



**NFCC**  
National Fire  
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The professional voice of the  
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### **Open Consultation – Improving disabled people’s access to let residential premises: reasonable adjustments to common parts, a new duty**

The National Fire Chiefs Council (NFCC) is pleased to respond to the consultation published on 9<sup>th</sup> June 2022 – *Improving disabled people’s access to let residential premises: reasonable adjustments to common parts, a new duty*.

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 drafted by the NFCC Protection Policy and Reform Unit in consultation with our members across the UK FRS, and reflects their expertise and competence on the subject matter.

We are very supportive of the proposals to commence and implement the outstanding parts of Section 36 of the Equality Act 2010, which would place a duty on landlords to make reasonable adjustments to the common parts of let residential premises when requested by a disabled person. Whilst we believe that others will be better placed to answer the consultation questions in specific detail, we would like to provide the thematic comments appended below for Government’s consideration.

Our response comments have been split into four sections for clarity and are summarised as follows:

1. **‘Egressibility’ and Government Coordination** – Alongside accessibility requirements, Government needs to incorporate ‘egressibility’ – the idea that residents should be able to quickly and safely exit the building in an emergency – in policy development. This needs to be done by adopting a cross-departmental approach with colleagues in the Home Office and Department for Levelling Up, Housing and Communities (DLUHC). More needs to be done to ensure that buildings are designed and constructed with the needs of modern population demographics in mind, rather than seeking to apply retrospective solutions which may compromise existing fire safety measures.
2. **Scope** – Exclusions should not be made to the application of Section 36 on the basis of the premises type or disability and/or impairment faced by the resident. Disability

can affect anyone at any time, either permanently or temporarily through illness or injury. We believe that suitable adjustments should be available to ensure that all residents are able to enter and exit their building, both regularly and during an emergency.

3. **Ensuring Consistency** – NFCC supports the production of Government guidance and templates to support implementation of the requirements under Section 36. This will bring much needed clarity and consistency to arrangements, making the process easier for both landlords and residents, as well as regulators who may need to review arrangements. Any guidance and templates produced under Section 36 need to ensure that they complement existing and proposed government cross departmental templates and guidance, both statutory and non-statutory, in order to avoid the risk of ambiguity for residents, landlords, and associated regulators.
4. **Costs and Conflict Resolution** – NFCC does not believe that there is sufficient clarity within the proposals as to how any conflict between a resident and landlord over what is 'reasonable' and who should pay for adjustments would be resolved. We can envisage scenarios whereby essential adjustments to enable egress in an emergency may not be installed in a timely manner, if at all, due to disagreement over who pays. Furthermore, we are concerned that allowing landlords to pass off costs onto individual residents as a default may disincentivise those in need of adjustments from stepping forward.

NFCC would welcome the opportunity to work with you on these issues further, and strongly encourage the Equalities Office to engage with colleagues in other departments, particularly the Home Office and DLUHC. NFCC will be continuing to work with officials in both departments towards supporting better fire safety outcomes for everyone in our communities.

Yours sincerely,



**Gavin Tomlinson**  
Protection and Business Safety Scrutiny Committee Chair  
National Fire Chiefs Council

# Thematic Comments

## 1. 'Egressibility' and Government Coordination

- 1.1. Fundamentally, Government must adopt a cross-departmental approach to ensure that all residents, regardless of their age, the building they live in, any disabilities or impairments, or whether they rent or own their home, are able to enter and exit their building. This includes during regular day to day activities as well as during emergencies. It is critical that the idea of 'egressibility' is considered alongside accessibility requirements in order to ensure that homes are fit for purpose for all people through their whole life.
- 1.2. NFCC have, for a number of years, highlighted through multiple submissions to Government and Select Committees the impending difficulties that are set to arise from a combination of the increasing trend towards people receiving care in their own homes, an aging population, and the lack of updates to design guides. Current basic design parameters still remain largely grounded in assumptions, studies, and values about ways of living dating from the 1950s and 1960s.
- 1.3. Current design guides do not take account of the significant additional fuel likely to be found in modern homes, including batteries, increasing numbers of electronic devices, and larger items such as mobility scooters, electric vehicles, and electric vehicle charging points.
- 1.4. Evidence given at the Grenfell Tower Inquiry has exposed that the Building Regulations Approved Documents have not received appropriate oversight or governance, and this has led to misinterpretation and gaming of the Regulations.
- 1.5. Whilst we would strongly encourage alterations be made to let premises where they will assist residents with disabilities or impairments to evacuate the building in an emergency, NFCC would like to see buildings designed and constructed to be more inclusive from the outset.
- 1.6. By relying on retrospective alterations to make homes more suitable for residents, this increases the risk of fire protection measures and firefighting equipment being compromised. Examples include holes being drilled through compartmentation walls or fire doors to install assistive adjustments, which may allow the uncontrolled spread of smoke or flames into additional parts of the building during a fire, thereby compromising resident and firefighter safety.
- 1.7. Government must do more to ensure that new buildings are designed and constructed in a way that makes them safer for people who occupy and use them in the event of an emergency. All residents and relevant persons on these premises, regardless of any impairments, must be able to access the building without difficulty but to also safely exit the building regularly and in an emergency. Currently, the Approved Document series contain very little to ensure that inclusive design accounts for the full range of needs of occupants who may be disabled or find themselves in vulnerable positions. As part of the ongoing review of the Approved Documents, egress for all occupants should be given the same priority as the right to access buildings.
- 1.8. Ultimately if a person is vulnerable enough to require assistance to evacuate, management should be considering if there are further measures which would better protect their safety, such as increased use of sprinklers, refuge areas, and evacuation lifts. This would lead to greater autonomy for many residents with disabilities or impairments, providing the option to leave a building in an emergency in the same way those without impairments can.
- 1.9. In particular, sprinklers have been shown to be 99% effective in extinguishing or controlling a fire and can be retrofitted at an estimated cost of £150k in an average high rise building, with

many costs being one-off.<sup>1</sup> Sprinklers and other suppression systems can buy crucial additional time in firefighting and evacuation operations, thereby giving disabled residents greater 'egressibility' in the event of an emergency.

- 1.10. It is absolutely essential that Government departments liaise with each other to ensure a joined-up approach to improving accessibility and 'egressibility' for all residents, including those with disabilities, impairments, or temporary conditions. This includes the Home Office in relation to the evacuation of such persons during an emergency, most notably in high rise residential buildings, DLUHC on the review of Building Regulations and the associated Approved Documents, and the Health and Safety Executive in regard to the implementation of the new building safety regime.
- 1.11. Particular focus should be placed on reviewing the non-worsening provisions in the Building Regulations, which mean that, even when significant investments are spent on major refurbishments for commercial gain, building owners and developers in England are provided with loopholes to avoid implementing any improvements to safety or accessibility measures, instead being able to increase their profit margins. This is in contrast to other countries, such as New Zealand, which require improvements for both fire safety and accessibility when buildings undergo a major refurbishment.
- 1.12. Cross-departmental work should also ensure that residents with all types of disabilities and impairments, not just those related to mobility, are taken into consideration. In our response to the Home Office's consultation on Emergency Evacuation Information Sharing (EEIS), we outlined our concerns that the proposals were restricted to mobility impaired residents. Limiting adjustments to residents with mobility impairments would lead to a tiered discriminatory system to the detriment of residents with other types of disabilities and impairments, such as those with sensory, cognitive, or neuro-diverse conditions.
- 1.13. The recommendations outlined above would support the commitments outlined in the Government's [National Disability Strategy](#), particularly those of the former Ministry for Housing, Communities and Local Government. We would also encourage Government to review the [Housing our Ageing Population Panel for Innovation](#) reports for further suggestions on how to make buildings more inclusive for people with disabilities and impairments.

## 2. Scope

- 2.1. All residents should be able to enter and exit their buildings, both regularly and during an emergency, regardless of property type or tenure. Therefore, certain property types should not be excluded from the duties under Section 36.
- 2.2. NFCC believes homes should be designed with accessibility and 'egressibility' considerations in mind so that they are fit for purpose for all people through their whole life. Disability can affect anyone at any time, either permanently or temporarily through illness or injury. New homes should be suitable for people of all ages and abilities in order to support the ambition that homes can truly be inclusive and fit for purpose at all stages of residents' lives. It is NFCC's strong belief that buildings should be suitable for the people who live in them, rather than people having to be 'suitable' for buildings.
- 2.3. Innovation plays an important role in improving the lives of those with disabilities, and NFCC encourages detailed consideration of new ways of supporting people. In line with this, we recommend Government consider the benefits that tele-assisted living and remote monitoring can have for people who may find themselves in vulnerable positions or be dependent on others for assistance. The benefits of such adjustments for individuals could be determined by

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<sup>1</sup> [Efficiency and Effectiveness of Sprinkler Systems in the United Kingdom: An Analysis from Fire Service Data, May 2017](#).

undertaking a person-centred fire risk assessment and reviewing the findings alongside the premises fire risk assessment.

- 2.4. Consideration should be given to the recommendations from Phase 1 of the Grenfell Tower Inquiry to ensure that the rights of disabled persons have been fully considered, for example, in respect to potential discrimination in access to housing, costs which may be passed on to residents and leaseholders, safeguarding, and privacy.

### **3. Ensuring Consistency**

- 3.1. Guidance for the implementation of adjustments will be essential in ensuring that changes are made by landlords in a safe and consistent manner. This should include templates, particularly for reasonable adjustments related to fire safety, such as to enable evacuation, which should be made a priority and implemented as soon as possible.
- 3.2. Templates would promote consistency and clarity as well as be a useful tool for other service providers, carers, management agents, maintenance contractors, and fire risk assessors. Information could also be of benefit to the local FRS during regulatory visits.
- 3.3. Guidance will also help to reduce any ambiguity for landlords concerning what their duties are whilst providing safeguards for residents from disproportionate treatment across relevant buildings. Relying on individual landlords to make these judgements risks creating a multi-tiered system of protections for those residents that may require adjustments to be made.
- 3.4. For example, where residents have moved to a new home, they may find stark differences in the standard of fire safety measures in place and in the level of engagement from the landlord. This poses a risk, especially when those measures are of a lower standard compared to the individual's previous home and do not meet the needs of the resident, or where the resident has to repeatedly advocate for improvements with their landlord each time there is a change in their circumstances. This could lead to conflict where the landlord and residents disagree on what measures are necessary and who should pay for them. These risks could be mitigated with clear guidance.
- 3.5. There are various pieces of overlapping legislation and regulations that currently provide the mechanism for landlords and residents to engage and co-operate with each other. These include the Resident Engagement Strategy requirements set out in the Building Safety Act 2022, the Fire Safety (England) Regulations 2022 (Regulation 9 – Provision of information to residents), the Regulatory Reform (Fire Safety) Order 2005, Social Housing Regulations, and proposals set out in the Private Rented Sector White Paper. Guidance should signpost landlords and residents to the relevant regulations and other pieces of statutory and non-statutory guidance to ensure responsibilities for landlords, Responsible Persons, and residents are clear, and that all parties are aware of any other resources that may be available to them.
- 3.6. Furthermore, Government should ensure that additional burdens are not placed on residents and landlords that have the potential to undermine or contradict existing legislative requirements.

### **4. Costs and Conflict Resolution**

- 4.1. Consideration needs to be given to costs to ensure there are no adverse impacts on residents requiring adjustments to assist them in evacuating the building, and costs should not jeopardise the ability of someone who may find themselves in a vulnerable position to secure and stay in their accommodation.



- 4.2. We would not want to see a situation where those with disabilities and/or impairments have to take on excessive financial burden in order to improve their safety in their own home or building. This could lead to disabled persons with a compromised ability to self-evacuate. Responsible persons have a duty to consider fire safety measures under the Regulatory Reform (Fire Safety) Order 2005, and this should not exclude a duty to ensure reasonable adjustments are in place for residents who may find themselves in a vulnerable position. Landlords will need to liaise with Responsible Persons where necessary to ensure that private tenants are not excluded from these considerations.
- 4.3. We have concerns that, by defaulting to the resident paying for adjustments, this could create undue financial burden and there should be a more balanced approach between what costs are covered by residents versus landlords and/or property owners. We would like to see guidance from Government include examples of what adjustments it is reasonable to expect the resident in question to pay for compared to the landlord and/or property owner.
- 4.4. NFCC would also like to see further clarity on how essential adjustments, such as those to enable egress during an emergency, will be agreed and installed in a timely manner. There may be a large number of stakeholders involved in approving a reasonable adjustment beyond just the resident and landlord, such as other residents, building management, the Responsible Person, the freeholder, and primary care authorities. Further guidance is needed to explain how this process should work to reduce unnecessary delays.
- 4.5. NFCC believe that there is not currently sufficient clarity in the proposals to provide confidence that residents and landlords will be able to come to agreed solutions, and that disproportionate costs will not be passed on to residents who may find themselves in a vulnerable position. Currently, the only recourse for residents where agreement cannot be reached will be legal action. This could create additional stress for residents and lead to protracted periods of time during which critical adjustments to assist in evacuation during an emergency are not in place, thereby putting the residents' health and safety at risk. We would encourage Government to consider a conflict resolution mechanism that could be pursued to see if the disagreement could be resolved without legal action. This would not only cut down on potential legal costs for all parties, but also minimise the impact on backlogged courts.
- 4.6. We have made similar points in our response to the Home Office's EEIS consultation, and would strongly encourage the Equalities Office to contact colleagues in the Home Office Fire Safety Unit to discuss how their policy proposals would intersect with the commencement of Section 36.
- 4.7. Proposals outlined in this consultation alongside those posed by the Home Office in the EEIS consultation risk passing significant costs for life safety adjustments onto residents who may find themselves in a vulnerable position. This could create situations where disabled residents face discrimination when looking for accommodation, and yet are unlikely to achieve anywhere near the same level of safe outcomes as other measures, such as sprinklers.
- 4.8. Policies on adjustments for disabled people need to be taken in the round, not just in terms of Government coordination, but by adopting a holistic approach to adjustments. These should take into account the impact on the disabled resident in question, the building itself, as well as other residents to determine what adjustments would be of most benefit.
- 4.9. Considerations should include ensuring coordination and cooperation from building management and other relevant parties, the reporting of faults, and whether temporary adjustments can also be requested and what happens to any such equipment when no longer needed.