

A. The CLA and the historic environment

1. The CLA's 3,300 members in Wales manage at least a quarter of Welsh heritage, including well over half of rural heritage. As by far the biggest stakeholder group of those (charitable, commercial, private, or public) who manage or own heritage, we are one of the half-dozen key stakeholders in the heritage field. The CLA believes strongly in effective and proportionate heritage protection (see 7 below).
2. The CLA's heritage adviser Jonathan Thompson was a member of the External Review Group which advised Welsh Government on the Historic Environment Review. We contributed extensively to detailed discussions on both the new policy and guidance published in 2016–17, and the Bill which became the Historic Environment (Wales) Act 2016.

B. Implementation of the Historic Environment Act

3. The CLA generally supports the 2016 Act. We had serious natural justice concerns about some of the detail, but many of those concerns were allayed by undertakings given at the time by the Minister, which have mostly been incorporated into the new guidance published by Cadw in 2017.
4. We think that the current legislation, ie the 1990 and 1979 Acts as amended as they now apply in Wales, should be available online in an always–fully–updated form, because it is important that everyone can easily find and read the legislation.
5. We would like to see two further logistically–small but important changes to the legislation to bring it into line with current best practice: the replacement of the word 'preservation' with the modern best–practice term 'conservation', and the replacement of 'interest/national importance' with 'significance'. The word 'preservation' generates a default presumption against change, a presumption inconsistent with C21st international conservation (not 'preservation') practice, with the Wellbeing of Future Generations Act's Resilient Wales (not 'Preserved Wales') Goal, with Cadw's *Conservation Principles* (not 'Preservation Principles'), with Cadw's new best practice guidance, and above all with the long–term survival of heritage, which must

be allowed, indeed encouraged, to change in properly-managed ways if it is to survive at all in the long term.

6. Subject to the above points, and to 9 and 12 below, we see the current legislation as satisfactory. It is not perfect, but significant change would have costs, not only in arguing out what those changes might be, but also in all users adapting to them. We do not think that Welsh Government – having spent five years on the Historic Environment Review, and many carefully-considered legislative changes – should now embark on a ‘blue-sky’ reconsideration of the legislation. It would be better just to develop 4 above, perhaps relabelling the familiar 1990 and 1979 Acts with *mutatis mutandis* amendments (ie on the lines, roughly, of the 1997 Act in Scotland, which mostly uses the same wording as the 1990 Act).

C. Protection for listed buildings and scheduled monuments

7. As above, we feel that the legislation is broadly satisfactory. But legislation is only a small part of heritage protection. Heritage is protected primarily by use. Modern C21st conservation best practice, captured in Cadw’s 2017 best practice guidance and 2009 *Conservation Principles*, encourages owners of heritage to work out what matters about it and then ensure that this is conserved and/or enhanced by enabling it to be relevant, appreciated, and used, and to produce (directly or indirectly) a stream of income to cover its maintenance costs. This approach makes sympathetic change easier, and harmful change more difficult; it stresses proportionality, and certainty, setting out a clear policy approach to change, so an owner who has analysed significance and drawn up sympathetic proposals taking that significance into account should be confident that consent can be obtained. It also accords with the Well-being of Future Generations Act’s Resilient Wales Goal (to “support... resilience and the capacity to adapt to change”). What matters much more than legislation therefore is (i) policy and guidance, and (ii) enabling the system to work on the ground, and (iii) better enforcement.
8. As to (i), the new 2017 Cadw best practice guidance is generally excellent and will play an important role in future heritage protection. By contrast, the revised 2016 *Planning Policy Wales* chapter 6, and the new TAN24, are not yet satisfactory, because both still have a default emphasis on “preservation” (see 5 above).

9. As to (ii), the Historic Environment Review has not addressed the fundamental and worsening mismatch between the current heritage protection system and its resourcing. This was the primary concern raised in the 2013 public consultation. This is of course not unique to heritage: mismatch of systems and resources and the need for solutions were at the core of the 2014 Williams Report recommendations. Welsh Government needs to address this problem. An obvious step, given that most proposed changes to heritage are neutral or beneficial, is to streamline legislation and procedures so that those proposals are handled in a lighter-touch way, freeing up scarce local authority and Cadw staff to focus primarily on the cases which might be harmful. Welsh Government with heritage stakeholders therefore needs to devise new more-financially-sustainable systems which can work with the resource which will actually be available, and which therefore increase the actual protection of heritage on the ground. The CLA is already involved in projects on these lines.
10. As to (iii), it is important to have better guidance on enforcement. The 'paradox of enforcement' is that local authorities tend not to focus enforcement on the small number of malign and difficult owners who deliberately damage heritage. Instead, it tends to be targeted on owners who have made technical breaches which have not permanently harmed the public interest, but are easier to deal with and give a good 'clear-up rate'. That causes real harm, because stories of benign owners being 'bullied' by local authorities, using tools which can appear to disregard natural justice, harm heritage by discouraging people from owning it at all. The answer is (i) better guidance, drafted by Cadw with input from external stakeholders including owners, giving practical guidance on whether and when the enforcement powers should be used, and how, so they can be better targeted and more effective; and then (ii), once that guidance is in place, encouraging LPAs to use it. It is important to heritage protection that malign owners who deliberately cause serious harm to heritage are identified and enforced against; not doing that can lead to systemic harm, because malign purchasers of heritage can safely outbid benign purchasers.

D. Protection for buildings and monuments at risk

11. Cadw's new guidance *Managing listed buildings at risk in Wales* is a major step forward which puts Wales a long way ahead of the rest of the UK because it is based on a correct diagnosis of the heritage at risk problem, as one of

use, economics, and in some cases ownership. The traditional approach in contrast mis-diagnosed the heritage at risk problem as one solely of disrepair, soluble just by telling LPAs to use a toolkit of aggressive statutory repair powers. That has not worked, and would never work, because those powers are complex, ineffective, and disproportionate, and LPAs do not use them, or focus them on the wrong targets, or fail. Even if the building was somehow repaired, without a viable use it would inevitably fall back into disrepair. Either failure to act or poorly-targeted action damage individual historic assets and the whole heritage protection system.

12. The system of 'preservation notices' proposed in the 2016 Act, if implemented, would make this worse, especially by making it too risky for any rescuing purchaser to acquire a building at risk – a disastrous change.
13. The solution is of course viable long-term use, not just repair: a building which is not viable, relevant, and used is unlikely to be put, or kept, in repair.
14. The solution is thus in two parts. The first, good advice based on a correct diagnosis of the problem, has already been published as *Managing listed buildings at risk in Wales*. This will not rescue every building at risk overnight, but over time addressing the right problems in the right ways will make a real difference.
15. Secondly, however, in a minority of cases – those which make headlines – it is clear that there is a use and a viable solution, and there are repairing purchasers, but the owner is refusing to implement this. In these specific situations – as Cadw's guidance says – the power to change ownership may need to be used, much more assertively and effectively than now. It is not realistic to expect local authorities to achieve that, and it would be better done centrally, potentially by a specific expert attached to Cadw. This would require only limited resource, and a few successful cases, effectively publicised, would much reduce the problem.

E. Facilitating collaboration within the sector

16. Collaboration between stakeholders helps them to understand each other, to minimise differences, and to allow heritage to speak to a greater extent with one voice. That implies formal co-operation, via umbrella body/ies. In England for example there is the Heritage Alliance, with a membership of 100+; and the Historic Environment Forum, which consists only of major

stakeholders, making debate and decision-taking easier. In Wales, what has worked very effectively was the External Review Group, the small group of key stakeholders which advised the Minister on the Historic Environment Review. Despite the wide range of stakeholders involved, the ERG almost always found a consensus, and had a real and very positive impact on the outcomes of the Historic Environment Review, the 2016 Act and the policy and guidance. The ERG, perhaps alongside larger body/ies, would be an effective model. It is important that all such bodies include the owners and professionals who actually manage heritage, as well as traditional heritage stakeholders.

F. Maximising the value of heritage tourism and Cadw's work to meet its income generation targets

17. Tourism is a vital industry in Wales, especially rural Wales, and heritage is a major motivator of tourism. The 2016 Oxford Economics report *The impact of heritage tourism on the UK economy* concluded that in Wales heritage tourism “punches above its weight”, and that heritage tourism can “be said to be more important in... Wales...compared to the whole UK economy”. Post-Brexit and post-CAP, heritage tourism might well become even more important, and current funding arrangements might change considerably. The CLA is advocating a Land Management Contract under which land managers are paid for delivering defined public benefits via a direct contract with Government, and heritage management and heritage tourism are public benefits which could be delivered and rewarded in that way. CLA Cymru is keen to discuss this with Welsh Government and Cadw.
18. Effective heritage tourism also relies on appropriate infrastructure. Visitors for example will have a negative experience if they cannot find a site, or cannot park. Apparently simple things like signage and local amenities can make the difference between a visitor coming to Wales regularly and recommending it to friends, or a failed experience. Welsh Government needs to focus more attention on developing a better understanding of what creates negative perceptions, and take action to improve the overall tourist experience. In particular, more attention is needed on overseas marketing, as Wales attracts a disproportionately small number of international tourists. This is a big opportunity, because (i) many reports have shown that heritage is a primary driver for inbound tourism to the UK, and (ii) international visitors spend more per visit.

19. It is also important to note that 'iconic heritage sites' formally open to the public are only a very small proportion of the historic environment; that the health of heritage not formally open is important to tourism, because tourists see it; and also above all that tourism is only a small part of the heritage economy: the ongoing management and maintenance (where financially feasible) of heritage are also key drivers of economic activity, especially in parts of rural Wales where other jobs are often scarce. We await the new economic strategy for Wales to see the role that heritage and wider rural economic activity play in this, and the support which will be involved.

G. Delivery of Baroness Andrews' Culture and Poverty report

20. This is outside our area of expertise.

H. Collaboration with heritage assets in the private sector

21. While most CLA members are private or commercial, many (often larger members in size/turnover terms) are charitable or public. The private/commercial sector does have some specific problems (like the inaccessibility of grant funding in most cases), but to a great extent the pressures faced by owners of heritage – especially its very high maintenance costs, and the impossibility of paying these unless it can be and is put to some productive use – are common to all kinds of owner. We are therefore puzzled by the traditional public–sector view that private–sector owners are in a wholly different category.

22. Heritage cannot survive without owners (of all kinds): they are, as the Minister has said, "essential allies". What they need is an effective framework of law, national policy and guidance, and (where realistic) support, some but not all of which is now in place, as above. For rural heritage, the CLA's Land Management Contract (see 17 above) could be important in this. In addition, owners – including, but not only, private sector owners – need to be brought much more into collaboration, by being routinely consulted and involved (see 16 above).

23. On a narrower point, the future success of Welsh heritage and heritage tourism will depend on collaborative working between all stakeholders. It would be helpful to see greater co–operation in the promotion and management of historic assets, so that (for example) Cadw sites are

promoted in other locations and vice versa, and those managing them share knowledge more effectively.

I. Cadw's future status

24. In recent years we have found Cadw, at least at a national policy level, to be sensible, pragmatic, and proactive, working effectively in the interest of heritage protection. We would not wish to see change that might dilute or threaten that.