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24th October 2023

Dear Office for Product Safety and Standards,

The National Fire Chiefs Council (NFCC) is pleased to respond to this consultation, published on 2nd August 2023, regarding the new approach to the fire safety of domestic upholstered furniture in the UK.

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 collated by NFCC's Protection Reform Unit and Strategy and Policy team and was drafted in consultation with our members across the UK FRS. Our response reflects their expertise and competence on the subject matter.

NFCC supports the policy position of the OPSS that makes clear that the regulations must "*maintain and improve fire safety*". NFCC believes that the draft regulations broadly meet this policy ambition. NFCC have supported work on this matter, providing input and feedback to OPSS, who had also commissioned research into furniture fires. As well as providing advice to OPSS in support of their policy development, NFCC also has input into the British Standards (BSI) FW6 standards committee which deals with furniture (fire) standards.

Domestic Upholstered Furniture

England's fire statistics show that upholstered items (beds, mattresses and furniture) were the material or item first ignited in 12% of domestic fire incidents, but were responsible for 29% of fatalities, and the main material responsible for fire

development in 16% of fires but 43% of fatalities¹. These figures show the importance of fire safety for domestic upholstered furniture.

Although the Furniture and Furnishings (Fire) (Safety) Regulations 1988 have significantly reduced deaths by fire, NFCC agree that a new approach is needed to ensure that domestic upholstered furniture continues to be fire safe and to ensure high levels of consumer protection in the modern home.

NFCC believes that such an approach must be kept under review to ensure that fire safety is not compromised. NFCC believes that an 18-month transitional time frame should have the ability to be extended in case of delays in this process, as it can generally take between 18–24 months to develop a standard. NFCC also suggests that a 3-year review clause would be more appropriate than 5 years, to ensure that safety standards are maintained and any emerging fire risks are considered.

Chemical Flame Retardants (CFRs)

NFCC understand and acknowledge the need for the use of certain chemicals in everyday life, however encourage, where possible, the use of less (or ideally) non-harmful alternatives. These retardants are toxic not only on a day-to-day basis but also produce toxic and corrosive by-products when burning. This provides a risk to the public and to firefighters. The UK has amongst the highest concentrations of some CFRs in its household dust of any country in the world².

NFCC therefore supports the regulations which enable a reduction in the use of CFRs. NFCC also supports the objective of the new regulations which enables better enforcement of the regulations by improving traceability and increasing the time available to take legal action in the case of non-compliance. However, NFCC holds some concerns over the practicality of the regulations and the ability to enforce them.

Enforcement

It is understood that other regulation through The Product Safety Review seeks to strengthen the role of OPSS. However, NFCC holds concerns that the Chartered Trading Standards Institute report found a 56% reduction in Trading Standards officers from 2009 – 2016³. With around 200 pieces of legislation to enforce, NFCC believe that Trading Standards are not appropriately resourced to monitor toxic chemicals in consumer products, which could put the public at risk. Whilst there are

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1149257/fire-risks-of-upholstered-products-main-report.pdf

² S. Harrad, C. A. de Wit, M. A-E. Abdallah, C. Bergh, J. A. Björklund, A. Covaci, P. O. Darnerud, J. de Boer, M. Diamond, S. Huber, P. Leonards, M. Mandalakis, C. Östman, L. Småstuen Haug, C. Thomsen, T. F. Webster “Indoor Contamination with Hexabromocyclododecanes, Polybrominated Diphenyl Ethers and Perfluoroalkyl Compounds: An Important Exposure Pathway for People?” *Environmental Science and Technology*, 44, 3221–3231 (2010)

³ <https://www.tradingstandards.uk/news-policy/news-room/2018/decimation-of-trading-standards-services-leaving-older-people-wide-open-to-risk-of-fraud>

many aspects of this regulation which should work in theory, the ability to enforce these regulations will be difficult.

For example, OPSS research found that 34% of people surveyed bring upholstered cushions into the home or an attached garage to store⁴. This supports the regulation that unless products meet the regulations, they should be marked for outdoor use only to clearly show the consumer that they are not suitable for indoor use. However, in reality, policing retailers to ensure that they are warning the customer that such items are for outdoor use only, will prove difficult.

In addition to this, there is the realisation that it is impractical to stop customers using outdoor furniture inside despite knowing the risks. If the behaviour of users cannot be sufficiently controlled, then the product should be controlled to ensure that it does not lessen existing safety standards.

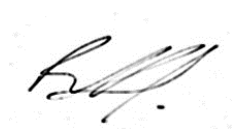
Consumer Awareness

We believe that by law, the main responsibility for consumer awareness falls on producers, manufacturers and importers to ensure that products are safe by warning producers about potential risks and providing information to help consumers understand the risk. We therefore welcome further responsibilities on persons that recondition a product before supplying or re-supplying as set out in the new proposed approach. We also welcome the new regulations which simplify labelling requirements by replacing the dual-labelling regime of the current FFRs with one simple permanent label. This new label should improve information for consumers and enforcement authorities. However, as above, NFCC would welcome further details as to how this labelling would be assured and the enforcement actions that could be taken against duty holders who do not comply with the proposals.

It is also positive that the new labelling will provide clear supply chain information and traceability to better enable enforcement officers to trace a product back to its place of manufacture. NFCC suggests that traceability should be ensured for the estimated lifespan of the piece of furniture if this is longer than ten years.

We trust that the attached submission is helpful and welcome further discussions following the outcome of the consultation.

Yours sincerely,



Rick Hylton

NFCC Lead for Home Safety

⁴ <https://www.gov.uk/government/publications/upholstered-garden-furniture-and-baby-travel-products>

Your Details	
1. Your name	Rick Hylton – NFCC Lead for Home Safety
2. Your email address	PublicPolicy@NFCC.org.uk
3. Are you responding:	
As an individual? Please go to 'Consultation Questions'	
On behalf of an organisation? Please continue	/
4. Name of organisation	National Fire Chiefs Council
5. Number of employees	
1 to 9	
10 to 49	
50 to 249	/
250 or more	
6. Type of organisation	
Business	
Trade Association	
Test House or Laboratory	
Consumer Body	
Local Authority	
Fire and Rescue Service	/
Government Body	
Other (Please specify)	

Consultation Questions

1. Does your organisation require a transitional period, and do you have any comments on the period proposed?

Whilst NFCC is not an organisation that will be affected by the transition period, arrangements should be cognizant of the need for the required British Standards to be developed. An 18-month transitional time frame should have the ability to be extended in case of delays in this process, as it can generally take between 18–24 months to develop a standard. There will also then be the need for manufacturers to access accredited test houses to test their products before placing them on the market, so transitional arrangements should take account of this in the timescales.

Economic Operators

2. Do you have any comments on the Economic Operators included as having obligations? Are the associated obligations appropriate? Are there any economic operators that we have not considered?

NFCC agrees that it is right for Economic Operators to have legal obligations to ensure that the products they put on the market meet the required standard for safety. As well as duties, the proposals should be clear in terms of the punishments that can be implemented on those not fulfilling their obligations. NFCC has concerns that the proposals in the new regime will need to be supported by robust market surveillance and enforcement against those not meeting their obligations. As outlined in the cover letter, it is concerning that there has been a 56% reduction in Trading Standards officers between 2009–2016.

Product Scope (1)

3. Do you agree with proposals for which products should fall within scope of the new approach? Please provide as much evidence as possible to support suggestions.

NFCC agrees with the rationale outlined in the consultation for how products are included within the scope. However, due to the proposals representing a large departure from existing regulations, this approach should be kept under review and informed by data of product performance and incidents during the transitional period and at regular review dates after this has finished.

Product Scope (2)

4. Are any of the product types referred to as being in or out of scope ambiguous, and would they benefit from further definition?

NFCC would welcome further definition over some of the exempt items. For example, some of the items such as bean bags have a 'surface area' given in the regulations. It would also be useful to have a defined volume, as some small items of furniture could have a similar load density if they are above the area limit, but below it and larger in volume.

Further clarity would also be welcomed on what is meant by 'surface area', as it is currently unclear over whether this means the surface area of the item of furniture or one side or the gross external surface area.

Outdoor Upholstered Products

5. Do you agree that outdoor upholstered furniture should remain in scope of the regulations, unless an Outdoor upholstered product warning label is affixed?

NFCC has concerns as to how this proposal will be enforced and policed in practice. Information informing a customer that a product should not be used indoors will likely not stop it being used in this way. As the data highlighted in the cover letter shows that a significant proportion of outdoor furniture is used inside, any proposed standard should be sufficiently fire safe to ensure that its use inside would not present a significant hazard.

As detailed above, our concerns about the ability of trading standards to police this area mean that if the behaviour of users cannot be sufficiently controlled, then it is the product that should be controlled to ensure that it does not lessen existing safety standards.

Upholstered Products Manufactured Prior to 1st January 1950

6. Do you agree with the proposal to retain the policy of exempting all products manufactured prior to 1st January 1950 from the regulations?

Yes, it is acknowledged that retroactively applying modern safety standards to older products can be challenging. However, should a piece of furniture manufactured prior to 1st January 1950 then be re-upholstered this should then be subject to the regulations.

Essential Safety Requirements – New Upholstered Products

7. Do you agree with the proposed essential safety requirements? If not, please provide evidence to support your assertions.

NFCC supports the proposed essential safety requirements that are outlined in the consultation. Further clarification should be given as to what it means for an item to 'burn slowly'. We understand that this may be something that is further defined depending on context in the subsequent standards that will be drafted to support the legislation. However, as a concept, this should be based on a uniform understanding which should form part of the expectations of the new regime.

We also understand that standards will not be able to be retrospectively applied should further evidence about an item's properties be discovered at a later time. However, this would support our previously mentioned position that the new regime should be subjected to consistent and routine reviews and monitoring of products on the market (with the first review being after 3 years, to ensure that safety standards are maintained, and any emerging fire risks are considered), to reduce the potential for hazardous items to continue to be sold in such circumstances.

Flame Retardant Technology Hierarchy

8. Do you agree with approach proposed by the hierarchy?

Yes, NFCC supports the Flame-Retardant Technology Hierarchy in order to promote a reduction in the use of hazardous chemical flame retardants. However, we feel that the wording of the hierarchy should be able to include the potential to use non-hazardous flame retardants, if that is an option. The degree of hazard should be balanced in all cases by the ability to reduce the flammability of products and used where necessary.

Conformity Assessment and Testing

9. Do you agree testing a composite or representative sample of the final item is the correct approach to assess the safety of upholstered products?

Yes, NFCC agrees with the proposals to test representative samples. However, as we have seen in other areas of performance-based testing, care needs to be taken to ensure that the tested samples are representative of the products that will be sold on the market. Care should be taken to ensure that test methods represent the likely hazards to which a finished item may be exposed.

Labelling

10. Do you agree with the labelling proposals, including the requirement to list chemical flame retardants on the label? If not, please explain and provide any evidence.

Yes, the new labelling ensures clearer information for consumers and supply chain information and traceability to enable enforcement officers to trace a product back to its place of manufacture. As above, we would welcome further details as to how this labelling would be assured and the enforcement actions that could be taken against duty holders who do not comply with the proposals.

Traceability – Technical File

11. Do you agree with the suggested contents of the technical file? Please include evidence to support the inclusion of further elements or removal of elements included in proposals.

Yes broadly, however there are concerns over the practicality of how this would be implemented. NFCC hold concerns over traceability in the case of a manufacturer ceasing to exist. A centralised database held by OPSS to ensure that details of furniture made by a manufacturer that has ceased to exist would still be held, would improve traceability.

NFCC question how OPSS decided on choosing 10 years as the benchmark for timespan for traceability. This should be balanced against an expected lifespan of a product. For example, if an item of furniture is expected to have a lifespan of 15 years on average, then traceability should be ensured for this timeframe.

Re-Upholstery

12. Do you agree with the proposals for a re-upholstery permanent label? Please provide evidence to support any suggested changes.

Yes, NFCC agrees with the proposals for a re-upholstery permanent label to provide information for consumers and enforcement purposes.

Second-hand Upholstered Products

13. Do these proposals strike the right balance in facilitating the second-hand market and ensuring that only safe products are supplied?

Yes, NFCC believes that the proposals provide important information to consumers, without placing unnecessary burdens on the second-hand market.

Online Marketing

14. Do you agree with the proposal to require product labelling information to be included in online product listings?

Yes, it is important to ensure that all customers are informed of potential fire hazards, whether it be through online or in-person channels.

Enforcement

15. Do you agree the proposal to extend the period for instituting legal proceedings should be extended from six to 12 months?

Yes, the NFCC supports increasing the time available to take legal action in the case of non-compliance however hold concerns over Trading Standards resources to enforce as detailed in the cover letter.

Review of the Regulations

16. Do you have any comments on the proposal for a 5-year review clause?

NFCC have stated that once implemented, the regulations should be subject to a review within a reasonable period to ensure that the (fire) data evidence shows that standards of fire safety have been maintained or improved.

It is suggested that a 3-year review clause would be more appropriate, due to the unknown impacts that the new regulations could have, to ensure that safety standards are maintained, and any emerging fire risks are considered. Continuous monitoring is necessary and should evidence suggest a sooner review occur, this should take place.

Impact Assessment

17. Do you have any comments on the detail of the impact assessment? Please provide any evidence or data that should be considered alongside the figures outlined.

NFCC does not believe it is best placed to comment on the details of the impacts estimated to businesses. NFCC believes there is considerable economic value in preventing harm before it has occurred. Whilst it has been difficult to calculate this in monetary value, the existence of fire safety standards and legislative requirements in consumer goods, which reduces the number of fires, has large potential benefits in terms of a reduced prevalence of fire related injuries and fatalities⁵.

Definitions (1)

18. Do you have any feedback on the list of locations that are included and excluded from the definition of private dwelling that sets the scope of the regulations?

NFCC largely supports the list of locations that are included and excluded within the scope of the regulations. Further clarity may be needed when referring to 'residential care homes' as the range of specialist care that can take place in such premises may mean that they include furniture that would traditionally be used in hospitals (hospital beds etc). This may not be an issue if these items are tested to a higher standard, but clarification would be useful for regulators and responsible persons. Similarly, it may be useful to highlight whether specialised housing (such as sheltered accommodation, extra-care housing and other similar housing typologies) are included within the scope as these can include occupants who are unable to escape unaided from their accommodation in the event of a fire.

As with our earlier answers, NFCC recommends that OPSS monitors the occurrence of fires in related locations in order to periodically review the scope of the regulations.

⁵ <https://www.gov.uk/government/publications/economic-and-social-cost-of-fire/economic-and-social-cost-of-fire#section3>

Definitions (2)

19. Do you have any further comments on the definitions?

NFCC would welcome more information on how emerging risks linked to new ignition sources like lithium-ion batteries are to be addressed.

Please email response form to furniturefire.safety@beis.gov.uk