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Consultation: Building Safety Levy

Please accept this letter as a response from the National Fire Chiefs Council (NFCC) to the consultation published on 21 July 2021 '*Building Safety Levy*'.

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

NFCC supports the intention of Government to provide reassurance to homeowners and restore confidence in the housing market through this building levy in conjunction with a new tax consulted on earlier this year, to raise revenue to help fund the government's vital remediation work. Disputes about who should pay the costs continue to create barriers to remediation, although it is clear this is not the only barrier which exists. The costs of building defects should not end with leaseholders, and it is right that interventions be introduced to ensure that Industry meets the costs where work does not meet the requirements of fire safety or building regulations.

Reform must be holistic to achieve cultural change. The Independent Review of Building Regulations and Fire Safety found the current building regime to be a 'broken system'. NFCC supports the proposed Gateway and change control processes, with the ability for the regulator to enforce a hard stop.

The new regime must avoid a two-tiered standard of safety. New rules for a narrow set of buildings will only create incentives for people to build buildings that manage to satisfy those rules, but which still contribute to the current broken system. It is possible this will compound incentives for people to design buildings to be just short of 18m, so that they can avoid the levy; although NFCC notes that these incentives on developers already exist through various settings in the Approved Documents, and the

introduction of Gateway 2 itself. It is therefore possible that those who would seek to avoid large developments for these reasons, already are. Other stakeholders are likely to be better placed to comment on the possible additionality that the introduction of this levy would have. NFCC believes that more vulnerable groups and higher risk premises could be recognised within the Gateways process from the outset, and we would like to see the expansion of the Gateways regime over time to include a wider set of buildings.

NFCC holds concerns that whilst this system will help contribute to the existing remediation budget, that building standards and culture haven't changed significantly enough to ensure that the tax will not need to be extended to cover issues in buildings currently being built, and those built in the interim before the Building Safety Bill passes parliament and commences. This levy must be considered in conjunction and with close alignment to an introduction and implementation of better building standards along with an active effort to change industry culture.

We are mindful of the pressing need to produce sufficient new homes for our communities yet there should not be a conflict between streamlined planning, sustainability, improved building standards and fire safety. When addressing the housing crisis, quantity and quality are not mutually exclusive.

This consultation also does not appear to take into account the possible need for greater remediation than the current process is currently designed for. The current system of regulation which has resulted in the current issues seen in residential buildings, is the same system that the rest of the built environment and other types of premises have been subject to. This may mean that more money than is currently costed is needed.

Whilst a number of the specific questions in your consultation are best addressed by others in the sector, we are keen to convey our concerns and expertise on the matters that pertain to fire safety, particularly question 7 regarding refurbishment.

Refurbishment

NFCC does not agree that major refurbishments should be excluded from the levy. We would caution Government on compromising on this detail and departing from their policy directive as laid out in previous consultations and documents. Given refurbishments contribute to the need for remediation, it should also help pay for it.

As well as including refurbishments in the levy, NFCC have repeatedly asked for a change of use or major refurbishment to trigger a cost/benefit analysis of reasonable life safety improvements balanced against the value of the building works in question. This could be applied to the entire built environment, to help gradually improve safety across building stock over time.

The Government's current policy directive around decreasing the impact stored carbon within the built environment could lead to an increase in major refurbishments which will add to housing stocks along with new builds. These refurbishments must be held to the same fiscal accountabilities as new builds.

NFCC would also highlight that refurbishments can bring a higher degree of complexity and risk to a project as they must interface with buildings already in use and where different materials and standards of construction have been used.

There are also issues around liability, especially where developers open subsidiary companies or special purpose vehicles to be responsible for new development or refurbishment. Such companies can then be closed down after completion of a project and the parent company rarely has any ongoing legal liability for the premises or remediation. Including major refurbishments within the levy could address some of these liability issues through the need to pay in through the gateway process.

Scope of Remediation

Government funding currently only applies to cladding, yet buildings may have other fire safety issues, such as problems with compartmentation or cavity barriers. Therefore, Government-funded cladding remediation will not always remove the need for costly interim measures.

Since the ban on combustible cladding came into force, we have not witnessed the universal culture change expected and continue to see intentional 'gaming' of the system whereby buildings are deliberately designed to be just under the ban threshold.

NFCC supports Government not only in exploring all measures to make buildings safer beyond remediation of cladding but also looking at the remediation of buildings below 18m in height.

By adopting a wider approach that does not rely on simplistic height thresholds or remediation of certain types of cladding, but instead looks at buildings holistically, it is possible to find longer-term and more cost-effective solutions to building defects for Government, building owners and residents.

Sprinklers and other suppression systems can buy crucial additional time in firefighting operations and may mean that evacuations are not necessary. NFCC would like to reiterate our strong support for sprinklers in all buildings regardless of height or other safety factors.

Alternative Methods of Housing Delivery

NFCC has concern around the conversion of commercial premises to multiple residential buildings under PDR. Experience of FRSs show such conversions have contributed to the number of buildings with fire safety issues. The current direction of Government policy for the extension of PDR could inadvertently lead to a further increase in buildings with fire safety issues at a time when the regulatory system is struggling to deal with those already built.

NFCC recognises that MMC has a role to play to provide much needed housing and infrastructure, but stresses that the safety of MMC needs to be considered. NFCC is concerned that MMC buildings are being designed, approved, and built under a regulatory system that has been described and accepted by Government as 'not fit for purpose' even for traditional construction techniques. Additional safeguards are needed to ensure there is not an influx of potentially unsafe MMC buildings being constructed while necessary regulatory reforms are in progress.

Current testing procedures were developed around traditional products, systems, and materials and we have not seen an adequate acknowledgement of the growing use of non-traditional and non-standard products and methods within the construction industry, and whether existing testing methodologies are applicable to emerging and innovative construction techniques. This is the case not just for new builds but within extensions and retrofits including efforts to increase energy efficiency.

These comments are presented as overarching observations to the proposals as we feel others will be best placed to address specific questions in the consultation.

Yours sincerely,

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

Nick Coombe

Deputy Head of Protection Policy and Reform Unit