

## Community Heritage - the law, policy, and guidance in Wales

Heritage and the historic landscape is covered by several areas of Welsh specific legal and legislative acts, as well as policies and guidance at a regional and local level. It is important for community heritage groups to be aware of these, as it could impact the type of work and projects they do, the type of funding they can apply for, and the ways they could help develop Welsh Government initiatives like the Well-being of Future Generations Act<sup>1</sup> and the Cymraeg 2050: A million Welsh Speakers strategy.<sup>2</sup>

### Legislation, policy, and government-led research in Wales

The historic environment in Wales is preserved, protected, and promoted to the public largely through Cadw, the Welsh Government's historic environment service that sits within the Tourism and Culture group. Much of the current legislation and policy surrounds Cadw's management of heritage and ways this impacts the people and communities of Wales and beyond.

To find current Welsh policy and reviews on the historic environment (largely surrounding Cadw legislation and frameworks), see the Welsh Government website here: <https://gov.wales/historic-environment>

### Planning

Planning is a devolved issue in Wales. Community groups involved in building preservation trusts, community gardens or nature parks, community museums, and other groups who are involved with a specific heritage site or landscape are probably most likely to need to be aware of the relevant planning legislation.

In addition to the Historic Environment Acts listed above, the core legislation on Planning is The Planning (Wales) Act 2015: <https://www.legislation.gov.uk/anaw/2015/4/contents/enacted>

### From the Welsh Government website:

“[The Act] strengthens the ‘plan-led’ approach to planning in Wales, with the development of a National Development Framework, and Strategic Development Plans for issues which are relevant across local authority boundaries. The Act requires or permits certain planning applications to be made directly to the Welsh Ministers rather than to local planning authorities and introduces a statutory pre- application procedure for certain categories of planning application. The Act also makes changes to development management and enforcement and increases the transparency of the appeal system.”

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<sup>1</sup> <https://www.futuregenerations.wales/about-us/future-generations-act/>

<sup>2</sup> <https://gov.wales/sites/default/files/publications/2018-12/cymraeg-2050-welsh-language-strategy.pdf>

Other relevant Acts, including that which directly governs listed buildings, can be found on the Welsh Government website:

<https://law.gov.wales/key-legislation-town-and-country-planning>.

Further Planning Guidance and best practice advice relating to heritage can be found here:

<https://cadw.gov.wales/advice-support/placemaking/legislation-guidance/policy-advice-and-guidance>

The Historic Environment – these are all Planning Acts, and the Welsh government currently has ambitions to consolidate all heritage legislation: <https://cadw.gov.wales/advice-support/new-legislation>

There are three main Acts that legislate the historic environment in Wales:

- the Ancient Monuments and Archaeological Areas Act 1979
- the Planning (Listed Buildings and Conservation Areas) Act 1990, and
- the Historic Environment (Wales) Act 2016.

From the Welsh Government website:

“The Ancient Monuments and Archaeological Areas Act 1979, as amended by the Historic Environment (Wales) Act 2016, provides the legal framework for the designation, protection and management of scheduled monuments in Wales. The Welsh Ministers, acting through the Welsh Government’s Historic Environment Service (Cadw), compile and maintain a Schedule of monuments of national importance. It is an offence to damage a scheduled monument or to undertake works without appropriate consent.

The 1979 Act also regulates the acquisition or guardianship of ancient monuments by the Welsh Ministers or local authorities and public access to such monuments.

The Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Historic Environment (Wales) Act 2016, establishes the legal basis for the designation, protection and management of listed buildings in Wales. The Welsh Ministers, again acting through Cadw, compile lists of buildings of special architectural or historic interest. Listed building consent is required for works that affect the character of a listed building; unauthorised works constitute an offence. In addition, the 1990 Act gives powers to local authorities to take action to preserve deteriorating listed buildings.

Local planning authorities may also designate areas of special architectural or historic interest as ‘conservation areas’ under the 1990 Act. There are restrictions on certain works to buildings and trees within conservation areas.

In addition to amending aspects of the 1979 and 1990 Acts, the Historic Environment (Wales) Act 2016 includes a number of stand-alone provisions. One places a duty upon the Welsh Ministers to compile and maintain a statutory list of historic place names in Wales. Another requires the Welsh Ministers to compile and keep up to date a historic environment record for each local authority area in Wales.”

Full details of all of the Acts can be found on the Welsh Government website for Welsh law:  
<https://law.gov.wales/culture/historic-environment>

## **Culture and Cultural Heritage**

Some matters affecting culture and heritage are devolved, so have Welsh specific legislation.

This includes:

- Arts and crafts
- Museums and galleries
- Libraries
- Archives and historical records
- Cultural activities and projects

However, several aspects of laws that govern part of the remit of these areas of culture are still UK-wide under the UK Government - such as charity law, intellectual property, art law, international law.

For an overview of the key legislation governing culture in Wales, see the Welsh Government website:

<https://law.gov.wales/key-legislation-culture>

Other legislation can have an impact on community heritage groups in Wales. Planning is a key area, where the development of housing and infrastructure must be balanced with the conservation of heritage, both tangible and intangible. Sustainability and environmental legislation similarly works to look at a green, sustainable, environmentally responsible future for Wales without being at the expense of the past and current culture and heritage. The main areas of current Welsh legislation are listed below.

## **The Well-being of Future Generations (Wales) Act 2015**

Though it governs the work and actions of government bodies in Wales, rather than all organisations or businesses, the Act has several areas of community, individual, and nation-wide well-being impacts that any community group would benefit from considering and working towards. This is especially true if groups are planning or engaged in any kind of partnership with local or national government bodies and organisations closely linked to them, such as Cadw or the NHS.

The Act has seven wellbeing goals - to make Wales more prosperous, resilient, more equal, healthier, globally responsible, have cohesive communities, to have a vibrant culture and a thriving Welsh language. There are also five key ways of working that government bodies should use to enact the seven well-being goals; work should aim to be long-term, embodying integration, involvement, collaboration, and prevention.

These goals and ways of working can all be part of the core aims and objectives of community heritage groups, and “mission statements”, group charters, or governing documents could easily be written to reference them. This helps to align community groups with Welsh policy, and make it easier for funding bodies and partner organisations to see how groups fit into their wider strategy and priorities.

## Staying up to date

This guidance is accurate as of October 2021. New initiatives and policies are released from time to time by both the Welsh Government and other bodies. It is recommended you check on the Welsh Senedd (Welsh Parliament) website for any proposed legislation occasionally:

[https://senedd.wales/senedd-business/legislation/.](https://senedd.wales/senedd-business/legislation/)

Some organisations will collate news on new legislation and initiatives, so signing up to their newsletters is a good way of keeping ahead of changes, and even getting involved in the consultation or feedback phases of any new policies.

## Wales Heritage Group

The Wales Heritage Group (WHG) is an alliance of statutory consultees and voluntary national organisations active in the conservation of the historic environment in Wales and with links to UK wide organisations. It came about as a specific recommendation from the 2013 and 2014 Hyder reports, to support the network of voluntary and non-governmental heritage organisations in Wales. The objectives of the WHG are: (1) Create a joint identity for its membership and a combined and strengthened voice; (2) Share information of mutual interest. The secretariat of WHG is held by the Council for British Archaeology. The group issues a free bi-monthly email newsletter which contains a round up of news, events, consultations, jobs and other matters relating to heritage in Wales.

You can sign up for the newsletter by contacting [info@archaeologyuk.org](mailto:info@archaeologyuk.org).

## Heritage Alliance - Heritage Update

Though it is a UK-wide organisation, the Heritage Alliance issues a fortnightly comprehensive newsletter that details updates in all aspects of heritage, and particularly highlights new legislation, policy, and other documents current out to consultation or recently released. Their newsletter is free to subscribe, even if you are not a member of the Heritage Alliance.

<https://www.theheritagealliance.org.uk/our-work/heritage-update/>

## Legal advice for charities and community groups

Community heritage groups may need to take legal advice should they get involved in any kind of enquiry, campaign, or project requiring action in line with any of the above legislation. This can be costly and daunting, but there is help available for community groups.

Law Works are a UK-wide organisation with a dedicated Law Works Cymru branch. They offer a “Not-for-Profits programme”, where local organisations can get in touch for legal advice.

<https://www.lawworks.org.uk/solicitors-and-volunteers/get-involved/not-profits-programme>

The National Pro Bono Centre is an information hub on legal organisations who can offer pro bono work for charities should the cases be in their region, and their case has wider public benefit and impact.

<http://www.nationalprobonocentre.org.uk/finding-legal-help/>

## NOTE

If your insurance (including buildings, public liability, or trustee insurance) includes legal cover you can often get free advice from your insurance company who will have access to a wide range of specialists, even if the matter which you require advice about is not directly related to the reason why you have insurance. Contact your provider and read your policy carefully to find out more information on this

The Charity Commission has exhaustive advice on legal matters regarding charity regulations, obligations, responsibilities. Their guide to litigation for trustees covers numerous issues and how to navigate them: <https://www.gov.uk/government/publications/charities-and-litigation-a-guide-for-trustees-cc38/charities-and-litigation-a-guide-for-trustees>

A Welsh language version is also available:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/574986/CC38\\_w.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/574986/CC38_w.pdf)