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Consultation on implementing the new building control regime for higher-risk buildings and wider changes to the building regulations for all buildings

The National Fire Chiefs Council (NFCC) is pleased to respond to the consultation published on 20th July 2022 *Implementing the new building control regime for higher-risk buildings and wider changes to the building regulations for all buildings*.

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 pleased to be answering this consultation but given the importance of the areas being consulted upon and this consultation setting the fundamentals for a safer building industry NFCC are highly concerned at the lack of clarity and detail on some of the issues within the consultations. These concerns need urgent attention and clarification before the regime goes live next year.

FRS Advice

NFCC have within this consultation, provided a clear outline of what we think the role of the Fire Rescue Service (FRS) as part of a construction Multi-Disciplinary Team (MDT) should be, including the process for consultation with the FRS. This calls on the Government to ensure that comments made by the FRS cannot continue to be ignored by those receiving them. The Government should lay out clearly in the secondary legislation that the requirement to consult FRS exists separately from (and in addition to) the duties performed

as a member of the MDT. Further detail is included within our response, and on pages 19 to 20 below.

While building control bodies are asked to have due regard to FRS observations, there is no requirement on either the applicant or the BCB to satisfy the FRS comments or respond to them. We have previously on multiple occasions raised the issue and potential impact and unintended consequences of FRS advice being ignored, providing multiple case studies and examples of occasions when FRS comments have been disregarded during building regulations consultations. Because FRS comments do not have to be addressed, outcomes have included issues in occupation such as:

- Issuing of Prohibition notices
- Waking watches, and
- FRSs needing to increase pre-determined levels of attendance to buildings, increasing the costs of operational response
- Increased regulatory activity thus increasing demands on protection resources

NFCC agree for the need to consult with the FRS, and we call upon the Government to strengthen this requirement in the following ways:

- The Government should respond to the multiple calls NFCC have made to establish the Building Regulations procedural guidance on a statutory footing
- The Government should respond to the multiple calls NFCC have made to establish that any bodies carrying out a building control function should have a duty placed on them to respond to, and demonstrate how they have addressed, any comments made by the FRS.
- That FRSs should be consulted for views about compliance with the requirements of the Fire Safety Order especially those concerning access and facilities for firefighting, and for views about compliance with the requirements of the future Safety Case regime.

Building Regulations

Some of the proposals within this consultation seem to reinforce the current regime and status quo. Strictly replicating the status quo would contradict the public policy intent of creating a new, strengthened, regime. DLUHC must look to improve the current regime and we would urge them to make the improvements that we include in our answers within this reply.

At present it is still possible to design a building using an approved guidance that may not meet the requirements of safety for the in-occupation stage of the new system. Examples include the use of guidance to design tall single staircase buildings with no provision for evacuation facilities for the disabled.

Concerns remain that guidance in building design codes such as the Approved Documents are viewed as being the maximum required standard and that following this guidance will always equate with meeting the functional requirements of the Building Regulations. The secondary legislation, supported by appropriate guidance, needs to be absolutely clear what the benchmarks will be, and that regulators can require measures that go beyond the standards set out within approved documents. In order to ensure this can happen, we encourage DLUHC to consider disapplying the non-worsening provisions in Regulation 4(3) for buildings that are in scope.

The secondary legislation should clarify beyond any doubt, that (for buildings in scope of the new regime) the benchmark for compliance with the future Safety Case can go above and beyond any minimum requirements set by the Building Regulations and supporting guidance (such as the Approved Documents).

We would also seek further and more explicit clarification that 'fire' means 'fire and smoke' and would suggest that it should be clarified in more than just guidance documents.

NFCC would also highlight that a building is only as safe as its management. Whilst we are aware that there is a separate consultation looking at proposals around the 'in-occupation' phase, which we are also submitting a response to, we would reiterate that a building design, construction and fabric is underpinned by the assumptions on usage and management when it is completed. These assumptions underpin the approvals, information requests and safety advice given in the construction and build stage of the building.

DLUHC should respond to NFCC's calls to contain a proper definition of a 'simple building type' within ADB. We would also recommend that ADB should be urgently reviewed to incorporate advice around 'egressibility' for those disabled by the building. NFCC expand upon the issue of building regulations and their impact upon protected persons within the equalities assessment of this consultation.

Competence

NFCC have concerns around the lack of competence requirements for staff within the Health and Safety Executive (HSE), and the omission of their benchmark competence standards within this consultation.

HSE staff will be performing building control work as part of multi-disciplinary teams with no clear or set out competence requirements, despite the HSE being granted the oversight role for the competence of the building control profession. We believe this inconsistency is a simple oversight, but it is critical to get it corrected. We would like to see requirements for the competence of HSE staff employed on MDTs included within the secondary legislation. NFCC would also support competence requirements for all members of the MDT.

Golden Thread

The Golden Thread is a fundamental of the new regime encompassing all of the construction and occupation stages, yet some basic fundamentals of the Golden Thread are still unknown including how it is intended to work in practice.

There is a need for more information on many differing areas of the Golden Thread, including how the information will be assessed and stored. We encourage DLUHC to explore the development of guidance, and possible need for competence within that guidance, to ensure that assessment and storage is done uniformly across the industry and process. Without this, it may be that a risk-averse approach is taken. Clear guidance would help to ensure that information is not lost between proposed works and the management of occupied building stages.

It is our understanding that Regulation 38 be disapplied by proposals within section 8 of this consultation. NFCC believe Regulation 38 should be retained, but acknowledge the application of Regulation 38 is a one-time requirement when the building work is finished. The need, however, to share the information required by Regulation 38 will exist through the life of the building which means, the requirement to provide this information would sit better with the new regulations as part of the Golden Thread. NFCC note the intent of the Golden Thread and of Regulation 38 are slightly different, we do however acknowledge that

Regulation 38 currently has ambiguity which has long been identified within industry. This is why we support the continuation of Regulation 38 due to its intent with the need for it to be revised to ensure it delivers this intent.

Impact Assessment

NFCC have concerns around the impact assessment within this consultation. The updates made to the Regulatory Impact Assessment appear to revise down the estimated impact of the Gateways regime on FRSs by around 58% below the originally published Impact Assessment.

While the update explains how much the estimates have fallen, no explanation is provided as to how, or why, DLUHC have arrived at these reductions to the costs to regulators. While NFCC have been aware that DLUHC have been operating on revised estimates, we have raised a number of questions with DLUHC to ask for the assumptions sitting behind these, and rationale and evidence that informs how DLUHC are arriving at its estimates. We are yet to receive responses to these queries, and consultation on the specific details of this revised economic annex was not undertaken with the NFCC prior to publication.

The figures are in contradiction to the advice NFCC has provided on this matter. We would as a matter of urgency encourage DLUHC to clarify with the Joint Regulators Group what advice and evidence these figures have been based on, and why the revised annex did not come to the JRG for discussion, given the huge impact it will have on FRS' and other regulators. Without genuine and meaningful consultation, it is unclear if the JRG continues to hold relevance.

Yours sincerely,



Nick Coombe

Head of Protection Policy and Reform Unit
NFCC

Question Responses

2. New Dutyholder roles and responsibilities in the building regulations to ensure a stronger focus on compliance with the regulations

Dutyholder requirements

General duties in design and construction

Question: Do you agree or disagree with the proposed duties that will apply to all dutyholders during design and construction?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC welcomes the need for competence for all of those involved in the design and construction of premises given the issues that have been identified, and continue to be identified within the built environment, as part of and in the years following the Grenfell Tower Inquiry.

We would however voice our concerns regarding the proposed premise that one person/company can take responsibility for multiple roles, as this can lead to areas where robust challenge of proposals will not occur for fear of internal recrimination. True competence welcomes open challenge, and NFCC fear this may place barriers where conflict of interests may arise. We would urge Government to ensure that conflicts of interest and monopolies of responsibility are not able to happen.

Specific dutyholder requirements

Clients

Question: Do you agree or disagree with the proposed duties that will apply to the client during design and construction?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC are involved in the development of individual BSI PAS documents being produced for each of the key duty holder roles and as such support the duties that will apply to the client as proposed and their use of suitably competent persons as demonstrated within the PAS documents.

Designers

Question: Do you agree or disagree with the proposed duties that will apply to designers and the Principal Designer during design and construction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

As per our answer above we are involved in the development of the respective BSI PAS documents.

Contractors

Question: Do you agree or disagree with the proposed duties that will apply to contractors and the Principal Contractor during design and construction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

As per our answer above we are involved in the development of the respective BSI PAS documents.

Competence requirements

Principal Designer and Principal Contractor

Question: Do you agree or disagree with the proposal for organisations appointed as the Principal Designer or Principal Contractor to take reasonable steps to ensure that the individual/s designated, to manage the functions of the Principal Designer or Principal Contractor for that specific project have the relevant competence to do so?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC strongly support the need for competence across all roles in the sector and the requirement for organisations and individuals to be able to demonstrate their required competence.

We would however caution that the terminology used in 'to take reasonable steps' is too ambiguous and is open to interpretation, this may result in the proposed aims of competence and ability to demonstrate as such to be compromised. Ambiguity is not appropriate in an area of such importance and which we believe needs to be robust.

NFCC understands that whilst the BSI PAS documents will contain guidelines on competence, these will be generic due to the limitations placed on BSI drafting rules on what they can and cannot include, NFCC considers this will lead to more ambiguity. The robust assessment processes and third-party accreditation arrangements for these, and indeed all professions, will be key in ensuring competence of those working on the built environment.

Ceasing to be competent

Question: Do you agree or disagree that regulations should include the requirement on individuals or organisations to notify the relevant dutyholders and those who appoint or ask them to carry out the work where they cease to satisfy the competence requirements?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agree there should be the need in regulations for individuals or organisations to give notification if or when they no longer meet competence requirements, but it must be more robust. Whilst supporting the need to notify, NFCC do hold concerns that it relies on the individual and/or the organisation to 'self-regulate' which has been proven to be ineffective and one of the main contributing reasons for the building safety crisis.

The Industry Competence Committee must also play a lead role in monitoring sectors and passing information to the Building Safety Regulator to hold them to account where competence standards are not met.

Additional dutyholder requirements for those working on higher-risk buildings

Question: Do you agree or disagree with the additional requirements proposed for dutyholders involved in work on higher-risk buildings?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please explain your answer. If you answered disagree, please outline what changes you think should be made.

As previously stated, NFCC believes that the process must be as robust as possible to ensure buildings are designed, built and maintained correctly, are fit for purpose in the first place, and holds those responsible for failings strongly to account.

Competence checks on those working on higher-risk buildings

Question: Do you agree or disagree with the requirement on the client to record the steps they took to satisfy themselves that the appointed Principal Designer and Principal Contractor have the relevant competence for the role and include it with the competence declaration required with the building control approval application for higher-risk building work?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC strongly support the need for competence across all roles in the sector and the requirement for organisations and individuals to be able to demonstrate their required competence as well as the steps they take to validate the competence of those they appoint.

We would however caution that any requirements around competence and its regulation are robust and not ambiguous or open to interpretation to ensure they bring about the ambitions and aims of a safer and better industry where buildings are built correct and holds those responsible to account for failings. Where the client is required to demonstrate the process, they have undertaken to assure competence of the Principal Designer and Principal Contractor, clear guidance should be published as to what this process looks like and how competence in these areas should be demonstrated and declared.

In addition, NFCC notes that those working on higher-risk buildings includes Regulators. The Building Safety Act introduces a new process for the Building Safety Regulator to have oversight of the Building Control profession, including registration and competence. For Fire and Rescue Services, NFCC have implemented Dame Judith's recommendations, and are now inspected against the Competency Framework for fire safety regulators by His Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS). However there appears to be a serious loophole in this system in regards to staff on MDTs who are employed directly by the HSE. This has become evident as part of the operationalisation of Gateway One. We call on the Government to address this in the secondary legislation by ensuring that competency requirements for building control inspectors also extend to HSE staff employed to work as part of an MDT.

Question: Do you agree or disagree that anyone making appointments for building work on a HRB should consider whether a serious infraction might call into question a person's skills, knowledge, experience and behaviours?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

As per our answer above. NFCC strongly support the need for competence across all roles in the sector and the requirement for organisations and individuals to be able to demonstrate their required competence as well as the steps they take to validate the competence of those they appoint.

We would however caution that any requirements around competence and its regulation are robust and not ambiguous or open to interpretation to ensure they bring about the ambitions and aims of a safer and better industry where buildings are built correct and holds those responsible to account for failings.

Question: Do you agree or disagree with the proposed meaning of serious infraction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agree to the list of offences that have been proposed that would define a serious infraction. We would however seek clarity on why the new enforcement powers within the new Building Safety Act have not been included, such as Remediation Orders.

We hold the belief that those that are deliberately not remediating existing buildings have a duty to, and anyone being enforced against using the new remediation orders should not be seen as competent to be involved in the delivery of new buildings.

We would also submit that 'the issue of a Prohibition Notice under the FSO' should also be included on the list.

Question: Do you agree or disagree that the consideration of serious infractions be limited to the last five years?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

Considering the use of language as 'serious' then NFCC considers 5 years may be too short and the potential for longer terms or even indefinitely should be considered. This consideration of longer time periods should take into account the sorts of offences under the differing Acts and enforcement routes, and the individual/company involved. If an individual or company has multiple offences spanning years this should be taken into account, not just what they have done in the last five years. DLUHC may also wish to consider the option of aligning the timeframes with the other changes that have been made to the limitation period for claims under the Building Act.

NFCC acknowledges this may affect the ability of someone to commercially operate however, the new regime has to be robust and hold those to account for failings that have

contributed to the current building safety crisis, this will give the public confidence in the new regime.

Dutyholder and competence requirements for domestic clients in all buildings and in higher risk buildings

Question: Do you agree or disagree that special provisions set out above should be made for domestic clients?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

We would agree with these special provisions that where the client is a domestic client that the onus of competence throughout the project is on the Principal Contractor or the Principal Designer. Whilst the client is not a dutyholder under this special provision, we would support a need for domestic clients to still have some onus to ensure they appoint qualified persons who will maintain these regulations and duties. There is a risk that domestic clients could hire incompetent persons who maintain a lack of competence throughout the project.

Dutyholder and competence requirements for non-notifiable work in all buildings and in higher-risk buildings

Question: Do you agree or disagree that the dutyholders and competence regulations should not apply to work prescribed in Schedule 4 of the Building Regulations 2010?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC acknowledges there is a need to be proportionate regarding some types of work, we do however have concerns where works not subject to oversight of the BSR may adversely affect fire safety e.g., where works are carried out internally in a single private dwelling within an HRRB that may affect fire resisting compartmentation between dwellings.

We would also suggest that Schedule 4 is reviewed to assure that it is still appropriate, reflects competence needs and is fit for purpose.

3. A series of robust hard stops (“gateway points”) to strengthen regulatory oversight before a higher-risk building is occupied

Building control application procedure for creating new higher-risk buildings [gateway two]

How building control approval applications should be submitted for higher-risk building work

Question: Do you agree or disagree that the client, Principal Contractor or Principal Designer should be able to submit the required building control approval application to the Building Safety Regulator for higher-risk building work?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

Given that they are adequately competent as outlined earlier within this consultation we would not see an issue with their ability to understand and submit the required information.

Question: Do you agree or disagree with the proposed approach outlined for electronic submission and directions and that it should apply to all forms of building control related correspondence?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC supports the digital submission approach as this will ensure communication and information is readily available and transferrable to all members of the multi-disciplinary team (MDT), but only where it is supported by an appropriate system (software and potentially hardware) that is provided by the BSR.

Further details of this system should be outlined at the earliest opportunity so that FRSs can ensure that their systems are able to accept and process information that may be submitted as part of the approvals process. Further work may be required in order to outline the quantity of information that may be submitted as part of the approvals process and how this is filtered so that the right information can be accessed by the right relevant party. It would be useful to understand whether the proposal seeks to utilise an existing framework, such as the Information Exchange Points outlined in *BS 8644-1:2022 Digital Management of Fire Safety Information*.

Question: Do you agree or disagree that the Building Safety Regulator should have the discretion to allow applicants to submit building control applications and notifications in different ways where necessary such as through paper copies?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC supports this approach to allow flexibility, however, there will need to be a consideration on extending timescales before the BSR replies to the applicant, which should be made clear to the applicant, given the foreseeable delays hard copy information will have in sharing and dissemination to all MDT stakeholders.

The submission of paper plans should only happen in exceptional circumstances as it may lead to problems in terms of keeping building information up to date in later stages, in line with the principles of the Golden Thread of Information.

Building control approval application ('gateway two application') information requirements for higher-risk buildings

Question: Do you agree or disagree with the proposed information requirements for building control approval applications for new higher-risk buildings?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

This list appears to meet the information requirements, however we would reiterate that the information must be prepared and submitted by competent persons.

As highlighted within our general comments we would however highlight management of a building is fundamental information that will define the considerations given to the approval. Care homes and hospitals have a higher reliance on management especially around evacuation of the most vulnerable then in HRRB, and will not be subject to safety cases, so this information may not be picked up within that stage. If the plan is that the information outlined in the Fire and Emergency File will be applicable to these occupancies too, then there will need to be greater emphasis on Fire and Rescue Service consultation to ensure that approved designs and the management will meet the requirements for the Fire Safety Order

Competence declaration

Question: Do you agree or disagree with the proposed information that must be contained within a competence declaration?

- **Agree**

- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the proposals for information that must be contained within a competence declaration. In addition to the proposal, it will be necessary to produce guidance for clients to help them understand the requirements for competence in this area to ensure that procurement procedures in future can address this need.

Further to this, before the proposal can be fulfilled, it will be necessary for the regulator to detail the benchmark standards for competence and the appropriate methodology for assuring this. Some of the benchmark standards for competence have already been set through the publication of PAS 8671 *Built environment – Framework for competence of individual principal designers and designated individuals working under the Organization Principal Designer – Specification* and PAS 8672 *Built environment – Framework for competence of individual Principal Contractors – Specification*. Additional sector led competence frameworks are in development.

Other key frameworks will need to be completed and any schemes for assessing individuals should be available prior to the requirement for competence declarations being implemented. In this way clients will have some surety over the competence of those they have employed to undertake work.

Question: Do you agree or disagree that when assessing an application for building control approval the Building Safety Regulator should consider the steps taken to determine whether a person has a serious infraction, and the detailed consideration of their previous conduct?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the proposal to determine whether the previous conduct of competent persons may cause concern. In addition to this, work should be undertaken to ensure that competent persons have relevant third-party assurance of their competence. In these circumstances, the proposal may be supported by accreditation bodies' requirements in the areas of discipline and ethics which may determine that serious infractions impact upon the competence requirements for the relevant registrations.

Planning statement

Question: Do you agree or disagree with the proposed list of information that must be contained within a planning statement?

- Agree
- Disagree

- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you've answered disagree, please explain what changes you think should be made.

NFCC would like to see information provided within Planning Gateway One (PGO) also included. Given PGO has been established to ensure fire safety is considered at the earliest possible opportunity via the fire statement provided to the BSR, it would appear prudent to ensure all the information provided at PGO stage is also included.

Design and build approach document

Question: Do you agree or disagree with the proposed list of information that must be contained within a design and build approach document?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

While the information listed is acceptable it needs to be more definitive and robust, to ensure the appropriate information is provided to the BSR to review the proposed works effectively. It is essential the chosen design guidance document is clearly stated e.g., Approved Document B along with a succinct and clear declaration/statement of why it is appropriate.

It is NFCCs experience there are too many design and build projects that see an amalgamation and 'cherry picking' of separate pieces of guidance to satisfy individual project needs, which leads to the overall intent and holistic nature of the guidance, in pursuance of satisfying the functional requirements of the Building Regulations (as amended), being lost. Where a specific guidance document is not being used i.e., a performance-based design in accordance with the principles of BS/PD 7974, then additional care must be taken to ensure the appropriate information is provided at a time that allows the BSR to review if fully, and challenge where appropriate.

Where a performance-based design/fire engineered approach is used, NFCC believe it must be supported with an independent 3rd party peer review by a competent person.

Where information about a chosen design approach is given, it may also be necessary to consider whether additional information is required to ensure that the proposed design meets the requirements of the in-occupation aspect of the new regime. The requirements for compliance with the current versions of the approved documents may not be enough to ensure that a building meets the requirements of a safety case. For example, currently there are no requirements for evacuation lifts within the approved documents which may be required when assessing the needs of residents with mobility impairments.

By considering building control approval in connection with meeting the requirements of the approved documents only, the new regime will not improve on the existing framework. Building design guidance may need to be reviewed in order to ensure that designs are capable of being managed effectively and that it takes account of the requirements of the Building Safety Act to mitigate the effects of fire spread within a building.

Fire and emergency file

Question: Do you agree or disagree with the proposed list of information that must be contained within a fire and emergency file?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC support the proposal for the proposed list of information that must be contained within a fire and emergency file. If this information is to be used as the basis of approvals at Gateway 2, then FRS comments should form an intrinsic part of the approvals process as post occupation management and compliance with the FSO as well as the Building Safety Act will be a key feature of this information.

Guidance for building design will need to be reviewed in order to consider the key link between design and management of buildings once occupied and to ensure that buildings are not designed with unrealistic management expectations. This is particularly key for residential care homes and hospitals which will not be subject to further scrutiny from the BSR in the occupation part of their lifecycle. This will be vital for buildings where the client in the construction phase will not be the same dutyholder who will oversee the 'in occupation' phase. In these situations, management assumptions should be assessed in order to outline whether they are realistically achievable prior to Gateway 2 approval being granted.

In assessing compliance, it will be necessary for the BSR to emphasise that compliance with the guidance currently outlined in the approved documents may not be the same as meeting the functional requirements with regard to assisted evacuation in all higher risk occupancies.

Construction control plan

Question: Do you agree or disagree with the proposed list of information that must be contained within a construction control plan?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

We do not have anything further to add to this question.

Question: Do you agree or disagree that the Construction Control Plan should set out plans for how the client will maintain and manage the golden thread?

- **Agree**
- Disagree
- Neither agree nor disagree

- Don't know

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

We strongly agree with this proposal as it is fundamental to the maintenance and continuity of the Golden Thread. Without the inclusion of the need to manage the Golden Thread at every stage and process that directly feeds into it, there increases the risk it will be incomplete and fail.

Change control plan

Question: Do you agree or disagree with the proposed list of information that must be contained within the change control plan, including the information requirements in the proposed change control log?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC support a change control log and the need to not only log the change but the reasoning for the change and who was consulted for advice regarding the change including a summary of the advice received.

We would reiterate our concerns raised within workshops held by DLUHC around the self-regulation of the change control log, whilst we understand there is penalty for going forth with a change that needs further approval, the change will not be seen until such time as the logs are inspected.

Description of the mandatory occurrence reporting system

Question: Do you agree or disagree that a statement describing their mandatory occurrence reporting system should be required as part of a building control approval application?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the proposals for mandatory occurrence reporting outlined within the consultation. However, further detail is needed about how the proposed system will work as there are instances where the consultation is vague, even within section 9 which sets out the proposals further.

Question: Is there any information set out in the prescribed documents that would not be possible to provide before building work commences.

- Yes
- No
- **Don't know**

Question: Please provide an explanation for your answer. If you have answered yes, please outline what information it would not be possible to provide.

We do not believe we are best placed to answer this question, but we would be hesitant to support any proposal that allows for development to begin before all information within the prescribed documents have been provided.

Whilst we acknowledge that the need to provide all documentation may affect the ability of commerciality adding new burden to the pre-construction phase, the new regime has to be robust to give the public confidence in the new regime.

Building control approval applications for new higher-risk buildings following a staged approach

Question: Do you agree or disagree that the specific requirements for an applicant proposing to build a higher-risk building in stages are sufficient for ensuring dutyholders demonstrate how they will comply with all applicable building regulations requirements?

- Agree
- **Disagree**
- Neither agree nor disagree
- Don't know

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

NFCC do not agree with this proposal and have concerns that it has been consulted upon given the need to create a new and robust building safety system. As outlined in a previous answer regarding design and build problems, NFCC believes there will need to be a cultural shift to allow a staged approach, as in our experience there are too many instances where the information is promised but is never provided.

NFCC in discussion with members have been told of occasions that when developers are questioned regarding concerns during a staged approach, it is stated 'it is too far into the build to change anything now'. It is due to this expertise and example therefore, that we strongly believe there needs to be sufficiently robust supporting information, statements and interaction that make it clear to all what is required and when, with no ambiguity on either side, so when information is provided to satisfy a conditional staged approach that is found to be insufficient, there is a clear hard stop.

For example, where a performance-based design is suggested and there will be a wait for computational fluid dynamic (CFD) modelling results due to computer run times etc., there is clear interaction with the BSR to ensure all model inputs, assumptions and parameters are agreed, via a qualitative design review (QDR), to ensure the results are considered valid.

Question: Should there be any additional modifications (beyond those proposed for plans and the design and build approach document) to the prescribed documents where the applicant has provided a “staged work” statement?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer. If you've answered yes, please explain what changes you think should be made.

As per our answer to the question above NFCC strongly believe there needs to be sufficiently robust supporting information, statements and interaction that make it clear to all what is required and when, with no ambiguity on either side, so when information is provided to satisfy a conditional staged approach that is found to be insufficient, there is a clear hard stop.

Question: Do you agree or disagree with the additional notification requirements imposed on dutyholders constructing a new higher-risk building in stages?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

It is essential the additional notification requirements are managed as hard stops to ensure the staged approach is robust.

Partial Completion Strategy

Question: Do you agree or disagree with the proposed list of information that should be contained within a partial completion strategy?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you've answered disagree, please explain what changes you think should be made.

The list proposed is insufficient. NFCC believe that partial occupation should only be permitted in circumstances where there is a fire strategy/safety case in place that has assessed all of the risks which ongoing building works pose to the occupied areas (similar to a pre-emptive fire risk assessment in accordance with the FSO).

There needs to be more information provided by dutyholders than that proposed within the list in the consultation document. It is the experience of the UK Fire and Rescue Service where partial completion is currently permitted that there are multiple failings in the fire safety measures to adequately protect those occupants in the event of fire, and to ensure firefighters are provided with the appropriate access and facilities.

Common issues found where partial completion is currently pursued include but are not limited to; inadequate fire resisting compartmentation between occupied and unoccupied areas, smoke control systems inoperative, fire detection systems inoperative, dry/wet risers inoperative, firefighters' lifts inoperative, and insufficient access to water for firefighting such as no appropriate fire hydrants etc. NFCC are aware of instances where failings have been to the extent where an Article 31 Prohibition Notice has been considered.

Where a partial completion strategy is proposed there needs to be a consideration of how building design guidance links with this, as in some cases it may not be advisable to partially occupy a building which is dependent on specific aspects for safety (e.g. using single staircases and lifts to access areas under construction). Design guidance may also need to include advice to emphasise the early commissioning of systems such as automatic water suppression systems in order to maximise safety in the building.

Consultation with relevant enforcing authorities

Fire and Rescue Authorities

Question: Do you agree or disagree that the Building Safety Regulator should consult the fire and rescue authority on compliance with the Fire Safety Order on building control approval applications, change control applications and completion certificate applications?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made including what else you consider the fire and rescue authority should be consulted on.

NFCC agree for the need to consult with the fire and rescue authority, and we call upon the Government to strengthen this requirement in the following ways:

- The Government should respond to the multiple calls NFCC have made to establish procedural guidance on a statutory footing
- The Government should respond to the multiple calls NFCC have made to establish that any bodies carrying out a building control function should have a duty placed on them to respond to, and demonstrate how they have addressed, any comments made by the FRS
- That FRSs should be consulted for views about compliance with the requirements of the Fire Safety Order, and for views about compliance with the requirements of the future Safety Case regime
- That the secondary legislation should clarify beyond any doubt, that (for buildings in scope of the new regime) the benchmark for compliance with the future Safety Case can go above and beyond any minimum requirements set by the Building Regulations and supporting guidance (such as the Approved Documents)

We would support FRS being consulted in a way similar to the current process under Article 45 of the FSO, subject to the above improvements to this process, for both in-scope and out of scope buildings.

NFCC calls on Government to lay out clearly in the secondary legislation that the requirement to consult exists separately from (and in addition to) the duties performed as a member of the MDT. If the MDT process is working well, then the Article 45 type requirement would become an administrative function, but both processes need to remain in parallel so that the Article 45 process can act as a back-stop. This would provide resilience during the transition period while cross-border working arrangements are made possible, and would also provide a back stop for the FRA should any disputes arise.

NFCC calls upon the Government to ensure that the FRS role as a member of the Multi-Disciplinary Team for new and refurbished buildings is made clear within the secondary legislation as follows:

- When acting on an MDT, the views provided by the FRS personnel on the team will be treated as comments made by the building control authority itself; any comments made by the FRS member of the team must be addressed (and cannot be ignored as at present)
- That the FRS member of the MDT has, and will be able to exercise, the new hard stop powers within the BSA (we consider this to be particularly critical in respect to the access and facilities provided for fire and rescue under B5)
- As above, that the benchmark for compliance with the future Safety Case gives the BSR and members of the MDT power to require and ask for measures which can go beyond the minimum requirements of prescriptive building design guidance (for example, that the MDT would be able to require dutyholders to include measures such as multiple staircases, evacuation lifts, sprinklers, or refuge areas in some buildings where this would go beyond the minimum requirements in documents such as ADB).
- That the approach to measuring compliance with a future Safety Case and assessing risk will, in order to achieve the policy intent of 'holistic safety' be more akin to a bow tie analysis than the approach currently available within the FSO.
- As above, statutory guidance on the MDT process should be developed by DLUHC as the policy owners. This could establish that MDT members must act within the bounds of their competence. References could be tied back to any relevant standards setting bodies for individual members competence, and these guides would form a more flexible point of reference to inform which elements each member of the MDT are competent to comment on.
- It should be made clear that all liability for any decisions of the MDT rests with the BSR. Individual member liability should be clearly limited to due diligence for the oversight of the competence of individual employees. We would also seek clarity that conflict of interest is also clearly defined to limit potential liability.

NFCC have consulted English Fire and Rescue Services on the above proposed role of the FRS as part of the MDT, and received strong support.

NFCC has been in dialogue with DLUHC on these points since the terrible events at Grenfell Tower in 2017. As we have previously submitted, at present, while BCBs are asked to have due regard to FRA observations, there is no requirement on either the applicant or the BCB to satisfy the FRA comments or respond to them. NFCC have provided multiple case studies and examples of occasions when FRS comments have been disregarded during building

regulations consultations. Because FRS comments do not have to be addressed, outcomes have included issues in occupation such as:

- Prohibition notices
- Waking watches, and
- FRSs needing to increase pre-determined levels of attendance to buildings, increasing the costs of operational response
- Increased regulatory activity increasing demands on protection resources

It is NFCC's view that strictly replicating the status quo within the new regime would contradict the public policy intent of creating a brand new, strengthened, regime. Therefore, we call on DLUHC to make the above improvements.

Because tall Care Homes and Hospitals are in scope of Gateways, but will not require a Safety Case, clarity is sought from DLUHC on the benchmark for compliance in these buildings. It is recommended that DLUHC make it clear in the secondary legislation that for these buildings, the BSR and members of the MDT will still have the power to require and ask for measures which can go beyond the minimum requirements of the building regulations.

Question: Do you agree or disagree that a building control approval application must not be determined before 15 working days after the date on which the plans are given to the fire and rescue authority?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, what do you consider a reasonable timeframe?

NFCC agree that the building safety regulator should be required to respond to submissions within a certain timescale. However, existing timescales for building regulations were developed in the early 1980s with the Building Act, at a time when building design largely followed codified approaches. Buildings are becoming more complex, and the analysis to justify solutions may mean the information provided for some buildings will be extensive and highly detailed. This will require the building safety regulator to invest significant time and resources to appropriately assess the information provided.

As NFCC has submitted to Government multiple times, the timescales for the Gateways may need to operate on a stepped scale dependent upon the complexity of what is being submitted. Timescales should also account for the possibility of the need for further information, and dispute resolution to form part of the process where parties involved in the consultations are not in agreement. The resolution of such disputes may require further evidence, data or reports to be produced and the building safety regulator would need to have the power to extend timescales, where necessary, within reasonable limits.

If there is to be a 15-day limit, we believe, the 15 working days should only commence when the fire and rescue authority have received sufficient and appropriate information to allow consultation to take place.

We are aware of instances where the building control body deems the 15 working days to be 'absolute' and to commence when they sent the information to the fire and rescue authority, with any comments then received after that 15-day time period to be obsolete/able to be ignored. This does not demonstrate or reflect a robust system and is not indicative of the cultural change required as identified by Dame Judith Hackitt in her final Building a Safer Future report.

We believe prescribed minimum time period/s cannot be prescribed until more detail is known around the consultation process, with the existing Building Regulations and Fire Safety Procedural Guidance documentation forming the basis of those discussions, ultimately seeing a revision of this guidance and its elevation to a statutory footing.

Sewerage undertaker

Question: Do you agree or disagree that the Building Safety Regulator should consult the sewerage undertaker on Part H of Schedule 1 of the Building Regulations?

- Agree
- Disagree
- Neither agree nor disagree
- **Don't know**

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

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

Question: Do you agree or disagree that an application must not be determined until at least 15 working days after the date on which the plans are given to the Sewerage Undertaker?

- Agree
- Disagree
- Neither agree nor disagree
- **Don't know**

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

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

Building Safety Regulator decisions

Question: Do you agree or disagree with the proposed types of requirements which can be imposed by the Building Safety Regulator when approving an application?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC would urge caution where the BSR moves to dispense with a requirement prior to approving an application in that they have consulted with appropriate members of the MDT. A failing under one area may have an adverse effect on another that may not be immediately apparent.

We would also refer back to concerns raised within our previous answers referring to issues with design and build and staged approach.

As above, the BSR will need to have the power to extend the timescales in the event that insufficient information has been submitted with the application, or if any relevant enforcing authority advises that it has received insufficient information.

Question: Do you agree or disagree with the proposal to enable the Building Safety Regulator to prohibit building work from commencing until a requirement of a type described above have been met by the applicant?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

This is fundamental to the new regime where the new regulator will have the power to stop work and hold those accountable, without this power the existing practices that have been identified as requiring to change will not.

We would however caveat our agreement to this question on the basis that there does need to be more detail and information provided in how this will work in practice to answer this question fully. NFCC look forward to working with the sector and the Department in developing this detail.

Question: Do you agree or disagree with the proposed grounds for rejecting a building control approval application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agree in principle but would refer to our answer above that there does need to be more detail and information provided in how this will work in practice to answer this question fully and NFCC look forward to working with the sector in developing this. The legislation should be clear that the BSR can also reject an application on the basis that the proposed building work would not be capable of demonstrating Safety, in accordance with the requirements of the future Safety Case regime and approach to assessing risk.

Question: Do you agree or disagree with the proposed approach outlined for the Building Safety Regulator to provide notice of its decision to applicants?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

We agree with the notification of decision in both electronic and paper. We would again refer to our previous answers highlighting the need for greater detail of how things will work in practice including how this information will be shared electronically and which parties will be privy to the notice of decision and its reasoning or recommendations.

Time limit for Building Safety Regulator decisions

Question: Do you agree or disagree that 12 weeks is an appropriate timeframe to require the Building Safety Regulator to determine a building control approval application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe.

NFCC considers 12 weeks to be reasonable where all appropriate information is provided to allow the BSR/MDT to make an informed decision. It is welcomed that the BSR can extend this timeframe where additional information or time may be required e.g., where a complex design proposes to use CFD modelling that can take many hours/days to run, it may take just as long to review it.

NFCC also welcomes the change where the default decision will be refusal where no decision is made, however as per previous answers we are hesitant to agree completely given that more information is needed to see how this will work in practice to ensure it can achieve the desired objective.

Use of Competent Person Schemes when creating a new higher-risk building

Question: Do you agree or disagree that competent person scheme work should be reflected in building control approval applications where such work forms part of a wider higher-risk building project?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC were supportive of the competent persons proposals within the Building a Safer Future consultation which formed the basis for this proposed scheme. We acknowledge the need for all of those in the sector who are competent to be able to partake in work in the new regime and understand why the competent person scheme (CPS) is being investigated.

We would, however, urge caution in categorising work as low incidence of risk in relation to CPS and their work, given much of this work will take place in the residential units, and may have a direct impact on the fire resisting compartmentation of the premises. Given this has the potential to be in multiple locations across the premises, NFCC has concerns over the level of oversight and control that will be needed to ensure the work is carried out to the required standard.

Commencement notices

Question: Do you agree or disagree that where building control approval for higher-risk building work is granted, the client, or someone on their behalf, must give notice to the Building Safety Regulator at least five working days before the day they intend to commence higher-risk building work?

- Agree
- **Disagree**
- Neither agree nor disagree
- Don't know

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

NFCC considers five working days for the BSR to begin its operational oversight of the construction phase, including assembling its team to be too short.

It is difficult to propose a prescriptive timeframe given the level of detail to be decided, but in lieu of that information, we believe that 10 working days appears to be a more appropriate starting point.

Site inspections during construction

Question: Do you agree or disagree with the proposed approach to site inspections of higher-risk building work, including the requirement for the Building Safety Regulator to inspect completed higher-risk building work before determining a completion certificate application?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC supports the BSRs ability to inspect premises throughout the proposed stages of the new regime,

However, NFCC requires clarification on the whether the ultimate sign off, against the requirements of the building regulations (as amended) will rest with the BSR. This appears

to be the implication where it is stated ‘*The purpose of the final inspection is to assess whether the building work complies with all applicable requirements of the building regulations, not just fire and structural aspects, and reflects the information contained in the completion certificate application before the Building Safety Regulator (if satisfied) issues a completion certificate*’.

Even with the new regime the BSR will not be able to be on site and see every aspect of work and it is ultimately down to the prescribed duty holders to be ultimately responsible, NFCC would seek clarity on this matter.

Question: Should typical stages of inspection of building work be set out in guidance to help provide industry with more certainty?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer. If you answered yes, please outline what those stages should be?

NFCC would welcome opportunity to work on these stages and have proposed what we would see as typical stages, though the proposed stages are not exhaustive:

1. Inspection of structural frame and fire protection
2. Inspection of inherent fire resisting compartmentation e.g., firefighter shafts, service shafts, lifts shafts, completion of floors etc.
3. Installation of external wall systems
4. Installation of retrospective of fire compartmentation products
5. Commissioning and testing of key safety systems e.g., smoke control, suppression systems and interaction of automatic fire detection and alarm systems I.e., cause and effect.

Completion certificate applications for new higher-risk buildings

Completion notices

Question: Do you agree or disagree with the proposed requirement that the client, or someone on behalf of the client, must notify the regulator in writing that the higher-risk building work has been completed in addition to making a completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the need for the principal duty holder to issue to the BSR a certificate that states the premises is complete and complies with the requirements in law, as it is ultimately their responsibility.

We support the Gateway Three process and regulatory oversight this new gateway provides including the creation of a new hard stop. We believe that the submission of documentation within this new process will help strengthen the golden thread process by ensuring robust information is provided at all stages including the final approval stage.

Deciding when work has been completed for the purpose of submitting a completion notice and making a completion certificate application to the Building Safety Regulator

Question: At what point should a dutyholder be able to submit a completion certificate application?

- When all notifiable building work has been completed
- When all work (including snagging etc.) is completed
- Other
- Don't know

Question: Please provide an explanation for your answer.

Occupiers should be moving into homes that are safe and complete, and with the potential for work to be carried out associated with 'snagging' items, when they are being fixed/addressed, to adversely affect fire safety measures, this should not be able to be applied for until this work is complete.

NFCC would also highlight that currently there is also no definition of snagging and we have been made aware of examples where it has been used for risk critical areas.

Compliance declarations

Question: Do you agree or disagree that the prescribed information and documents outlined above should be required in a completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC believe that the submission of all relevant documentation within this new process will help strengthen the golden thread process by ensuring robust information is provided at all stages including the final approval stage.

Question Is there any additional information or documentation that may be necessary for a completion certificate application?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer. If you have answered yes, please outline additional information or documentation you think may be necessary.

NFCC considers there should be additional information in relation to who the Accountable Person will be. We also consider the required information may be subject to change given more detail is required as to the nature and content of some of the 'prescribed documents' which are yet to be defined and supported with appropriate guidance.

Assessing completion certificate applications

Question: Do you agree or disagree that the Building Safety Regulator should consult fire and rescue authorities on compliance with the requirements of the Fire Safety Order?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

The UK FRS should be given the opportunity to make comment on compliance with the Regulatory Reform (Fire Safety) Order 2005 (FSO).

This will ensure the Responsible Person, as defined under article 3 of the Act receives timely information which they can then act upon.

We would also refer to our previous answers in support of consultation of the regulator with the FRS.

Question: Do you agree or disagree that the Building Safety Regulator should consult the sewerage undertaker on Part H of Schedule 1 of the building regulations?

- Agree
- Disagree
- Neither agree nor disagree
- **Don't know**

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

NFCC considers we are not best placed to answer this question

Question: Do you agree or disagree that an application must not be determined until at least 15 working days after the date on which the plans are given to consultees unless they have both responded before the 15 working days deadline?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC would refer to our previous answer where a 15-day time limit was proposed. We consider that UK FRS will make every effort to respond to an application for a completion certificate application within the proposed 15 working days, however, and as previously stated, this will depend on the amount and level of complexity of the information that needs to be reviewed.

It may be that more than 15 working days is required and the process should account for this.

Decisions

Question: Do you agree or disagree with the proposed reasons for which a completion certificate application should be rejected?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC agrees to the proposed rejection reasoning, however we seek clarity on the treatment of premises when a decision is not made but instead an extension is granted. NFCC considers that where an extension is granted to an applicant to provide additional information rather than reject the application, should not immediately result in the premises to be allowed to be occupied, this defeats the purpose of the new regime.

NFCC would seek, further detail and information before we are able to give a better and more in-depth response to this question.

Time limit for determining completion certificate applications

Question: Do you agree or disagree that 12 weeks is an appropriate timescale to require the Building Safety Regulator to determine a completion certificate application?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation to your answer. If you have answered disagree, please outline what you consider to be an appropriate timescale.

NFCC would again refer to our previous answer on the twelve-week time limit. We consider 12 weeks to be reasonable where all appropriate information is provided to allow the BSR/MDT to make an informed decision. It is welcomed that the BSR can extend this timeframe where additional information or time may be required.

NFCC also welcomes the change where the default decision will be refusal where no decision is made, however and again, more information is needed to see how this will work in practice to ensure it can achieve the desired objective.

Partial completion

Requirements for partial completion certificate applications

Question: Do you agree or disagree that the proposed requirements and prescribed documents for partial completion certificate applications are sufficient to ensure building work complies with building regulations?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC considers partial occupation is one area that requires more consideration and further detailed information before an informed response can be made.

As stated previously, it is the experience of the UK Fire and Rescue Service where partial completion is currently permitted that there are multiple failings in the fire safety measures to adequately protect those occupants in event of fire and to ensure firefighters are provided with the appropriate access and facilities. Common issues found where partial completion is currently pursued include but are not limited to; inadequate fire resisting compartmentation between occupied and unoccupied areas, smoke control systems inoperative, fire detection systems inoperative, dry/wet risers inoperative, firefighters' lifts inoperative, and insufficient access to water for firefighting, such as ensuring the building is serviced by appropriate fire hydrants etc.

NFCC are aware of instances where failings have been to the extent where an article 31 Prohibition Notice has been considered. Therefore, any proposals to allow partial occupation need to be sufficiently robust and informed, or not allowed at all.

Question: Is there any further information that should be required as part of a partial completion certificate application?

- **Yes**
- No
- Don't know

Question: Please provide an explanation for your answer. If you have answered yes, please explain what further information should be required.

We would refer to our answer to the question above, which highlights our concerns around partial completion without the process being robust and fully informed.

Assessment of partial completion certificate application

Question: Do you agree or disagree with the proposed consultation requirements for partial completion certificate applications?

- Agree
- Disagree
- **Neither agree nor disagree**

- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

NFCC would refer to our answer to the question above, which highlights our concerns around partial completion without the process being robust and fully informed.

Question: Do you agree or disagree with the proposed approach to inspections for partial completion certificate applications?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made

NFCC would refer to our answer to the first question above within this section, which highlights our concerns around partial completion without the process being robust and fully informed.

Question: Do you agree or disagree with the proposed reasons for which a partial completion certificate application should be rejected?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

NFCC would refer to our answer to the first question above within this section, which highlights our concerns around partial completion without the process being robust and fully informed.

Question: Do you agree or disagree with the proposed approach outlined for the Building Safety Regulator to provide notice of their decision to applicants?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

NFCC would refer to our answer to the first question above within this section, which highlights our concerns around partial completion without the process being robust and fully informed.

Time limit for partial completion certificate applications

Question: Do you agree or disagree that 12 weeks is an appropriate timescale to require the building safety regulator to determine a partial completion certificate application?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe.

NFCC would refer to our answer to the first question above within this section, which highlights our concerns around partial completion without the process being robust and fully informed.

4. Regulator's notices

Question: Do you agree or disagree with the proposed information that must be included in a regulator's notice?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

NFCC agrees with the proposal for information that should be included in a regulator's notice. In addition, it should also include the UPRN for the premises to ensure that, where consulted, the FRS can organise their filing systems appropriately as experience has shown that addresses are not always used consistently in all phases of a building's lifecycle.

Question: Do you agree or disagree with the proposed grounds on which a local authority could refuse a regulator's notice?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

NFCC agrees with the proposals for the grounds on which a local authority could refuse a regulator's notice.

Question: Do you agree or disagree that the rejection of a regulator's notice must be issued within five working days?

- Agree
- Disagree
- Neither agree nor disagree
- **Don't know**

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe.

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

5. Building work carried out in existing higher-risk buildings (refurbishments)

Third-party certification schemes and competent person schemes

Third-party certification schemes for building work in a higher-risk building

Question: Do you agree or disagree that notification of building work in Schedule 3A should go to the Building Safety Regulator?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you've answered disagree, please explain why you do not consider Schedule 3A work in higher-risk buildings should be carried out by third-party certification schemes.

NFCC agrees that the Building Safety Regulator should receive notification of works carried out following a Schedule 3A notification. The example given in the consultation outlines a scenario whereby the Third-Party Certification scheme overseas the competence of a worker in accordance with their ability to meet the functional requirements of Part P of the Building Regulations. However, such works may also have an impact on other parts of the Building Regulations, such as Parts A and B which may have a direct impact on building safety risks by creating holes in walls which may compromise the structure or allow fire spread. For this reason the Building Safety Regulator should be notified to ensure that the certified worker is suitably registered.

NFCC also believes that Third Party Certification schemes should review their criteria to specifically address areas where work under one part of the Building Regulations may affect another and to ensure that those carrying out the work are aware and correctly identify situations in which other specialists may need to assist, for example, in the repair/installation of fire stopping.

We would also propose that a review of the national occupational standards for work in this area be carried out to ensure that an awareness of where work may compromise building safety forms a fundamental part when working on higher-risk buildings. Such a review should also consider the need for quality assurance in this area, either by those running the certification scheme or by the Building Safety Regulator itself.

Question: Do you agree or disagree with the proposals on the information about building work through third-party certification to be stored in the golden thread?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees that information about building work through third-party certification schemes should be stored as part of the golden thread of information in order to ensure that it remains current and accurately reflects the state of the building.

However, we would seek further information and clarification regarding how an accountable person will be able to assess whether information is relevant to the building and needs to be stored. It may be that guidance, or a minimum competence is required in order to be able to make this decision and identify where information should be kept. Without this, a risk-averse approach may be taken whereby all information is kept which could have negative implications as to how easily relevant information can be accessed and stored.

Competent person schemes for building work in a higher-risk building

Question: Do you agree or disagree that competent person scheme certification notices should be sent to the Building Safety Regulator when work is carried out in a higher-risk building?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees that copies of competent person scheme notices should be sent to the Building Safety Regulator for work carried out in a higher-risk building.

The proposal will allow the Building Safety Regulator to monitor the performance of such schemes, particularly when a review of a building's safety case report is carried out. This will help to ensure that competent person schemes continue to be appropriate and applicable within this area, or if it is found that issues arise, the regulator can review the schemes and their operation.

Question: Should the notification also be sent to the local authority for reasons outside of providing a building control function?

- Yes
- No
- **Don't know**

Question: Please provide an explanation for your answer.

NFCC consider that other parties are better placed to answer this question. NFCC would support the position outlined by the Local Government Association on this matter.

Question: Do you agree or disagree with the proposals on the information about building work through competent person schemes to be stored in the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees that information about building work through competent person schemes should be stored as part of the golden thread of information in order to ensure that it remains current and accurately reflects the state of the building.

However, we would seek further information and clarification regarding how an accountable person will be able to assess whether information is relevant to the building and needs to be stored. It may be that guidance or a minimum competence is required in order to be able to make this decision and identify where information should be kept. Without this, it may be that a risk-averse approach is taken whereby all information is kept which could have implications as to how easily relevant information can be accessed and stored.

Building control approval applications for refurbishment building work

Question: Do you agree or disagree with the proposed categories of building work and the proposed information requirements for each proposed category?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made, and whether there are additional categories of work that should be listed.

NFCC broadly agrees with the categories of building work and proposed information requirements for each proposed category, but feels that additional information should be highlighted as part of this process, and therefore cannot completely agree with this question.

For the safety of a building to be assured there may be a need for a fire strategy for a building, in order for the accountable person to understand how the proposed works may affect safety. For existing buildings, this may not be well understood, or changes may have occurred whilst occupied that mean the original design intent is no longer valid. For the understanding of building safety risks from fire, a fire strategy document for the proposed works should be prepared as additional documentation for both Categories of work.

NFCC also believes additional documentation may be required focussing on structural safety. At present the focus in the policy intent seems to favour fire as the building risk. It would be useful for greater clarity to be published around how structural safety will be assured in order to understand the interactions with fire.

Question: Do you agree or disagree with the prescribed period of eight weeks for the Building Safety Regulator to determine building control approval applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the principal of the proposed prescribed time period of eight weeks for approval for application but this will need to be mindful of resourcing and the capability of the Building Safety Regulator to resource this time frame with suitably competent staff.

The prescribed period should only be applicable where suitable documentation has been received which will allow for an appropriate assessment of the proposed works to be carried out. Where documentation is inadequate, the regulator should be able to reject an application and reset any timescales when suitable documentation has been resubmitted, in line with our responses to earlier related questions on timeframes.

Question: We intend to establish these categories and non-exhaustive list of what might be in each category in guidance to accompany the relations so that it can be updated over time quickly. Do you agree or disagree that this should be in guidance?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the principle that the categories and their contents should be established in guidance, as long as this guidance has a sufficient statutory footing to ensure that compliance with it is seen as a way of complying with legislation.

NFCC believe we should be a party to and be involved in the formulation of this guidance in order to understand that the contents meet the criteria outlined in this consultation.

NFCC notes the Department's comments about the 'non-worsening' provisions of the Building Regulations 2010, however we believe that there is more that the Government could and should do in this space to go beyond managing risk, and move towards positive and proactive requirements during major refurbishments to consider improvements to fire safety. Accountable Persons should be required to consider improvements to fire safety and disabled facilities as nearly as reasonably practicable when considering the overall value of their refurbishment projects. The NFCC refers DLUHC back to Lakanal House and the case for sprinklers.

Question: Do you agree or disagree with the proposals about the information about building work in an existing building to be stored in the golden thread?

- Agree
- Disagree

- Neither agree nor disagree
- Don't know

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

NFCC agrees that information about building work in an existing building should be stored as part of the golden thread of information in order to ensure that it remains current and accurately reflects the state of the building.

However, we would seek further information and clarification regarding how an accountable person will be able to assess whether information is relevant to the building and needs to be stored. It may be that guidance, or a minimum competence is required in order to be able to make this decision and identify where information should be kept. Without this, it may be that a risk-averse approach is taken whereby all information is kept which could have implications as to how easily relevant information can be accessed and stored.

6. A stronger change control process for higher-risk buildings

Record-keeping

Question: Do you agree or disagree with the contents of the change control log?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the proposed contents of the change control log. However more information is required about how these contents will be assured and the penalties that will apply to relevant persons should insufficient information be recorded, or indeed where changes are not recorded.

Types of changes to building control approval applications

'Major changes'

Question: Do you agree or disagree with the list of major changes?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. Are there additional changes that you think should be added to the list?

NFCC agrees that the areas listed in the consultation would denote 'major changes' in a building.

We however have serious concerns that the list of proposed changes regarding the hard stop for approval at Gateway 2 does not necessarily lead to a 'final design' solution and the proposals outline an option for designers to significantly alter their buildings in a number of ways once the go-ahead for building has been given. This could lead to a system where designs are significantly altered once permission has been given and building commenced, in the hope that the Building Safety Regulator will have to accept the changes or stop the building altogether.

This raises concerns that rather than fix a broken system, the proposal is outlining a new way for it to be 'gamed'. An example is the now accepted practice, amongst designers, of multi-level structures of significant size, which are being classed as 'mezzanines', a term which does appear in current statutory guidance. These are then being cited, as not requiring the prescribed level of fire resistance (FR) that would be expected for a floor (as these 'levels' are being proposed as not requiring any level of FR given, they are not considered storeys in their own right). The omission of FR has an obvious detrimental impact on structural stability as well as the way fire/smoke may spread through the space, which presents an increased risk for firefighters gaining access to these areas to not only fight the fire but to perform search and rescue tasks, as well impacting occupants means of escape.

Question: Do you agree or disagree that categories and a list is the clearest way to display the major changes?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation to your answer. If you have answered disagree, please explain what you deem to be the right approach for clearly displaying major changes.

NFCC agrees that the outline of categories and a list of the types of changes involved are a clear way of displaying what the policy intends as major changes.

We would recommend that in addition to the list of changes and the information that should be given in the record keeping policy proposal for the explanation for the change, we believe that there should be an additional requirement for the relevant persons to include a succinct but clear statement outlining why the change was not included as part of the approved design for Gateway 2. In including this further need for justification, it may discourage gaming of the system by making changes during building work that should have been foreseen at the design stage of a building.

Question: What types of horizontal changes to the overall building would you consider should be major?

NFCC agrees with the areas for horizontal changes outlined in the consultation. We have concerns that where horizontal changes are made to areas such as travel distances, which may already have had to be justified using a fire engineered approach, to make additional changes will lead to the need to reassess the building from first principles, which may lead to significant amounts of work.

Question: Are there some types of horizontal changes that you consider would be notifiable, if so, why?

NFCC does not consider that there are any types of horizontal changes that would be notifiable. We consider all types of these changes as major and have concerns that they are being consulted on within this consultation. NFCC have always been clear especially within the workshops on this topic that we do not consider these changes to be categorised as notifiable under any circumstance.

Question: What building work on the external wall of the building work you consider should be major?

NFCC considers that all changes to building work to the external wall of a building should be considered as a major change. Such works should have a design rationale outlined in the documents submitted for approval for Gateway 2. Generally, external walls consist of complex systems of components which are tested to a required standard in order to understand their performance in terms of building safety risks. Changes to individual parts of these systems could have a significant effect and should therefore always be considered as a major change.

Question: Are there certain types of building work on the external wall of the building that you consider to be notifiable, if so, why?

NFCC considers that changes encompassing all types of building work on the external wall of the building should be considered as a major change if it is to vary from the original approval application.

Question: Do you agree or disagree with the prescribed period of six weeks for the Building Safety Regulator to determine change control applications for major changes?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe.

NFCC considers that the time period for approval of changes to an approved scheme will be dependent upon the nature of the change and the effect that this may have on the building. Buildings are complex systems whereby a change to one aspect may affect many other areas.

Where changes are proposed to a design that has already been approved at Gateway 2, it may be necessary to undertake the approvals process again in order to understand the impact of the major changes outlined in this policy proposal.

'Notifiable changes'

Question: Do you agree or disagree with the list of notifiable changes?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain whether there are any additional changes that you think should be added to the list.

NFCC agrees with most of the proposed instances of notifiable changes but would consider that some of the areas listed may be major changes in certain circumstances. In such cases, it would be advisable to consider them major changes unless adequate and robust justification is given.

One such change dependent on circumstance is changes to internal layouts of flats – changes in this area could encompass moving of cooking facilities, particularly in studio flats. If such facilities are changed to a position which could directly affect the means of escape within a flat, then this should be considered a major change.

We also believe that like for like substitution is an area that should be treated with caution. There should be limitations for where the product forms part of a system; in such cases this should be treated as a major change.

Partial completion strategy – this is potentially a major change as the partial completion planning may need a wholesale review in order to assess whether the segregation between occupied parts and the building site still maintains safety for all.

Question: Do you agree or disagree with the prescribed period of 10 working days for notifiable changes before the change can be made?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe.

NFCC agrees with the principal of the proposed time period, but there should be scope for this to be flexible in case there are resourcing issues with the regulator when the new system is set up.

Change of client

Notification to the Building Safety Regulator

Question: Do you agree or disagree that a notification with the information set out above must be made to the Building Safety Regulator where there is a change of client?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the proposed system for notification where there is a change of client. Though we would welcome clarity and more detail on the proposed plans for ongoing building approval in the case of the scenario outlined where information cannot be passed on due to insolvency. This scenario could lead to concerns with the ongoing safety of a building where construction decisions are unable to be evidenced.

This area should be linked in with the Golden Thread proposals and their accessibility for stakeholders such as the Building Safety Regulator.

New principal contractor or principal designer etc: notification

Question: Do you agree or disagree that a notification with the information outlined above must be made to the Building Safety Regulator where there is a change of Principal Designer or Principal Contractor for a higher-risk building project?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees that a notification with the information outlined in the proposal must be made to the Building Safety Regulator where there is a change of Principal Designer or Principal Contractor for a higher-risk building project.

Further clarification is needed on the steps that the client must take to assure themselves of the competency of those taking on the work. This proposal is also tied to the need for assuring competence of Principal Designers and Principal Contractors in general in order to ensure that they are able to meet the expectations of the new regime.

Question: If you answered agree to the question above, do you consider 28 days to be a reasonable timeframe for this notification?

- Yes
- **No**
- Don't know

Question: Please provide an explanation for your answer. If you've answered no, please explain what you deem to be an appropriate timeframe.

The change of Principal Designer or Principal Contractor should be considered a step where the information required by the proposal will not be difficult to supply. In order for the Building Safety Regulator to continue to assure themselves that work is being carried out to the required standard, a period of 28 days for notification seems to be excessive. A period of 14 days would still be reasonable and would enable the Building Safety Regulator to be able to challenge any decisions made by the client in a meaningful way including assuring competency without holding projects up for excessive periods of time should there be any issues arising from the changes.

7. Regularisation of building work

Question: Do you agree with the proposal to apply the current regularisation procedure to higher-risk buildings but with the Building Safety Regulator as the building control authority, rather than the local authority?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the proposal for the application of the regularisation procedure to higher risk buildings but would like to emphasise that this should be seen as the exception rather than the norm. We believe this procedure should only apply to the scenarios outlined in the consultation.

Where the procedure is to be applied to existing buildings, the Building Safety Regulator may also need to consult with other relevant enforcing authorities in circumstances where building work may affect safety under legislation such as the Fire Safety Order or the Housing Act.

8. Golden thread of information

Dutyholder duties in relation to the golden thread during the design and construction of new builds and building work in existing buildings

Question: Do you agree or disagree with the proposed duties on the client in relation to the golden thread?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the proposed duties on the client to ensure that the dutyholders during design and construction produce and handover the relevant information necessary to fulfil the requirements of the golden thread.

The key to ensuring the success for this will be to produce guidance which advises the client on the types of information that will be required so that this can form part of the requirements outlined in the tendering and procurement processes for design and construction. In addition, guidance will be necessary for the client to understand the need for this information and what it should look like, and also to standardise any handover processes where the client during construction differs from the accountable person in occupation.

Question: Do you agree or disagree with the proposed duties on the client in regard to building work in an existing, occupied, higher-risk building in relation to the golden thread?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the need to have a role that is the overall coordinator of any works on site of an existing building. It is unclear from the proposal on what competence or ability the client will have when it comes to making the decisions about the best way to enable the golden thread of information for the existing building to interact with that for proposed works.

Guidance would be needed with regard to how golden thread information systems should be set up in general. This will ensure that different solutions are able to interact with each other to ensure that the required information is always available and can be passed onto stakeholders as required.

Clear guidance would also be needed to ensure that information is not lost between proposed works and the existing golden thread to allow the principal accountable person to fulfil their duties for the occupied building.

Question: Do you agree or disagree with the proposed duties on the Principal Designer and Principal Contractor in relation to the golden thread?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the proposal for the duties placed on the Principal Designer and Principal Contractor but feels that more detail is needed on how the interaction between the two parties can be assured in the proposed system whereby design carries on into the construction stage.

As with previous answers, it is felt that additional guidance will be required detailing how the proposed system will operate in practice and about what competencies may be needed by the different dutyholders. Quality assurance will also be vital to this proposed system and more detail is required about how this will operate under the proposed system.

Question: Do you agree or disagree with the proposal that through the design and construction process there should be a duty on all dutyholders to review the information within the golden thread to ensure it remains relevant and proportionate and supports compliance with building regulations?

- **Agree**
- Disagree

- Neither agree nor disagree
- Don't know

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

NFCC agrees with this proposal although would seek further detail in order to fully understand how the duty could be regulated to ensure that the correct information is available.

As with previous answers in this area, there will need to be requirements for guidance and competence for dutyholders to ensure that they fully understand their role. Such guidance would also need to consider clear lines of communication about the design of a building and where there is an expectation for the management of the building after it has been completed (for example, where fire engineering is used, the golden thread dutyholders should be aware of the information needed by the principal accountable person to manage the building upon occupation and the design should take account of this).

Question: Do you agree or disagree with the proposed duties on the Principal Designer and Principal Contractor regarding building work in an existing, occupied, higher-risk building in relation to the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the principle of this duty though further information is required as to how the proposal would operate in practice.

Particular areas where more detail is required for the proposal are: where a Principal Designer and Principal Contractor are required to obtain information about an existing building, how would they do this and what level of information would be required (is it proposed that the same level of information is needed for existing buildings undergoing refurbishment as for a new build, and if not, how is it decided that 'enough' information is available?).

There also needs to be more information about how the duty to cooperate could be enacted and what happens where a party refuses this cooperation.

Question: Do you agree or disagree with the proposed duties on other dutyholders in relation to the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees that all dutyholders should have a duty to provide information to form part of the golden thread. Guidance would be needed on the standard and format of this information as well as how such a duty could be enforced.

The new more stringent building control process and the golden thread

Building control approval application and the golden thread of information

Question: Do you agree or disagree with the proposal that all the information to be submitted in a building control approval application should be stored in the golden thread?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

Question: If you answered disagree, what information do you suggest is stored in the golden thread to support compliance with relevant building regulations?

NFCC agrees that information required for as part of the building control process should be stored as part of the golden thread as this information will be useful for the stakeholders outlined in the consultation.

The formatting of this information will be key, and the future regime should look to ensure that the information is accessible for those using it. The present practice of providing large amounts of information in an Operation and Maintenance manual should be avoided as this is rarely accessible to the end user and future regulators and often serves as an information dump, rather than a practical means of accessing relevant information.

This information should include the initial design and any changes made to this and their reasoning along with the final approved design.

Question: Do you agree or disagree with the proposal that all the information to be submitted in a building control approval application should be stored in the golden thread?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees that information required for as part of the building control process should be stored as part of the golden thread as this information will be useful for the stakeholders outlined in the consultation.

The formatting of this information will be key, and the future regime should look to ensure that the information is accessible for those using it. The present practice of providing large amounts of information in an Operation and Maintenance manual should be avoided as this is rarely accessible to the end user and future regulators and often serves as an information dump, rather than a practical means of accessing relevant information.

This information should include the initial design and any changes made to this and their reasoning along with the final approved design.

Information handover on building completion

Question: Do you agree or disagree that with the proposals for the golden thread information that should be handed over to the relevant person?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

NFCC supports the proposal for the handover of the golden thread of information. Guidance should be provided around the content and format of the information to be handed over to ensure that it is able to be understood by the relevant person for the building in use. Further detail is needed around how this process may work in practice along with how the regulator will be able to assure the information and enforce any shortcomings.

We also refer to our comments within our general overview around regulation 38. Information we would expect to be provided under Reg 38 would sit under the “*any further information that is relevant to the ongoing safety of the building*”, however we note that there is no specific reference to this regulation within that proposal which is somewhat concerning.

The information expected of Regulation 38 must become part of the Golden Thread (and it needs to be explicitly stated as such).

Question: Do you agree or disagree that as part of the building completion certificate application, the client and the relevant person should co-sign a statement confirming that the client has handed over the golden thread to the relevant person, and that the relevant person has received the golden thread?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

NFCC agree with the principle of the client and relevant person co-signing a handover document in order to ensure that information is handed over. More detail may be required about the contents of the information to be handed over as it may be that the relevant person does not possess a level of understanding to ensure they are aware that all relevant information has been handed over.

Question: Do you agree or disagree with the proposal that golden thread should be provided to the relevant person for the higher-risk buildings no later than the date of completion?

- **Agree**

- Disagree
- Neither agree nor disagree
- Don't know

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

Information contained within the golden thread of information will be vital to the ongoing management of a higher-risk building when occupied. The information should be handed to the relevant person at the earliest opportunity to ensure that they will be able to manage the building and that they meet their legislative responsibilities under the Building Safety Act as well as other relevant legislation, such as the Fire Safety Order.

Golden thread and partial completion

Question: Do you agree or disagree with the proposal for information sharing and access to the golden thread between the client, the principal accountable person and accountable person(s) when a building goes through partial completion?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC believe that partial occupation should be permitted in circumstances where there is a fire strategy/safety case in place that has assessed all of the risks which ongoing building works pose to the occupied areas (similar to a pre-emptive fire risk assessment in accordance with the FSO).

Where partial completion is proposed then the information handed over should also include the fire strategy for the building during the partial occupation stage and include an understanding of how actions by the client, principal accountable person and accountable persons could impact upon the safety of the building. Along with an information sharing process, there should be a method of alerting all relevant parties should changes within the building arise that could have an impact on the safety of the whole premises (e.g. where problems occur in fire protection systems common to both occupied and in construction parts).

Question: Do you agree or disagree with the need for an ongoing duty to co-operate on the Client the principal accountable person and the accountable person(s) through the process of partial completion?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC believes that to ensure the safety of occupants in a partially completed building, it is vital that there is a duty to cooperate between relevant parties. It is the experience of the UK Fire and Rescue Services, where partial completion is currently permitted, that there are multiple failings in the fire safety measures to adequately protect those occupants in the event of a fire and to ensure firefighters are provided with the appropriate access and facilities.

Common issues found where partial completion is currently pursued include but are not limited to; inadequate fire resisting compartmentation between occupied and unoccupied areas, smoke control systems inoperative, fire detection systems inoperative, dry/wet risers inoperative, firefighters' lifts inoperative, and insufficient access to water for firefighting such as ensuring appropriate fire hydrants etc.

NFCC are aware of instances where failings have been to the extent where an article 31 Prohibition Notice has been considered.

Handover of information in Higher-Risk Buildings (new build and refurbishments) and regulations 38 to 40 of the Building Regulations 2010

Question: Do you agree or disagree with the proposal that the golden thread requirements will be sufficient and regulation 38, 39, 40 cannot apply to buildings in scope of the more stringent regime?

- Agree
- **Disagree**
- Neither agree nor disagree
- Don't know

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

NFCC feels that this proposal may be sufficient, but this is dependent upon suitable guidance being issued outlining the contents and format of the handover information under the new regime. Without further detail and clarity of guidance we are unable to comprehensively and decisively answer this question.

We would however refer to our comments at the start of this document that it is our understanding that regulation 38 be disapplied by these proposals. NFCC believe that regulation 38 should be retained but acknowledge that the application of Regulation 38 is a one-time requirement when the building work is finished, however, the need to share the information required by regulation 38 will exist through the life of the building which means, the requirement to provide this information would sit better with the new regulations as part of the Golden Thread.

NFCC note that the intent of the Golden Thread and of regulation 38 are slightly different, we do however acknowledge that regulation 38 currently has ambiguity which has long been identified within industry, which is why we support the continuation of regulation 38 due to its intent with the need for it to be revised to ensure it delivers this intent.

Golden thread principles

Digital

Question: Do you agree or disagree with the proposal to not define digital in regulations?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the principle to not define digital as outlined in the consultation. However, further information is required as to how the proposed system may operate. Fire and Rescue Services operate in a variety of differing ways in terms of the provision of their ICT systems and any proposed solutions to the storage and transfer of information needs to be able to interact with these systems.

Further information about the proposal should be published at the earliest opportunity to enable FRS to plan how they receive and use this digital information and so that future software solutions can be capable of making use of it. From the proposal, it seems most likely that the principles of BIM will be most likely to meet the policy intent, but more information should be published about how this may work.

We believe that it may be of benefit to consult independently on this topic given the extreme importance of ensuring the digital platforms and processes are adequate and suitable for the new regime, and also in relation to the potential for this to generate additional new burdens which may not have been factored into the economic appraisals for the Building Safety Act and these accompanying regulations to date.

Accurate and up to date

Question: Do you agree or disagree with the proposal that not all the information in the golden thread needs to be updated but may still be relevant to enable someone to have a clear understanding of the building at the present moment in time and support compliance with building regulations?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the proposal that not all information will require updating but will still remain relevant. However, the scope of the applicability of this information should be widened to encompass supporting compliance with other relevant legislation such as the Fire Safety Order and the Housing Act.

Further guidance would be required as to what information is relevant and when it may require updating.

Single source of truth and ensuring information can be shared and transferred with other people

Question: Do you agree or disagree with the proposed approach for the golden thread operating as a single point of truth and ensuring the information kept within it is one that allows for transfer of information and interoperability as described?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the broad principles set out in the consultation around the need for a single source of truth and for the transfer of information and interoperability of systems. In considering this area, account should also be made of FRS requirements for accessing and storing information as there may be instances where their system security requirements need to be taken into consideration when transferring and accessing large amounts of data.

Guidance will be key to this area and NFCC would be keen to be involved in the formulation of this. As above, this could also form an area with the potential to create additional new burdens for FRS and other regulators which are yet to be understood or captured in any existing impact assessments or economic appraisals.

Question: Do you agree or disagree with proposals around ensuring that information is able to be transferred?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees that for information to be useful it will need to be transferred between software systems in order to communicate data between relevant parties and regulators. The ability to access data should be available to all relevant parties and as such the formulation of the accompanying guidance should take into account the needs of those involved. Although the consultation does not mention specific data standards, NFCC would suggest following the process for information exchange points detail in *British Standard 8644 Part 1: Digital management of fire safety information*.

From the FRS perspective, there may be a range of scenarios where access to information is required, such as for regulation under the BSA and FSO as well as for operational crews when updating risk information or attending operational incidents. There is also a scenario where staff from one FRS may be working within the MDT but be working within another FRS area and not have access to their systems- information must be able to be transferred

or uploaded across FRS systems and boundaries. Ensuring that operational crews have access to certain types of risk critical information is likely to be important to future proofing the new regime for the recommendations made by the Grenfell Tower Public Inquiry, both from the Phase 1 findings, and possibly also arising from the Phase 2 findings which are yet to be published.

It is vital that the transfer of information is achievable in these circumstances and that the accompanying guidance in this area takes account of this.

Secure

Question: Do you agree or disagree with proposed approach to ensure the golden thread is secure?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the proposed requirements for security. Such requirements mean that the accompanying guidance should take into account the needs of all those who may need to access the golden thread.

Accessible

Question: Do you agree or disagree with proposed approach to ensure the golden thread is accessible?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the principle that information should be available to those who need it in a timely manner. However, the principles of this are difficult to comment on further until further information about how this would operate in practice are known.

Understandable and consistent

Question: Do you agree or disagree with the proposed approach to ensuring the language/information in the golden thread is consistent for the building and that the language in the golden thread should be consistent and appropriate for the people who need to use it?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

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

NFCC agrees with the principle that language should be consistent and appropriate for the people who use it. However, the principles of this are difficult to comment on further until further information about how this would operate in practice are known.

Question: Do you agree or disagree with the approach not to mandate that the golden thread needs to comply with a particular British standard or International standard or data dictionary?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC understands the desire not to mandate too specifically in this area so as not to make the proposals inflexible. However, by not mandating specific standards, the proposals may lead to a wide variation in what is produced, which may make it difficult to achieve consistency across all buildings.

The danger of not mandating specific standards is that the regulator may lose control of how this data is produced and lead to arbitrary perceptions of what is meant by accessible and understandable. This in turn may lead to inconsistencies and difficulties when it comes to sharing information between systems and also stakeholders.

If a particular standard is not mandated, then it would be necessary to produce guidance that clearly sets out the required standards of how the proposed system would operate.

Accountability

Question: Do you agree or disagree with the approach for ensuring accountability?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agree with the principles of accountability in the golden thread record. However, further comment can only be made once details of what constitutes major and minor changes are known as this may be context dependent for some areas/buildings.

9. Mandatory occurrence reporting

Question: Do you agree or disagree that, when a dutyholder has become aware of an occurrence they must report the occurrence to the Building Safety Regulator without undue delay and provide a written report within 10 calendar days?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the proposals for mandatory occurrence reporting outlined within the consultation. Further detail is needed about how the proposed system will work as there are instances where the consultation is vague, for example, what are 'reasonable steps'.

Whilst the intent of not being 'overly prescriptive' may be to allow organisations to find their own solutions for how occurrences may be reported, detail is needed around how the quality of such reporting systems will be assured and also regulated and what the penalties may be if systems are inadequate.

Question: Do you agree or disagree with the proposed definitions of safety occurrence and risk condition?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with the proposed definitions of safety occurrence and risk condition, but hold concerns about how realistic reporting on these areas will be, particularly with regard to reporting a risk condition at the design stage.

Current practice is often to design a building that is non-code compliant and then to excuse the risk gaps by using fire engineering, it is our understanding of the proposal details that this would now be a reportable condition. As such in addition to accompanying guidance we believe work will need to be carried out in order to change the current culture and practice of building design.

Further detail is also needed about the potential penalties for not implementing sufficient reporting procedures and sanctions against those who are found not to have reported occurrences.

Question: Do you agree or disagree that the proposed information required when reporting a safety occurrence is appropriate?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

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

NFCC agrees that the proposed information to be reported for a safety occurrence would be appropriate for risk conditions arising during the construction process. However, further information needs to be given to the reporting of safety occurrences identified during the design process, with more information as to how this proposal will operate once published so that a more considered response can be given.

It seems unrealistic to expect reports to be submitted for incorrectly designed buildings and systems, and risk conditions in these areas may only be identified once regulatory approval is sought at Gateway 2. For design, it may be more practical to emphasise the need for those employed on a project to assure their competence through third-party accreditation. Where incorrect design is then identified at Gateway 2, this could be highlighted to the accreditation body who could then investigate whether the designers acted in accordance with their perceived competence.

10. More rigorous enforcement powers

Stop notices

Question: Do you agree or disagree with the contents of compliance and stop notices detailed above? Is it fit for purpose?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please explain your answer. If you have answered disagree, please explain what changes you think should be made.

NFCC supports the intention of the compliance and stop notices in strengthening the regulatory regime and holding those responsible to account. NFCC would suggest the time the notice comes into force is also included, along with very clear statements of the consequences of not complying with the notice.

As the continuing work in the development of the new regime progresses NFCC considers there may be other requirements identified.

Further detail would be useful as to the scope of applicability of the Stop Notices, for example, whether they can be applied to a project where the design of the building is deemed to not satisfy the requirements of safety once it is occupied (including, where following guidance in Approved Documents would not lead to the formulation of a satisfactory safety case).

Enforcement: notification of interested parties

Question: Do you agree or disagree that the persons/bodies mentioned above should be notified after a compliance or stop notice is issued?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please explain your answer. If you answered disagree, please explain whether any other bodies/persons should be notified after a compliance or stop is issued?

NFCC agrees that those stakeholders identified should be notified and there exists the potential for other stakeholders to be notified too, depending on the stage of the works and potential stakeholders. This may include the Accountable Person where identified, residents where a premises is in partial occupation/close to occupation, as well as other authorities e.g., LA Housing.

Enforcement: withdrawal, extension & amendment of notices

Question: Would you like to provide any comments on our proposed approach for amending, extending and withdrawing compliance and stop notices?

NFCC acknowledges the need for there to be flexibility in the amending and extending of notices, but we acknowledge this needs to be recorded in an open, transparent and robust process and as the continuing work in the development of the new regime progresses NFCC considers there may be other requirements identified.

Exceptions to enforcement action

Question: Which proposed option outlined for prosecutions under s35 and compliance notices under s35B do you prefer?

- Option 1: Not to have exemptions in relation to some or all the regulations between 25A to 44, in line with the effort to raise standards across the building control regime
- Option 2: Replicate some or all the exceptions mentioned above as exceptions to enforcement action through compliance notices.
- Other
- Don't know

Question: Please explain your answer. If you prefer option 1, which regulations should be exempt?

Given the evidence that is a matter of public record of the failings of the current regulatory regime NFCC would consider there should be no exemptions regarding regulations until such time as it can be demonstrated, through appropriate evidence, that there exists a cultural change and an increase in competence and ethical practice across the sector.

Dutyholder and competence requirements – Enforcement

Question: Do you agree or disagree with the enforcement approaches proposed for non higher-risk buildings, similar to other contraventions under Regulation 18?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

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

Given the evidence that is a matter of public record of the failings of the current regulatory regime NFCC would consider there needs to be a significantly improved regulatory regime to address those issues still being identified, especially those that are outside of the scope of the BSR. There still exists a culture that is driven by commercial interests, with gaming of the system still occurring and the race to the bottom continuing.

NFCC considers it remiss to not take this opportunity to strengthen the regime for all buildings, and therefore increase public, resident and wider sector trust in the built environment.

NFCC notes the proposals in this section generate additional new burdens for local authority building control teams (including picking up enforcement work and burdens from registered building control approvers) that do not appear to be accounted for in any of the impact assessments to date, including the corresponding update to the economic appraisals accompanying this consultation.

It is NFCC's view that the ability for clients to choose their own building control body must be removed for all building work, not just buildings in scope. Research¹ across 190 economies has found that independence or third-party safeguards are crucial in order to create the right incentives to achieve safe outcomes.

Question: Should the period for remedying the breaches of the dutyholders' duties and competence requirements be similar to other contraventions under Regulation 18 (three months) or shorter?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer. If you have answered no, please explain what you think the reasonable period should be and your reasons.

NFCC are not best placed to answer this question.

Approach to appeals

Question: Do you agree or disagree with the government's approach to appeals?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please explain your answer. If you have answered disagree, please explain what changes you think should be made.

¹ <https://documents1.worldbank.org/curated/en/303541513853647106/pdf/122194-WP-DB18-Construction-permits.pdf>

NFCC requires further information, clarity and detail to allow an informed response to be made i.e., the level of and nature of any supporting evidence by the appellant as to why they are appealing and to support their claim.

In principle, NFCC supports the concept to have a specialist unit that will deal only with building safety matters. It is unclear, where (if anywhere), DLUHC have made provision for this or any aspect of its enforcement proposals within any iterations of the Regulatory Impact Assessment (either that published with the Bill, the updated one published with the Act, or the updated one published with this consultation in the Annex).

The Government must ensure that whatever framework is put in place is supported by adequate resourcing.

Section 101A appeals

Question: Do you agree or disagree that applicants who wish to bring an appeal of this nature must do so within two weeks of the local authority's refusal to consider their application for building control approval, an initial notice or amendment notice?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please explain your answer. If you have answered disagree, please explain what you think this time period should be.

NFCC requires further information, clarity and detail to allow an informed response to be made i.e., the amount of and nature of any supporting evidence by the appellant to support their appeal.

Question: Do you agree or disagree that applicants must submit the plans originally submitted to the local authority to the appeals body considering their appeal?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please explain your answer. If you have answered disagree, please explain what documents you think applicants should submit as part of this appeals route.

While NFCC agrees with the original plans being submitted, there may be other information that is also required that needs to be identified, to ensure there is sufficient information provided to allow a full review to be considered.

Question: Would you like to provide any comments on who the appeals body for this appeals route should be?

The appeals body will need to be truly independent to avoid conflicts of interest and be comprised of representatives who are competent in all aspects under which the panel is expected to consider.

Question: Would you like to provide any comments on what the time period in which such an appeal must be brought should be?

NFCC do not consider we are best placed to offer a specific time period for the appeal given there are factors to be agreed that will inform this including who will comprise the panel (and where they may be drawn from) and the amount and nature of information that will be required to be reviewed.

Review of decisions and appeals

Review of decisions

Question: Do you agree or disagree with making the decisions outlined above eligible for an internal review by the Building Safety Regulator prior to being appealed to the tribunal?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC believes an internal review by the BSR will be needed for some types of appeal, and where carried out openly, transparently and robustly, it will not only contribute towards a robust regime but will also allow internal checks to be carried out and recorded.

The list provided appears a good starting point but given the lack of detail and further information required around the appeals process, it must be acknowledged this could be subject to change and/or challenge.

Question: Do you agree or disagree with the reviews process outlined above?

- Agree
- Disagree
- Neither agree nor disagree
- **Don't know**

Question: Please provide an explanation for your answer. If you've answered disagree, please explain what changes you think should be made.

NFCC do not consider we are best placed to offer comment on specific time periods for the appeal given there are factors to be agreed that will inform this including who will comprise the panel (and where they may be drawn from) and the amount and nature of information that will be required to be reviewed.

Appeals to the tribunal in relation to reviewed decisions

Question: Do you agree or disagree with the appeals process outlined above relation to reviewed decisions?

- Agree
- Disagree

- Neither agree nor disagree
- **Don't know**

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

NFCC do not consider we are best placed to offer comment on specific time periods for the appeal given there are factors to be agreed that will inform this including, who will comprise the panel (and where they may be drawn from) and the amount and nature of information that will be required to be reviewed.

Section 30A applications: procedure

Question: Do you agree or disagree with the proposed procedure for applications made under section 30A of the 1984 Act?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC acknowledges there needs to be a route for applicants to pursue should their original application not receive the required reply from the BSR. This allows for understanding given the issues this could cause for the project and the delays that may be experienced depending on the availability of sufficient BSR resources to review and respond to all applications.

NFCC however, does have concerns that where sufficient detail is not provided regarding this route it may become a 'loophole' that could be exploited, and will result in the new regime being potentially open to abuse.

Question: Do you agree or disagree that an application made under section 30A of the 1984 Act must be made in writing to the Secretary of State within six weeks (starting with the day after the expiry of the period for determining the relevant application)?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC do not consider we are best placed to offer comment on specific time periods for the appeal given there are factors to be agreed that will inform this including, who will comprise the panel (and where they may be drawn from) and the amount and nature of information that will be required to be reviewed.

Question: Do you agree or disagree with the proposed document requirements outlined in Regulation 40(3) for section 30A applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC considers the outlined documentation may be sufficient for a section 30 A application, however, there may be other information that is also required that needs to be identified, to ensure there is sufficient information provided to allow a full review to be considered.

Question: Do you agree or disagree that an applicant should notify the Building Safety Regulator of their intention to make a section 30A application at least two working days before doing so?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC considers it would be best practice for the applicant to inform the BSR of their intention to make a section 30A application, especially given the BSR may be about to respond. It would appear 2 days is too short a time period for the BSR to make any tangible gains in stopping the review of the application (as the example given in the consultation commentary), therefore NFCC considers 5 working days more appropriate.

Section 30A applications: electronic submissions

Question: Do you agree or disagree with the proposed approach taken on electronic submissions for section 30A applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

The proposal requiring submission of applications and supporting documentation appears to be sensible but further clarification is required as to the format of this documentation.

In order for the process to be carried out efficiently, the requirement for appropriate formatting for specific documentation should be outlined in guidance (for example, submitting architects plans in a pdf format may not allow for interrogation of specific detailing of drawings; but also, those carrying out work for the SoS will need to have access to appropriate software in order to access files for CAD drawings).

Section 30A applications: determinations

Question: Do you agree or disagree with the proposed process for determining a section 30A application?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC requires further information, clarity and detail to allow an informed response to be provided, given the importance and potential impact of this process. More consideration needs to go into the practicalities of how long it will take the Secretary of State (or their representative), to arrange and carry out a site visit with all required information to hand, this will directly inform timescales.

Question: Do you agree or disagree that where the Secretary of State requires the Building Safety Regulator to provide specified information, or provide copies of specified documents, the date specified in the notice for providing this must be no fewer than 14 days after the date the notice is given?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC requires further information, clarity and detail to allow an informed response to be provided, given the importance and potential impact of this process. More consideration needs to go into the practicalities of how long it will take the Secretary of State (or their representative), to arrange and carry out a site visit with all required information to hand, this will directly inform timescales.

Section 30A applications: appointed persons

Question: Do you agree or disagree with the proposed approach for appointing persons to determine a section 30A application?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

It is essential whoever may be considered as being appointed to act on behalf of the Secretary of State is competent and completely independent/has no conflict of interests regarding any application.

Deemed refusal of applications

Question: Do you agree or disagree that the original application should be treated as refused by the Building Safety Regulator in the proposed circumstances outlined above?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC considers this does provide a default position to safety given all who enter the process are aware of this and enforcement of any contravention is robust and consistent.

11. Wider changes to the building regulations to align the existing system with the new system

Defining commencement of work

Defining commencement of work in relation to new buildings

Question: Do you agree or disagree with the proposed definition of commencement of work in relation to new building work?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

The proposal appears to improve on the current situation in ensuring the commencement of work is taken seriously by developers and contractors, this will assist in a reduction of the gaming of the system where approval is held over.

We would however urge caution, as where any prescription is given i.e., a definition of works and a time period, there will always be those who try to game the system; therefore, this will need to be kept under review.

Extending an existing building

Question: Do you agree or disagree with the proposed definition of commencement of work in relation to extending existing buildings? Is it reasonable?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

As per our answer above, the proposal appears to improve on the current situation in ensuring the commencement of work is taken seriously by developers and contractors, this will assist in a reduction of the gaming of the system where approval is held over.

We would however urge caution, as where any prescription is given i.e., a definition of works and a time period, there will always be those who try to game the system; therefore, this will need to be kept under review.

Replacing an external wall system

Question: Do you agree or disagree with the proposed definition of commencement of work in relation to replacing an external wall system? Is it reasonable?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC considers the removal of an existing external wall system (EWS) to be of significance, as this would appear to lend towards the contractor in finishing the removal and then installing the new EWS (given the issues with weather and energy performance as well as from a safety perspective). However, defining only 1 complete floor level may then leave this as relatively untouched (where the building is of some height/additional floors), and it may need to be extended to additional floors for the commencement to be considered.

Material change of use

Question: Do you agree or disagree with the proposed definition of commencement of work in relation to a material change of use? Is it reasonable?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

As per our answer in questions above, the proposal appears to improve on the current situation in ensuring the commencement of work is taken seriously by developers and contractors, this will assist in a reduction of the gaming of the system where approval is held over.

We would however urge caution, as where any prescription is given i.e., a definition of works and a time period, there will always be those who try to game the system; therefore, this will need to be kept under review.

Question: Are there other types of building work in existing buildings that we should define commencement in relation to?

- Yes
- No
- Don't know

Question: If you have answered yes, what should the definitions of these types of building work be. Please provide an explanation for your answer.

New procedures for building control approval applications for buildings that are not higher-risk buildings

Question: Do you agree or disagree that there should be a route of appeal for dutyholders who consider that the timeframe for determining their application has been extended beyond what they consider to be reasonable?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC considers routes for appeal are fair in an open and transparent system, there does however need to be more detail on the appeals process before an informed response can be given.

Without the detail and robustness of the system an appeal could be another 'loophole' that allows those who still wish to game the system and not affect their own cultural change to continue with their current practice. It is reasonable to consider extended timeframes will be required given the amount and complexity of some information that requires to be reviewed, and it is unfair to expect authorities to review all this in a relatively short timeframe given the information itself may have taken weeks if not months to formulate and collate e.g., computational fluid dynamics (CFD) reports, fire strategies, structural analysis etc.

Building Regulation 2010 provisions not applicable to higher-risk buildings, or only applicable subject to amendment

Question: Do you agree or disagree with our proposed amendments to Regulation 9 of the Building Regulations 2010 in terms of its application to higher-risk buildings?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC considers exemptions as described in the consultation document should not only be disapplied to higher risk buildings but to all buildings, as there exists the potential for important fire safety measures, namely fire resisting compartmentation, to be adversely affected by these works.

Question: Do you think that the Mayor's Office for Policing and Crime should be exempt from procedural requirements for higher-risk building work?

- Yes
- **No**
- Don't know

Question: Please provide an explanation for your answer.

NFCC do not foresee a circumstance where any building ownership should be exempt given that a building may not always remain within that ownership and therefore there will be a need for procedural requirements to be able to be demonstrated within the future of the building.

Question: Do you agree or disagree that the Building Safety Regulator should not be able to disapply or relax energy efficiency requirements for higher-risk buildings?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

The disapplication of requirements allows for an issue to be focused on purely from that perspective and does not consider the wider/holistic impact. It needs to be acknowledged that many parts of the Building Regulations interact with others, therefore this proposal is welcomed.

Question: Do you agree or disagree that it is unnecessary to apply regulations 12-18 to higher-risk buildings as separate procedural requirements for higher-risk building work are being introduced?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC considers this proposal needs more discussion and detail before a considered response can be given. It initially appears this proposal would be acceptable given these requirements are proposed to be addressed in the new regime, however, without that detail

we would urge caution and would rather see a duplication, and therefore robustness, in the system, given the importance of some of these requirements.

Question: Do you agree or disagree that the notifications currently required under the above regulations should be submitted to the Building Safety Regulator for higher-risk buildings, rather than local authority?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

NFCC considers this appears to be a logical step where the BSR is the building control body, but we acknowledge there may be others who have a differing opinion who may be better placed to answer this.

Question: Do you agree or disagree that as section 33 of the Building Act 1984 is being commenced, regulations 45 and 46 should not be applied to all building work as the Building Safety Regulator and local authorities will have a power under section 33 of the Building Act 1984 for testing and sampling?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

Sampling and testing of building work by the building control body is important and needs to be included in the new regime and for all buildings, in or out of scope. NFCC urges caution on the revocation and replacement of these regulations to ensure the intent behind them and the power to act and enforce on them, is not lost in the transition.

12. Transitional provisions for higher-risk buildings

Commencement of work

Question: Do you agree or disagree we should apply the same definition of commencement to the transitional arrangements for regulations covering higher risk buildings?

- Agree
- Disagree
- **Neither agree nor disagree**
- Don't know

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

The proposal appears to improve on the current situation in ensuring the commencement of work is taken seriously by developers and contractors, this will assist in a reduction of the gaming of the system where approval is held over.

We would however urge caution, as where any prescription is given i.e., a definition of works and a time period, there will always be those who try to game the system; therefore, this will need to be kept under review, especially regarding transitional arrangements given the expected 'rush' of applications.

Applying transitional provisions to individual buildings

Question: Do you agree or disagree with the proposal for transitional provisions to only apply to individual buildings as opposed to multi-site projects?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

We agree in principle that to prevent gaming, transitional provisions should be applied to individual buildings.

Proposed transitional provisions

Question: Do you agree or disagree with the proposed transitional provisions?

- **Agree**
- Disagree
- Neither agree nor disagree
- Don't know

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

NFCC agrees with principals of the proposed transitional provisions although it is necessary to see more detail behind some of the proposals in order to have a better understanding.

Whilst the provisions set out the expectations of all building approvals under the new regime and how buildings designed prior to implementation will be regulated, the building safety regulator needs to be proactive in raising awareness of the expected future in occupation standards. At present it is still possible to design a building using an approved guidance that may not meet the requirements of safety for the in-occupation stage of the new system. Examples of this include the use of guidance to design tall single staircase buildings with no provision for evacuation facilities for those disabled by the design.

We still have concerns that guidance in building design codes such as the Approved Documents are viewed as being the required standard and that following this guidance will always equate with meeting the functional requirements of the Building Regulations.

The Building Safety Regulator should actively seek to educate the industry prior to the transitional provisions coming into effect in order to ensure that all buildings will meet the

required levels of safety when occupied. We still hold the concern that developers may still knowingly design buildings which do not provide adequate safety features for building safety risks, and be reliant upon the fact that improving safety will not be seen as cost beneficial when the building is assessed under the safety case regime.

Question: Do you consider there to be any potential challenges with requiring local authorities and approved inspectors (registered building control approvers) to notify the Building Safety Regulator when building work has not commenced after the transitional period lapses?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer.

There will be others better placed to answer this question than the NFCC, however this appears to be in conflict with the principles earlier in the consultation and we note this may come with additional new burdens for local authorities that may need to be considered.

Equalities Assessment

Question: What do you consider to be the equalities impact on individuals with protected characteristics of any of the policy proposals to be included in the regulations? Please give reasons and any evidence that you consider relevant.

NFCC has within our comments at the start of this consultation outlined that the impacts of this consultation are intrinsically linked to the consultation running concurrently to this one regarding occupied buildings.

NFCC has in a number of places stressed the need to ensure that the measurement of compliance goes beyond the minimum requirements set in guidance to the Building Regulations. At present it is still possible to design a building using an approved guidance document that may not meet the requirements of safety for the in-occupation stage of the new system. Examples of this include the use of guidance to design tall single staircase buildings with no provision for evacuation facilities for those disabled by the design and no accounting for management of the premises. Such designs have serious impacts on individuals who may have or experience circumstances where they have a range of protected characteristics throughout their lifetime.

We still have concerns that guidance in building design codes such as the Approved Documents are viewed as being the required standard and that following this guidance will always equate with meeting the functional requirements of the Building Regulations.

NFCC would like to take this opportunity to call upon DLUHC to issue clear guidance on how the evacuation needs of disabled people and persons who may find themselves in vulnerable positions will be regulated as part of the new regime.

NFCC note attempts by the Home Office to date to consult on this issue. However, we also note that the rules for how buildings are allowed to be built in the first instance, including their evacuation features, are overseen by DLUHC. We also note that the Regulatory Reform (Fire Safety) Order 2005 (the FSO), for which the Home Office took over responsibility in 2017, is not designed to easily enforce building works after a building is built.

Even if it were, NFCC would question the intent of a system where buildings need additional works done to them retrospectively, because the design guidance is no longer fit for purpose.

In these regards, both before and after construction, NFCC observe that DLUHC are the policy owners of the Stay Put principle, and the only actor in Government with the ability to truly address the present Personal Emergency Evacuation Plans (PEEPs) recommendations.

In some cases, costly PEEP solutions are being considered to compensate for failings and out of date guidance in the built environment – intricately related to the proposals in this consultation. As the Gateways regime is a policy package designed to ensure that correct standards of safety are achieved from the outset, we question the effectiveness of doing this without updating those standards themselves.

We believe that the BSA is the intended vehicle for addressing recommendation 33.22 of the Grenfell Tower Inquiry.

The new regime must not be hampered by the non-worsening clause 4(3), which can prevent buildings from being continually improved over time. NFCC notes that in other countries, for example New Zealand, exceptions to non-worsening are made for both fire safety, and access for people with disabilities.

NFCC have urged Government on many occasions to prioritise the review of Approved Document B (ADB) and make it a requirement to retrofit sprinklers in all high-rise residential buildings over 18m, or 6 storeys, that are served by a single staircase.

Measures that would bring English building safety standards closer to those of other countries to support safe evacuation would include:

- multiple staircases, with new tall buildings having a minimum of two staircases;
- evacuation lifts; and
- refuge areas with communications.

Without mechanisms to compel physical solutions in buildings, before or after they are built, we know and we have seen that APs are likely to rely on management solutions (such as waking watches) to cover where there are shortfalls in safety. These are costs that can be passed onto leaseholders and residents in lieu of investing in more sustainable mitigations.

Strengthening ADB in this way would be complemented in the new build regime by the need for the Fire and Emergency File to lay out the provisions incorporated into the building to facilitate the evacuation of disabled and other potentially vulnerable people. We believe, in future, this will help to achieve a package of holistic management of safety.

There are several recommendations we make, which are crucial to achieving this intent.

The regulations and statutory guidance must make it clear beyond doubt that the benchmark for compliance with demonstrating safety, as part of a Safety Case, can go beyond the minimum requirements of current building regulations guidance. If ADB is used or viewed by either the BSR or industry as the benchmark for compliance, then the policy intent can never be achieved because, as currently written, ADB does not appropriately consider the needs of disabled people or those who may find themselves in vulnerable positions.

NFCC currently hold concerns about the weight that the HSE may be planning to attach to ADB as a benchmark for compliance. We therefore strongly encourage DLUHC to address this by producing clear and unambiguous guidance.

We also again implore DLUHC to expedite the review of ADB.

The current situation we find ourselves in makes it implicit that ADB does not provide equality to disabled people to enable them to leave their building if there is a fire. If ADB were updated to accommodate for disabled persons from the outset, then there would be a reduced need for retrospective enforcement.

Update to Part 3 of the Building Safety Bill's Regulatory Impact Assessment – Economic Annex

The updates made to the Regulatory Impact Assessment appear to revise down the estimated impact of the Gateways regime on FRSs by around 58% below the originally published Impact Assessment. However, while the update explains how much the estimates have fallen, no explanation is provided as to how, or why, DLUHC have arrived at these reductions to the costs to regulators. NFCC have been aware that DLUHC have been operating on revised estimates, we have raised a number of questions with DLUHC to ask for the assumptions sitting behind these, and rationale and evidence that informs how DLUHC are arriving at its estimates. We are yet to receive responses to these queries, and consultation on the specific details of this revised economic annex was not undertaken with the NFCC prior to publication. The figures are in contradiction to the advice NFCC has provided on this matter.

It is unclear, where, DLUHC have made provision for any aspect of its enforcement proposals within any iterations of the Regulatory Impact Assessments (either that published with the Bill, the updated one published with the Act, or the updated one published with this consultation in the Annex). NFCC have on multiple occasions through the Joint Regulators Group requested clarification from DLUHC as to what assessment has been undertaken of the new burdens impact on Regulators for enforcement of the new powers and sanctions of the Building Safety Act. It would appear that estimates are included for standard internal complaints procedures, but there appears to be no provision made for any regulators (either the HSE or other partners) to support formal enforcement such as through the Courts or any proposed Tribunals.

The compilation of evidence and work required to take enforcement and prosecution actions is a specialised skillset, and one that not all UK Fire and Rescue Services will hold. We note this also creates new burdens for Local Authority Building Control which appear to not have been assessed anywhere.

In addition to the matters covered by this consultation, NFCC notes the new powers inserted in the final passage of the Bill in relation to 'Remediation Orders'. This policy appears to have been drafted internally no consultation either with partner Regulators, or to our knowledge, with the Home Office. NFCC is yet to receive detailed response from DLUHC to our questions about what the benchmark for enforcement in order to determine 'remediation', or how the proposals are intended to be operationalised.

Furthermore, NFCC remains concerned that even where new burdens on local authority building control have been estimated, no appropriate analysis has been undertaken on what the flow on impacts of the new regime will be to LABC business as usual, and on the ability of local authorities to continue to meet their existing statutory obligations. NFCC holds concerns that rather than address the race to the bottom highlighted by Dame Judith, that the Government could instead be exacerbating the impact of competition on building control in the way that the new regime is being set up.

The Government must ensure that whatever framework is put in place is supported by adequate resourcing, appropriate benchmarks and guidance.