



**NFCC**  
National Fire  
Chiefs Council

The professional voice of the  
UK Fire & Rescue Service

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## **Consultation: Building Safety Directors**

The National Fire Chiefs Council (NFCC) is pleased to respond to this consultation released on 1 December 2022, on the proposal to appoint a Building Safety Director to the board of directors of Resident Management Companies (RMC's) and Right to Manage Companies (RTM) as part of their statutory duties under Part 4 of the Building Safety Act 2022.

The NFCC is the professional voice of the UK fire and rescue services and is comprised of a council of UK Chief Fire Officers. This submission was put together by NFCC's Protection Policy and Reform Unit (PPRU).

## **General Comments**

NFCC are generally supportive of the proposals within this consultation and agree with the policy intent laid out within this proposal to create "clear lines of accountability for the building safety risks in higher risk buildings". However, we hold two main concerns, firstly the lack of defined competence requirements of those who will be carrying out the Building Safety Director role and secondly the costs of the Building Safety Director as set out within the impact assessment accompanying this consultation.

NFCC did not agree with the removal of Building Safety Managers (BSM) from the Building Safety Act (BSA) and still hold the view that this weakened the new regime and did not fulfil the policy ambition of building a safer future. This proposal appears to reintroduce that role into resident-led management structures within the new regime.

## Competence

NFCC has consistently raised concerns around the need for clear and transparent competence standards for those undertaking duties under part 4 of the BSA. This call for competence extends beyond the scope of the new role proposed within this consultation of Building Safety Director. We would like to see a baseline of competence introduced within secondary legislation which is reflective of the competence of PAS8673 which NFCC have been involved with and believe sets a minimum baseline of competence and not an aspirational standard.

At the time of removal of BSMs from the BSA, NFCC highlighted that it would cause a gap in expertise, a concern that without proper frameworks for competence we still hold.

## Costs

One of the major factors cited for the removal of the BSM from the BSA was the cost to leaseholders. The concern of this proposal is that the costs are around the same as those that were deemed too burdensome.

NFCC note that whilst the salary estimates are £66,000 per year, that the Building Safety Director is likely to be responsible for multiple buildings, and therefore the per building cost may be considerably lower. The previous cost estimated for the BSM was around £12,000 per building per year (based on the impact assessment of a salary of £60,000 and that a BSM was expected to be responsible for around 5 buildings). The costs within this consultation impact assessment has the salary at around £66,000 per year. What is not included is how many buildings one Building Safety Director may be looking after, though we do note that it does state that the role may not be full time (and therefore the cost will be pro rata to the status and level of part-time hours of the work) or may be for multiple buildings. NFCC recognises that these costs will be passed on to leaseholders, whilst the issue of costs passing onto leaseholders is of utmost importance and should not be taken lightly, this issue must be weighted against ensuring that buildings and their maintenance are overseen by competent persons.

To ensure proportionality of this cost Government must ensure costs are transparent, and this information freely provided to those who are bearing the costs, including breakdown of costs across portfolio. We would support Government in looking at a fund to help ease the fiscal burden of the introduction of this role, to ensure that the decision to appoint a Building Safety Director is based on safety and competence and not fiscal impacts.

Whilst we acknowledge that the role is not obligatory, we hold concerns that given costs were an issue previously that they will become an issue again and that competence or expertise may be sacrificed to alleviate cost pressures.

Yours sincerely,

A handwritten signature in black ink that reads "N. Coombe". The signature is written in a cursive, flowing style.

**Nick Coombe**

Head of Protection Policy and Reform Unit

## **Questions:**

### **Question 1. What is your name?**

Nick Coombe

### **Question 2. What is your email address?**

[Nicholas.Coombe@nationalfirechief.org.uk](mailto:Nicholas.Coombe@nationalfirechief.org.uk)

### **Question 3. Are you responding as an individual or on behalf of an organisation?**

Organisation: National Fire Chiefs Council

### **Question 4. Do you agree that for a building safety director to be eligible for appointment by a RMC that they must meet the criteria set out at Section A1. above?**

- Yes
- No
- Indifferent
- Not sure

#### **If you did not answer 'Yes' please explain why.**

We support the proposal that Building Safety Directors must be free of conflict of interest as laid out within this consultation.

### **Question 5. Do you agree that for a building safety director to be eligible for appointment by a RTM company, they must also meet the criteria set out in Section A1. above?**

- Yes
- No
- Indifferent
- Not sure

#### **If you did not answer 'Yes' please explain why.**

We support the proposal that Building Safety Directors must be free of conflict of interest as laid out within this consultation. We also recommend that this is deemed the minimum requirement within section A.2 and will act as the baseline and not the aspiration.

**Question 6. Do you agree that prior to the appointment of a building safety director that all qualifying leaseholders should be notified?**

- Yes
- No
- Indifferent
- Not sure

**If you did not answer 'Yes' please explain why.**

Resident engagement is a keystone of the new building safety regime and we support the requirement for those appointing the Building Safety Director to inform qualifying leaseholders not only of the appointment but also the suitability and parameters of their appointment, which should strengthen resident engagement especially within these resident led management systems outlined within this consultation.

**Question 7. Do you think the information (as set out in the list above) that is to be provided as part of the notification process with qualifying leaseholders is sufficient?**

- Yes
- No
- Indifferent
- Not sure

**If you did not answer 'Yes' please explain why and/or tell us what information we should consider including or removing.**

NFCC support all the information outlined within the list to be provided to qualifying leaseholders, but we would highlight that while all the information outlined is relevant, it must be delivered in a format that those residents can reasonably understand and take into account any known requirements that will facilitate this. It should not be assumed that residents are knowledgeable of, or possesses the reading comprehension levels to understand, all the duties and requirements under the new BSA for those responsible for the management of the building.

NFCC would also highlight that the list should include not just the proposed remuneration but also how that cost has been determined. Leaseholders are often faced with end charges without any transparency of how they are determined.

Due to the relatively complex nature of the information that needs to be shared with residents, guidance should be produced to explain the role of the Building Safety Director and the resident's place within the legislation. Information should be provided that outlines the selection and appointment process and include how residents can question or appeal any appointment or its cost.

**Question 8. Do you think that 28-days is sufficient to notify qualifying leaseholders and provide a summary/response to any observations made?**

- Yes
- No
- Indifferent
- Not sure

**If you did not answer 'Yes' please explain why.**

NFCC believe that 28 days is sufficient time for notification to qualifying leaseholders. However, a short extension should be provided to qualifying leaseholders in exceptional circumstances. We also believe that the RMC or RMT should be able to demonstrate they have made best efforts to notify leaseholders within this timeframe and have taken into account any known requirements that will facilitate this.

**Question 9. Do you agree that no amendments are required to RTM companies model articles regarding the decision to appoint a building safety director to the company?**

- Yes
- No
- Indifferent
- Not sure

**If you did not answer 'Yes' please explain why.**

Given that their current structure allows for the ability to appoint a Building Safety Director who has the competencies and skills to fulfil the duties necessary we do not believe that amendments are needed. However, we do believe that guidance should be produced for RTM companies as to how to assure themselves that appointed Building Safety Directors are able to demonstrate competence that reflects PAS8673.

**Question 10. Do you agree that we should align RMCs articles of association with RTM companies' articles as set out above?**

- Yes
- No
- Indifferent
- Not sure

**If you did not answer 'Yes' please explain why.**

This role requires a level of competence and expertise, if as demonstrated within this consultation RMC's are not currently able to facilitate the appointment of a competent Building Safety Director then we would support the alignment of RMC's to RMT's. As above, guidance should be produced to enable RMCs to be satisfied the level of competence of those they propose to appoint as Building Safety Directors, aligns to PAS8673.

**Question 11. Do you agree with our proposal, as set out above, on how remuneration for a building safety director should work for RMCs?**

- Yes
- No
- Indifferent
- Not sure

**If you did not answer 'Yes' please explain why.**

We would support any changes needed to remunerate the newly appointed directors. However, there are no clear proposals as to how remuneration will work specifically.

NFCC are aware that fiscal issues were a factor in the removal of the role of BSM as the BSA moved through Parliament. Given that the BSM function still remains in all but name and the costs will still need to be recovered, it is important to ensure qualifying leaseholders are fully informed of the costs, how they are determined and the cost implications.

This includes clarity on the need for the duties building safety directors will be undertaking within this new system. It may also need to be explained that these are not new burdens but existing burdens within the already partially live BSA, so that leaseholders understand not only the cost but the need for these new directors and the benefit they will bring.

**Question 12. Do you agree with our proposal to align the determination of remuneration for building safety directors of RTMs fully with our proposals for RMCs?**

- Yes
- No
- Indifferent
- Not sure

**If you did not answer 'Yes' please explain why.**

We support this proposal as per our answer to question 11 above.

**Question 13. Do you agree with our proposals on the removal of building safety director by RMCs and RTMs?**

- Yes
- No
- Indifferent
- Not sure

**If you did not answer 'Yes' please explain why.**

NFCC understand the need for the changes to the ability of RMTs and RMCs to remove a Building Safety Director, yet we do not believe that enough information was given for us to take a decision on agreement on the proposal as laid out within the consultation.

We are concerned that one of the reasons for this change was a lack of knowledge or engagement from qualifying leaseholders. As stated earlier resident engagement is a keystone of the new system and it is a worry that Government believe there is a risk of disengagement. We also hold concerns that there does not appear to be clearly defined reasoning for the removal of a Building Safety Director set out within this consultation. Given one of the reasons for consulting on this proposal is a lack of competence or expertise to fulfil the statutory duties under the new system, we hold concerns that those same people can dismiss the person with statutory duty.

There should also be clarification as to the role that the Building Safety Regulator will take, if any. We would be interested to know how the current provisions in the BSA for applying special measures orders will apply where Building Safety Directors are in place— particularly when a Building Safety Director is found not to meet the appropriate levels of competence.