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Consultation for changes to the building control profession and the building control process for approved inspectors

The National Fire Chiefs Council (NFCC) is pleased to respond to the consultation published on 31 January 2023 *Changes to the building control profession and the building control process for approved inspectors (in future to be known as registered building control approvers)*.

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

This response was drafted in consultation with our members across the FRSs, and reflects their expertise and competence on the subject matter.

General Comments

NFCC are generally supportive of the proposals within this consultation. We agree that they are needed to implement the changes brought about by the Building Safety Act 2022 and that the proposals will help to improve standards in both safety and regulation.

However, NFCC would like to take this opportunity to reiterate our position that the ability for clients to choose their own building control body must be removed for all building work, not just buildings in scope.

A frequent request the NFCC has made in submissions into the Hackitt review and related Government consultations, has been to remove the ability for people to shop around for their own regulator. The consequences of introducing competition into the building control market, if done without any independent checks and balances, are well known.

The Building Act 1984 introduced the ability for developers to choose their own building control body (either the Local Authority or Approved Inspector) which brought with it commercial competition. In 1991 New Zealand adopted a broadly similar model of a performance based building code, combined with the ability for private organisations to

become Building Consent Authorities, 1997 saw Norway introduce a regulatory framework based on self-accreditation.

If not implemented carefully, a delegation of such important regulatory mandate can come with significant unintended consequences. Norway experienced wide-spread building faults, and ultimately found their system of self-regulation was not proving effective or appropriate. 2013 saw Norway partially overturn their 1997 framework. The principle of self-accreditation remains, however the framework is based on central approval, with the Norwegian Building Authority holding the responsibility to check qualifications for responsible enterprises.¹

In New Zealand, problems also arose; in 2002 the Hunn report² was published, documenting an emerging cladding crisis in New Zealand and similar issues in Canada. Eight years later in 2010 after much debate about who should pay, a mediation service and dedicated tribunal, the New Zealand Government announced a financial package to assist affected homeowners to get access to money to fix their cladding³. The scale of the economic problem was estimated at \$11 billion, with the responsible Minister describing it as 'equivalent to a natural disaster of huge proportions' with a possible 42,000 dwellings likely to have been affected.

British Columbia's 'Leaky Condo Crisis', was similar, with analogous lessons learnt. The Inquiry into the Quality of Condominium Construction in British Columbia found there to be case after case of ineffective regulation regarding responsibility and accountability at each stage of the construction process, including 'an inability on the part of municipalities to effectively monitor building quality, to make certain inspectors play a meaningful role in ensuring building standards, and to enforce building codes'. A recommendation was made to regulate and license the residential construction industry, explicitly rejecting self-regulation.⁴

A report by the World Bank⁵ in 2018 across 190 economies noted that integration of private sector entities should be accompanied by safeguards that favour the public interest over private profits; for such an arrangement to work as intended, the public sector should regulate private third-party professionals and firms. The report found that in 76% of economies that make use of third-party inspectors, regulations explicitly require the independence of third-party inspectors; they should have no financial interests in the project and should not be related to the investor or builder.

Similar issues have emerged in Australia. Following Grenfell, by November 2017 the Victorian Cladding Taskforce had found⁶ that failings were symptomatic of broader non-compliance, with competitive commercial pressures that incentivised the taking of shortcuts. The taskforce proposed consideration be given to changes to the private surveyor model to improve levels of compliance, inspection and enforcement of building laws. The final report in July 2019⁷ made a raft of recommendations, including third party

¹http://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/707785/Building_a_Safer_Future_-_web.pdf at 116

² <https://www.stepupgroup.co.nz/2002-the-hunn-report/>

³ <https://www.beehive.govt.nz/release/government-announces-leaky-homes-package>

⁴ http://www.gp.gov.bc.ca/condo/c2_i.htm

⁵ <https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB18-Chapters/DB18-Construction-permits.pdf>

⁶ https://www.planning.vic.gov.au/_data/assets/pdf_file/0016/90412/Victorian-Cladding-Taskforce-Interim-Report-November-2017.pdf

⁷ https://www.planning.vic.gov.au/_data/assets/pdf_file/0019/426034/DELWP0124_Victorian_Cladding_Taskforce_Final_Report_July_2019_v9.pdf

review on the use of performance solutions. As part of the Cladding Rectification Program⁸, the Victorian Government created Cladding Safety Victoria⁹, a dedicated agency established to help owners to rectify buildings identified through the Statewide Cladding Audit being conducted by the Victorian Building Authority.

As such, NFCC has welcomed provisions in the draft Bill which would introduce greater oversight of these processes for those buildings in scope. But we believe this needs to be seen as a first step only.

We currently hold concerns, based on recent discussions at the Joint Regulator's Group meetings, that DLUHC may be planning to reverse some of the policy proposals from Building a Safer Future, towards clients' still being able to choose their own regulator, for major refurbishment projects within the commercial parts of mixed-use high-rise residential buildings (buildings like Grenfell Tower).

We strongly urge DLUHC to ensure that the final Building Safety Regime adequately aligns to the policy intent of the original consultations that informed the passage of the Bill through Parliament.

Current consultation

Our members report that they have not witnessed the universal culture change expected to be bought about from the Independent Review of Building Regulations and Fire Safety, and that they continue to see 'gaming' of the system.

For example, some design teams are still proposing designs with the height of the building intentionally millimetres under thresholds such as that banning the use of combustible wall materials, while admitting that this is intentional to seek flexibility with the materials used (i.e. combustible materials). This demonstrates that some within the industry are still not designing with safety in mind and are doing the very least required to achieve compliance.

In respect to this consultation, we hold two main concerns relating to timescales and cancellation notices as a result of a change of registered building control approver.

Timescales

NFCC does not believe that six months is a sufficient transition time for approved inspectors who do not become registered building control approvers to conclude non-higher-risk building work. Transferring oversight of building work from one regulator to another late in the project lifecycle will be disruptive and lead to delays as the new regulators bring themselves up to speed on work that has already been completed. This disruption can have a significant impact on the completion of the project, leading to increased costs and timeframes.

We also note that some non-higher risk building projects, such as large low-rise residential developments, may take significantly longer than six months to complete. Any transition period should be based on the likely timescales required for most approved inspectors to become a registered building control approver (RBCA), rather than on timescales that may allow approved inspectors who do not become RBCA to conclude non-higher-risk building work. This approach would prevent an influx of initial notices, whereby both developers and approved inspectors may try to beat the clock on the new regime.

⁸ <https://www.planning.vic.gov.au/building-policy/cladding-rectification-program>

⁹ <https://www.vic.gov.au/cladding-safety>

Government should consider a more extended transition period that takes into account the complexity of the building project and the time required for most approved inspectors to become RBCA. This will ensure that the transition is smooth and minimizes disruption to ongoing projects.

NFCC also disagree with the timelines regarding new initial notices, we do not believe that a period of seven days is sufficient for an incoming RBCA to familiarize itself with any type of project. This is especially true if the project is complex, and there are specific requirements that the RBCA must adhere to. A period of 14 days would seem more appropriate to ensure that the RBCA can adequately understand and familiarize itself with the project.

Moreover, it is not clear from the proposals whether the seven-day period includes the time it would take for the person carrying out the work (i.e. the client) to be made aware of the cancellation and find a new RBCA who may be willing to take on the project. If the seven-day period includes this time, then it would be even more challenging for a new RBCA to become familiar with the project and initiate the necessary process within such a short timeframe.

Government should reconsider the seven-day period and increase it to at least 14 days to ensure that incoming RBCAs have sufficient time to understand and familiarize themselves with a project. This will ensure that the necessary processes can be initiated without compromising the quality of the work being carried out.

NFCC also disagrees with the proposed time period of 21 days for the outgoing registered building control approver to provide information to the local authority and to the person carrying out the work. NFCC believes that a period of 14 days would be more reasonable. However, in special cases where an extension is required, an additional 7 days can be requested with appropriate reasons. This information should be readily available to the outgoing RBCA, and a shorter time period would help to prevent unregulated or unmonitored work from continuing during this period.

It is critical that the time periods within which fire and rescue authority consultation are to take place, include a process whereby the fire and rescue authority can request an extension to the timeframe for buildings that are particularly complex.

Some building designs are highly complex, and the level of detail required for an appropriate consultation can be technically detailed and vast. The larger consultations can potentially consist of tens of thousands of pages. Those complex consultations can also be accompanied by extensive use of validation tools such as CFD models. Therefore, a blanket timescale should not promote or encourage RBCA's consulting fire and rescue authorities to achieve a statutory deadline prior to being able to fully consider the detail, and determine compliance with Building Regulations.

Cancellation notices

NFCC believe that it would be valuable to understand the rationale for the cancellation. The reasons for cancellation may include the applicant choosing not to proceed with the project, the project going in a different direction, or the applicant (i.e. company) no longer existing. By including this information, it will help to provide context to the cancellation, and enable the relevant authorities to have a better understanding of why the project was cancelled.

Yours sincerely,

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

PP

Penny Pender on behalf of Nick Coombe
Head of Protection Policy and Reform Unit
Protection Policy and Reform Unit

Organisational Information

What is your name?

Nick Coombe

What is your position?

Head of Protection Policy and Reform Unit

What is your email address?

pbruadminteam@nationalfirechiefs.org.uk

Are you responding as an individual or on behalf of an organisation?

Organisation

What is the name of your organisation?

National Fire Chiefs Council

Questions

Q. 1: Do you agree that where an approved inspector and a registered building control approver are the same legal entity then, with some exceptions, the initial notices of the approved inspector will be treated as the initial notices of the registered building control approver?

Yes

Q. 1A: Please provide an explanation for your answer.

NFCC agree that where approved inspector and a registered building control approver (RBCA) are the same legal entity then the initial notices of the approved inspector should be treated as the initial notices of the registered building control approver. This will provide continuity for all stakeholders involved in the process. It will also avoid potential delays caused by administrative burdens associated with transferring initial notices between regulators.

Q. 2: Where the approved inspector and registered building control approver are not the same entity, or one of the exceptions applies, do you agree that approved inspectors should have a transitional period to complete work which is not higher-risk building work?

Yes

Q. 2A: Please provide an explanation for your answer.

NFCC considers that it is pragmatic to have a transitional period as it will avoid creating a potential unmanageable administrative bottleneck for the Building Safety Regulator. However, we are unsure of the precise steps or likely timescales involved with processing the registration for a RBCA, so can not comment on a specific timeline for this transitional period.

Q. 3: Do you agree that six months is a sufficient transition time for approved inspectors who do not become registered building control approvers to conclude

non-higher-risk building work?

No

Q. 3A: Please provide an explanation for your answer.

NFCC notes that transferring oversight of building work from one regulator to another late in the project lifecycle will be disruptive and lead to delays as the new regulators brings themselves up to speed on work that has been already completed.

Some non-higher risk building projects, such as large low rise residential developments, may take significantly longer than six months to complete. Therefore, any transition period should be based on the likely timescales required for most approved inspectors to become RBCA, rather than on timescales that may allow approved inspectors who do not become RBCA to conclude non-higher-risk building work. This approach would prevent an influx of initial notices, whereby both developers and approved inspectors may try to beat the clock on the new regime.

Q. 4: Do you think a different length of transitional period for approved inspectors to conclude non-higher-risk building work would be more appropriate?

Yes

Q. 4A: Please provide an explanation for your answer. If you have answered yes, please specify for how long.

As set out above in Q. 3A, any allowed periods for a transition should be based on the likely timescales required for all approved inspectors to become a RBCA, rather than based on timescales that allow non-higher-risk building work to be concluded which creates an opportunity for the regulatory system to be gamed.

Q. 5: Do you think registered building control approvers should be able to complete existing higher-risk building work in line with the higher-risk building control transitional arrangements?

Yes

Q. 5A: Please provide an explanation for your answer.

NFCC agree that transferring oversight of building work from one regulator to another late in the project's lifecycle will be disruptive and lead to delays as the new regulators bring themselves up to speed on work that has been already completed. For continuity of development, there are clear benefits to allowing the RBCA with whom the work commenced to continue to oversee the higher-risk building work.

However, it's important not to lose sight of the reasons for the new safety regime. The Building Safety Regulator aims to ensure that all higher-risk building work is overseen by them, and it may not be appropriate for a RBCA to continue overseeing a building's construction if no substantial progress has been made. It's also unclear how competency will be assessed in the registration process to become a RBCA, so it's unclear how suitable a RBCA would be to continue with higher-risk building work simply because work has already begun.

Q. 6: Do you agree that ending the ability for an approved inspector (who is not registered as a building control approver) to oversee higher-risk building work is appropriate?

Yes

Q. 6A: Please provide an explanation for your answer.

The purpose of registration is to demonstrate to the Building Safety Regulator that the approved inspector has the necessary competence to oversee building work. Allowing approved inspectors who do not register as building control approvers to continue to have regulatory oversight of higher-risk building work clearly goes against the policy intent of improving standards in both safety and regulation.

NFCC would like to take this opportunity to reiterate our position that the ability for clients to choose their own building control body must be removed for all building work, not just buildings in scope.

A frequent request the NFCC has made in submissions into the Hackitt review and related Government consultations, has been to remove the ability for people to shop around for their own regulator.

Q. 7: Do you think an approved inspector should be able to appeal a decision from the Building Safety Regulator not to register it as a registered building control approver in the Courts?

Yes

Q. 7A: Please provide an explanation for your answer.

NFCC, have not seen detail of the decision-making process, but would recommend that the decision-making process for determining registration of a RBCA will be consistent and robust, yet we also acknowledge that there may be occasions where applications are unsuccessful for reasons which may be unjust or unclear. For this reason, NFCC believe there should be an option to appeal a decision.

Q. 8: Do you agree with the proposed approach to initial notices and plans certificates where higher-risk building work is uncommenced at the end of the transitional period?

Yes

Q. 8A: Please provide an explanation for your answer.

While NFCC agrees that initial notices and plan certificates for higher risk building work that has not yet commenced should be cancelled, NFCC are concerned this will result in a rush of 'commencement works' that are solely intended to allow the higher risk building work to continue under the old regime.

Q. 9: Do you agree that where an initial notice is cancelled, the plans certificate should be cancelled and the Building Safety Regulator should be able to take enforcement action for any work not covered by a final certificate?

Yes

Q. 9A: Please provide an explanation for your answer.

Where an initial notice is cancelled, then it logically follows that the plans certificate associated with that work covered by the notice should also cease to have affect.

Q.10: Do you agree that registration length for registered building control approvers should be 5 years?

NFCC considers we are not best placed to answer this question.

Q. 10A: If no, please explain why and what your preferred registration length would be.

NFCC does not have a position on the proposed registration length for RBCA.

We are more concerned with the need for appropriate mechanisms to be in place to enable the Building Safety Regulator to take action, such as varying, suspending, or cancelling the registration of an RBCA, if they violate professional conduct rules. This is deemed more important than the actual length of registration.

Q. 11: Do you agree that registration length for registered building inspectors should be set at four years?

NFCC considers we are not best placed to answer this question.

Q.11A: Please explain why you chose yes or no, and if no, what your preferred registration length would be.

As set out above at Q. 10A, NFCC does not have a position on the proposed registration length for RBCA. We are more concerned with the need for appropriate mechanisms to be in place to enable the Building Safety Regulator to take action, such as varying, suspending, or cancelling the registration of an RBCA, if they violate professional conduct rules. We believe that this is significantly more important than the actual length of registration.

Q.12: Do you agree that a copy of a disciplinary order should be sent to every local authority in these 4 circumstances?

NFCC considers we are not best placed to answer this question.

Q12A: If no, which do you disagree with and why?

Q. 13: Do you agree with the approach to appeals against a decision by the Building Safety Regulator with respect to registration and sanctions as outlined above?

NFCC considers we are not best placed to answer this question.

Q13A: Please provide an explanation for your answer.

Q. 14: Do you agree with the approach to appeals against a decision by the Building Safety Regulator with respect to oversight of the building control profession (both public and private organisations) as outlined above?

NFCC considers we are not best placed to answer this question.

Q. 14A: Please provide an explanation for your answer.

Q. 15: Do you agree with the restricted activities set out for local authorities and registered building control approvers?

Yes

Q. 15A: If no, please provide an explanation for which you disagree with and why.

Q. 16: Do you think any other activities should be included as restricted?

Yes

Q. 16A: If yes, please specify what these are in the free text box.

The restricted activities outlined in the consultation are broad and capture most of the work done by registered building inspectors assessing compliance with Building Regulations. However, it is unclear whether this question seeks opinions on additional registered activities or breaking down the existing ones further to capture inspectors' competency for certain building types.

NFCC believes that the registered activities are too broad to ensure that inspectors' registration acts as a suitable competency benchmark. Different levels of competence are required for assessing Building Regulations compliance in different types of buildings, and the registered activities should reflect that.

NFCC believe that an activity not included is for local authorities and registered building control approvers, where a development includes sleeping accommodation, checking of the application and plans for compliance with any applicable requirement of the building regulations.

We would also like to see included regarding local authorities and registered building control approvers, where a development includes elements of fire engineering design, checking of the application and plans for compliance with any applicable requirement of the building regulations.

Q. 17: From the list below, please tick any functions you do not think should be restricted functions for registered building control approvers.

Registered Building Control Approvers

- Submitting initial notices
- Issuing plans certificates or a combined certificate with initial notice
- Giving a cancellation notice in cases of a contravention of building regs under section 52(1)(c)
- Giving a cancellation notice when work becomes higher-risk building work under section 52A(1)
- Determining whether to issue a final certificate

- Submitting an amendment notice under section 51A where there is a variation of work
- Submitting a new initial notice under section 53(7) where the original initial notice ceases to be in force, but no final certificate has been issued.
- Giving a transfer certificate and report under section 53B for a new initial notice where there is a change of registered building control approver.

Q. 17A: For any boxes you ticked, please explain why you do not think the function should be included.

NFCC considers we are not best placed to answer this question

Q. 17B: Are there any functions not included above that you think should be restricted for registered building control approvers?

NFCC considers we are not best placed to answer this question.

Q. 17C: If yes, please specify what these are in the free text box and explain why you think they should be included.

NFCC considers we are not best placed to answer this question.

Q. 18: From the list below, please tick any functions you do not think should be restricted functions for local authorities.

Local authorities

- Determining a building control approval application
- Determining whether to accept or reject a transfer certificate and report
- Determining whether to issue a completion or partial completion certificate
- Issuing a direction to Relax or Dispense with a requirement of the building regulations
- Decisions on matters relating to the use of short-lived materials in sections 19 & 20 of BA84
- Decisions on matters dealing with the drainage of buildings in sections 21 & 22
- Decisions on matters dealing with the provision of water supply in section 25
- Tests for conformity with building regulations in section 33
- Deciding if there is a contravention of building regs under section 35
- Giving compliance (S35B) & stop (S35C) notices
- Giving or withdrawing a section 36 notice or the decision on execution of section 36 notices (removal or alteration of offending work)
- Provision of facilities for refuse under section 23
- Determining an application for a certificate for unauthorised building work under BR2010 regulation 18(5) (regularisation certificate)
- Deciding, with partly completed work (under regulation 19 of Building (Approved Inspectors etc) Regulations 2010), whether the plans are sufficient to show the work will not contravene building regulations or when the work needs to be cut into, when work reverts to a local authority.

Q. 18A: For any boxes you ticked, please explain why you do not think the function should be included.

NFCC considers we are not best placed to answer this question

Q. 18B: Are there any functions not included above that you think should be restricted for local authorities?

NFCC considers we are not best placed to answer this question

Q. 18C: If yes, please specify what these are in the free text box and explain why you think they should be included.

Q. 19: From the list below, please tick any functions you do not think should be restricted for the Building Safety Regulator carrying out higher risk building work.

Building Safety Regulator For Higher-Risk Building Work

- Approving a building control application for a higher-risk building
- Determining whether to issue a completion certificate or partial completion certificate
- Issuing a direction to Relax or Dispense with a requirement in building regulations (section 8(3A))
- Decisions on matters relating to the use of short-lived materials in sections 19 & 20
- Decisions on matters dealing with the drainage of buildings in sections 21 & S22
- Decisions on matters dealing with the provision of water supply in section 25(1)
- Tests for conformity with building regulations in section 33
- Deciding if there is a contravention of building regs under section 35
- Giving compliance (S35B) & stop (S35C) notices
- Giving or withdrawing a section 36 notice, or the decision on execution of section 36 notices (removal or alteration of offending work)
- Giving approval, in the cases where it is required when building control approval was given, so that work can progress past a stage or point.
- Determining the outcome of a regularisation certificate application for a higher-risk building
- Provision of facilities for refuse in section 23
- Determining a higher-risk building HRB change control application

Q. 19A: For any boxes you ticked, please explain why you do not think the function should be included.

NFCC considers we are not best placed to answer this question

Q. 19B: Are there any functions not included for higher-risk building work that you think should be restricted for the Building Safety Regulator?

NFCC considers we are not best placed to answer this question.

Q. 19C: If yes, please specify what these are and explain why you think they should be included.

Q. 20: From the list below, please tick any functions you do not think should be restricted for the Building Safety Regulator carrying out non higher-risk building work.

For non-higher-risk building work under a Regulator's Notice

- Determining a building control approval application
- Issuing a completion or partial completion certificate when a Regulator's Notice has been given to the Local Authority
- Issuing a direction to Relax or Dispense with a requirement
- Decisions on matters relating to the use of short-lived materials in sections 19 & 20 of BA84
- Decisions on matters dealing with the drainage of buildings in sections 21 & 22
- Decisions on matters dealing with the provision of water supply in section 25
- Tests for conformity with building regulations in section 33
- Deciding if there is a contravention of building regs under section 35
- Giving compliance (S45B) & stop (S35C) notices
- Giving or withdrawing a section 36 notice or the decision on execution of section 36 notices (removal or alteration of offending work)
- Provision of facilities for refuse under section 23
- Determining an application for a certificate for unauthorised building work under BR2010 18(5) (regularisation certificate)

Q. 20A: For any boxes you ticked, please explain why you do not think the function should be included.

NFCC considers we are not best placed to answer this question.

Q. 20B: Are there any functions not included for non higher-risk building work that you think should be restricted for the Building Safety Regulator?

NFCC considers we are not best placed to answer this question.

Q. 20C: If yes, please specify what these are and explain why you think they should be included.

Q. 21: Do you agree with our proposed approach?

Yes

Q. 21A: Where necessary, please provide an explanation for your answer.

Q. 22: Do you agree or disagree with the government's approach to appeals?

Don't know

Q. 22A: Please add comments where you think necessary.

NFCC considers we are not best placed to answer this question

Q. 23: Do you agree with our proposed approach?

Yes

Q. 23A: Where necessary, please provide an explanation for your answer.

Q. 24: Do you agree that plans certificates should be mandatory for any work to all buildings that fall under the Regulatory Reform (Fire Safety) Order 2005?

Yes

Q. 24A: Please provide an explanation for your answer.

NFCC supports the wider use of plans certificates in principle as there are clear benefits to having a formal record of the building's design that was approved at the Building Regulations stage.

Under the current regime, it is not unusual to be consulted on premises towards the end of construction, which makes accommodating additional requirements under the FSO difficult. Prescribing a timescale after submission of an initial notice by which a plans certificate is required would contribute significantly to improving this situation.

However, the experience of FRSs shows that, plans certificates are rarely used currently as the design process is iterative. It is likely to result in situation where multiple plans certificates are issued. This would create an administrative burden and undermine the intentions of the plans certificate in the first place which is intended to represent the final compliant design.

Where plans certificates are issued, NFCC supports them being sent to FRS to have a record of the design that has been signed off as compliant with building regulations.

Q. 25: Do you agree that a local authority should be required to cancel the initial notice for a building which falls under the Regulatory Reform (Fire Safety) Order 2005 within a prescribed timescale of an initial notice being accepted, where a plans certificate has not been issued?

Yes

Q. 25A: Please provide an explanation for your answer. If you have answered Yes, please state what an appropriate amount of time, in working days, this would be.

NFCC believes that mechanisms need to be in place to prevent the construction of buildings without full plans approval and without addressing all identified issues. Requiring a prescribed timescale within which a plans certificate needs to be issued after the initial notice has been accepted is one way to achieve this.

However, NFCC would caution against setting an arbitrary deadline that could compromise safety. Building designs evolve over time, and it is common for FRS to request additional

information to make an informed decision. Rushing through poorly considered solutions to meet a deadline could undermine the intended safety benefits of plans certificates.

Any proposed timescale should factor in the time required for the FRS to provide a timely response, and the time for the RBCA to consider and address any concerns raised. An appropriate amount of time will depend on the complexity of the project and the quality of information provided.

Q. 26: Do you agree with the proposed approach to amending the form for plans certificates in situations when the registered building control approver has been unable to inspect full plans at the time of first issuing a certificate?

Yes

Q. 26A: Please provide an explanation for your answer.

By introducing timescales for issuing plans certificates, it is possible that the certificates may be issued before the building control is satisfied that the plans meet the building regulations. This goes against the purpose of the plans certificate. Amending the forms to allow certain information to be provided later can prevent project disruption that may otherwise cause the project to be handed over to the local authority building control.

However, to prevent certificates being issued for designs that are unfinished or unsafe, clear expectations are necessary for the design elements that can adopt this approach.

Q. 27: Do you believe that a period of seven days is sufficient for an incoming registered building control approver to familiarise itself with any type of project which could fall under this process?

Disagree

Q. 27A: Please provide an explanation for your answer. If you have answered disagree, please outline any changes that you would make and why.

NFCC acknowledges the need to ensure projects are not left in a state of limbo following the cancellation of an initial notice (regardless of the reason). However, seven days is considered a very short a period for a new RBCA previously unfamiliar with a building design, especially if it is complex, to become familiar with it enough to initiate the necessary process. A period of 14 days would seem more appropriate.

It is not clear from the proposals whether the seven-day period includes the time it would take for the person carrying out the work (i.e. the client) to be made aware of the cancellation and find a new RBCA who may be willing to take on the project. If it does, then the seven-day period would appear to be even less feasible.

Q. 28: Do you agree or disagree with the additional circumstance of business cessation for which a new initial notice may be given?

Agree

Q. 28A: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

It is not the fault of client if a RBCA goes out of business. There needs to be a mechanism in place to allow the development to continue with minimum disruption to the client.

Q. 29: Do you believe that any further circumstances should be added?

NFCC considers we are not best placed to answer this question.

Q. 29A: Please provide an explanation for your answer. If you have answered Yes, please explain which additional circumstances you would add.

Q. 30: Do you agree or disagree that the information listed above is sufficient to assure the local authority that unfinished building work, which is not subject to a part-final certificate, does not contravene any provision of the building regulations?

Agree

Q. 30A: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

NFCC is pleased to see that previous correspondence with the FRS is included as part of the information which the transfer certificate must contain.

Q. 31: Do you agree with a 21-day consideration period during which a local authority must either accept or reject the transfer certificate and report?

Agree

Q. 31A: If you do not agree, what time frame do you think would be appropriate for a local authority to consider a transfer certificate and report? Please give reasons for your answers.

NFCC believes that 21 days is reasonable. The process of considering and accepting or rejecting a transfer certificate is potentially a much more complex process than the initial application. It is appropriate to allow a longer period of time to consider the large amount of information involved.

Q. 32: Do you agree or disagree with the seven-day period a registered building control approver has to provide information to the local authority, if requested?

Agree

Q. 32A: If you have answered disagree, please explain what changes you think should be made.

For information that already exists and that the RBCA holds, seven days is considered reasonable to request for it to be provided.

However, where the local authority is requesting information that the RBCA may need to obtain from a third party, a longer period is likely to be necessary and should be agreed between both parties.

Q. 33: Do you agree or disagree that the above list covers sufficient grounds for a local authority to be able to reject a transfer certificate and report?

Agree

Q. 33A: Are there any grounds included in the list above that you think should be removed?

No

Q. 33B: If you have answered Yes, please state which grounds you would remove from the list and why.

Q. 34: Are there any grounds that are not in the list above that you think should be included?

No

Q. 34A: If you have answered Yes, please state which grounds you would add to the list and why.

Q. 35: Do you agree or disagree with the information to be included in the above cancellation notices?

Disagree

Q. 35A: Please provide an explanation for your answer. If you have answered disagree, please explain what additional information you would include.

Whilst not considered essential, in instances where the person carrying out the work (the applicant) decides to cancel the initial notice, there would be value in understanding the rationale for this.

Reasons may include the applicant is choosing not to proceed with the project, the project is going in a different direction or the applicant (i.e. company) no longer exist.

Q. 36: Do you agree or disagree that the above categories cover the necessary circumstances for a new initial notice to be submitted?

NFCC considers we are not best placed to answer this question

Q. 36A: Please provide an explanation for your answer. If you have answered disagree, please explain what additional circumstances you would include.

The NFCC agrees that the person carrying out the work should not be adversely affected by circumstances outside their control and no fault of their own. However, we are unable to identify all the circumstances where this may be the case.

Q. 37: Do you believe that additional categories should be added?

NFCC considers we are not best placed to answer this question

Q. 37A: If you have answered Yes, please provide an explanation for your answer.

The NFCC agrees that the person carrying out the work should not be adversely affected by circumstances outside their control and no fault of their own.

However, we are unable to identify all the circumstances where this may be the case.

Q. 38: Do you agree or disagree with the proposed time period of 21 days for the outgoing registered building control approver to be required to provide this information to the local authority?

Disagree

Q. 38A: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

NFCC believes that 14 days seems like a more reasonable time period. In special cases, an extension of 7 days can be requested with appropriate reasons.

This information should be readily to hand for the outgoing RBCA and we can foresee no reason why such a long time period would be required, considering that unregulated or unmonitored work could be continuing during this period.

Q. 39: Do you agree or disagree with the same proposed time period of 21 days for the outgoing registered building control approver to provide this information to the person carrying out the work?

Disagree

Q. 39A: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

The information to be provided will be the same irrespective of whether it is being shared with the local authority or the person carrying out the work (i.e. the client). The rationale for a period less than 21 days as outlined in Q. 38A above is equally relevant to this question.

Q. 40: Do you agree or disagree that the above additional information should be included on the relevant forms?

Agree

Q. 40A: Please provide an explanation for your answer. If you have answered disagree, please state why.

In addition, the initial notice should include details of the RBCA's/inspector's scope of registration to ensure that the application is within the limitations of their registration.

Q. 41: Do you agree that a time period within which consultations with the fire and rescue authority are to take place should be introduced?

Agree

Q. 41A: If you have answered agree, please state what an appropriate amount of time, in working days, for the registered building control approver to consult the fire and rescue authority would be.

- Five
- Ten
- Fifteen
- Other
-

Q. 41B: Please provide an explanation for your answer. If you have answered Other, please state what an appropriate amount of time, in working days, for the registered building control approver to consult the fire and rescue authority would be.

The proposed consultation timescales stem from the point of submitting the initial notice. NFCC support a 15-day period, however, RBCAs need to be satisfied with the proposals at the point of submitting the initial notice for the timescales to work effectively. This may require a change in mindset for RBCA.

FRS often face the issue of being consulted too late in the development process, making it impossible to address concerns because parts of the construction have already been completed. The proposal to consult with FRS within a prescribed timescale after submitting the initial notice would help address this issue. However, consultation with FRS should not take place until the RBCA is satisfied with the proposals' compliance with building regulations to prevent incomplete or non-compliant designs.

It is also critical that a 15 day period be accompanied by a process by which the fire and rescue service could request an extension for any buildings that are particularly complex.

Q. 42: Do you agree that a time period within which consultations with the sewerage undertaker are to take place should be introduced?

NFCC considers we are not best placed to answer this question.

Q. 42A: If you have answered agree, please select what you believe would be the appropriate amount of time for the registered building control approver to consult with the sewerage undertaker.

- Five
- Ten
- Fifteen
- Other

Q. 42B: Please provide an explanation for your answer. If you have answered Other, please state what an appropriate amount of time, in working days, for the registered building control approver to consult the sewerage undertaker would be.