the recommendations made in the Audit Wales report, it is acknowledged that this has been slow to date and needs to be accelerated. The priority for the Building Control Service has been to recruit into the three vacant posts and to ensure all Building Control Officers have progressed their registration requirements in line with the new Building Control Competency Registration Framework. Without such registration the Service would not be able to operate and in order to fully appreciate the recommendations of the Audit Wales report it has been important to ensure the Service is fully resourced.</p>
1.10	As at 31 st May 2024, all Building Control Officers have undertaken and passed their exams required under the new Building Control Competency Registration Framework and submitted their registration to the Building Safety Regulator for England and Wales. All officers are now registered to practice.

2.00	RESOURCE IMPLICATIONS
2.01	<p>Revenue: there are no immediate implications for the approved revenue budget for this service for the current financial year. However, the ongoing review of fees and charges for building control services will improve the budget position for future financial years as it seeks to recover the costs of the service whilst also seeking to remain competitive within the market.</p> <p>Capital: there are no implications for the approved capital programme for either the current financial year or for future financial years</p> <p>Human Resources: there are no immediate implications for additional capacity or for any change to current workforce structures or roles. However, as work around R7 progresses and local authorities explore better use of resources by exploring the potential for collaboration and regionalisation then workforce structures and roles may need to be adapted/reviewed.</p>

	<p>Technology: additional development work is required to fulfil the full potential of the Building Control service back office system (AGILE). At present, full agile working for inspectors when on site is limited as a result of technology and this is an area identified for further development work with our business support officers and our external systems partner.</p>
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3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
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3.01	The principal risk(s) identified have been around sufficient resource and also to ensure that the requirements of the Building Control Competency Registration Framework have been achieved by the deadlines set by Welsh Government and the Building Safety Act 2022. Without registration, Building Control Officers would not be able to operate and the Building Control Service would not be provided. This would severely impact on the service's ability to bring in fees and charges in connection with Building Regulations applications. As outlined at 1.10 all Flintshire County Council Building Control Officers are now successfully registered to practice in line with the new requirements.
3.02	Additional risks already identified include the functionality of the back office system and development work required to realise the full potential for agile working functions for the building control surveyors when on site. This would significantly speed up the delivery of building regulations for customers.
3.03	The Building Control Service has been identified as an area for internal Audit to assist in their programme of work for 2024/25, particularly around the review of fees and charges and introducing a more robust risk management approach and the processes for doing so.

4.00	CONSULTATIONS REQUIRED/CARRIED OUT
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4.01	No consultations required/carried out, however, it is worth noting that following the Audit Wales report, dialogue continues at both a regional and national level, aided by LABC & LABC Cymru to identify a consistent approach around the format and content for Local Action Plans and around the issue of collaboration and regionalisation to strengthen resilience.
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5.00	APPENDICES
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5.01	Appendix 1: Audit Wales – Cracks in the Foundations – Actions/Update 2024.
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6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>‘Cracks in the Foundations – Building Safety in Wales’ – Report by the Auditor General for Wales August 2023</p> <p>https://audit.wales/sites/default/files/2023-07/Cracks_in_the_Foundations_Building_Safety_in_Wales_English_0.pdf</p>

7.00	CONTACT OFFICER DETAILS
7.01	<p>Contact Officer: Matthew Parry Davies – Service Manager (Development) Telephone: 01352 703248 E-mail: matthew.parry-davies@flintshire.gov.uk</p>

8.00	GLOSSARY OF TERMS
8.01	<p>Wales Audit Office: works to support the Auditor General as the public sector watchdog for Wales. They aim to ensure that the people of Wales know whether public money is being managed wisely and that public bodies in Wales understand how to improve outcomes.</p> <p>Financial Year: the period of 12 months commencing on 1 April</p> <p>Revenue: a term used to describe the day to day costs of running Council services and income deriving from those services. It also includes charges for the repayment of debt, including interest, and may include direct financing of capital expenditure.</p> <p>Building Control Service: the Council’s team responsible for ensuring that building work is carried out in accordance with the Building Regulations.</p> <p>Building Regulations: set out certain standards that must be met during the design and construction of building work carried out in domestic and commercial premises. These standards ensure the health and safety of people around and within buildings and also provide for such factors as access to buildings for disabled people, means of escape in case of fire and energy conservation.</p> <p>Approved Documents: The Building Regulations have various parts. Each part is supported by its "Approved Document" which contains practical and technical guidance on ways in which the requirements can be met. They cover subjects such as structure, fire safety, ventilation, drainage, energy conservation and access and facilities for disabled people. The most recent versions of the Approved Documents can be viewed via the Planning Portal https://www.planningportal.co.uk/applications/building-control-applications/building-control/approved-documents</p>

	<p>LABC: Local Authority Building Control. This organisation represents all local authority building control teams in England and Wales with a network of around 3,500 professional surveyors.</p>
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