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## **Smarter Regulation and the Regulatory Landscape: Call for Evidence**

The National Fire Chiefs Council (NFCC) is pleased to respond to this call for evidence, published on 17 October 2023, regarding the regulatory system in the UK. NFCC is the professional voice of UK fire and rescue services (FRSs) and is comprised of a council of UK Chief Fire Officers. This response was created by NFCC's Strategy and Policy team and was drafted in consultation with our members across UK FRSs. Our response reflects their expertise and competence with the subject matter.

We hold some concerns about the general direction of this call for evidence, which states that regulation should be a last resort. Following the Grenfell Tower fire, the current regulatory system in areas such as building regulations has already been described and accepted by the Government as 'not fit for purpose' even for traditional building methods. This is just one example that serves to highlight the significant additional caution that should be applied before introducing even more unknown and untested factors and products into places where people live, work, and play.

Enforcement actions are mainly undertaken by FRSs under The Regulatory Reform (Fire Safety) Order 2005, as amended SI 2005/1541 (the FSO). The FSO is the primary piece of legislation covering general fire safety in England and Wales. The FSO is amended by section 156 of the Building Safety Act 2022 in England and Wales, effective from 1 October 2023. It was introduced as the Government at the time wished to allow businesses to make their own decisions on how to comply with fire safety regulations. The Grenfell Tower fire fundamentally changed this approach, and we have in the last six years moved back toward a more prescriptive approach, yet this call for evidence suggests otherwise.

Given the breadth of the call for evidence, NFCC is not best placed to answer many of the questions and has instead selected the most appropriate to respond to below.

**Question 1: Based on your experience, do you think that UK regulators are supportive of the individual businesses they regulate in a way that appropriately balances considerations of consumers and other businesses within the sector more broadly?**

FRSs, as a regulator for the FSO, seek to support businesses to be compliant through the provision of advice and guidance. However, it is clear that some businesses/responsible persons that are subject to regulation are 'bad actors' and there is a clear need for both continued surveillance and enforcement. The Grenfell Tower Inquiry and subsequent Independent Reviews have raised cultural issues within the building sector numerous times, yet FRSs as regulators see little fundamental change in attitude among developers and manufacturers. More could be done to balance the considerations of consumers and the public versus business interests in this context.

The present culture has meant that significant additional public resources (from FRSs and others) have been consumed in response to inappropriate materials being used in and on buildings, including [more than £5 billion of government funding](#) already allocated for remediation in England. Additionally, the median monthly Waking Watch cost per building ([as published by DLUHC](#)) is £11,361, or £137 per dwelling; these are expenses directly incurred by the inappropriate use of combustible materials in our built environment. Regulation and compliance can indeed save the public considerable money. This should be considered by government before any steps to deregulation are taken.

**Question 4: Based on your experience or understanding of UK regulators, do you find it clear what the overall purpose and objectives of individual regulators are?**

Generally, the purpose and objective of individual regulators is clear. However, we would question whether regulators are suitably resourced to perform their function and meet their objectives. NFCC recognises, for example, that local Trading Standards teams are often under-resourced.

**Question 8: Do you often have to engage multiple UK regulators on the same issue or area?**

1. Yes

The current issues regarding personal light electric vehicles (PLEVs, e.g. e-bikes and e-scooters) highlight how certain issues can cut across the scope of various regulators, such as those for product safety, fire safety, and road safety. This can add a degree of complexity and make holistic risk assessment and/or mitigation more difficult.

**Question 9: Do you consider that UK regulators collaborate effectively with each other and their international counterparts?**

In our experience, regulators hold a general willingness to collaborate, though this can be challenging as different territories operate in different ways. When considering building safety and comparing the UK with European or other international colleagues, there can be significant differences in building codes/standards, as well as differing political and financial support or intent. Examples include how dangerous combustible cladding on the external walls of buildings was regulated and enforced in some states of Australia, Canada, and Spain. NFCC has liaised with fire services in these countries, and they all took different approaches.

**Question 10: Where you engage with multiple UK regulators, do you find it clear which regulator is responsible for a specific issue or area, and how regulator mandates interact?**

UK FRSs have experienced some positive collaborative working with the OPSS with regard to products that present a fire risk. However, with the OPSS taking on the responsibility for construction products, we are yet to see how potentially overlapping mandates will work in practice.

**Question 11: Do you consider there to be underregulated areas of the economy, or gaps in regulatory responsibility between UK regulators?**

Yes. NFCC has a general concern about reduced business burdens for new/innovative products in markets where the risks may not yet be fully understood. Any streamlining of processes to reduce burdens could have unintended consequences and increase risk.

With the rise of online business, the risk posed by unregulated products from overseas has also increased dramatically. In 2015/16, there was a sudden and large increase in worldwide hoverboard sales and a corresponding rise in fires, which led to [large-scale corrective action](#) and hundreds of thousands of hoverboards being recalled in the UK. To avoid similar crises in the future, a framework closely linked to the risk levels of such products seems to be the most reasonable approach.

NFCC is also concerned about unregulated products, usually cheap in comparison with those that do meet UK standards, and often sold online. This includes purchases through the bigger online retailers such as Amazon. A report published in September 2022 by electrical safety charity [Electrical Safety First](#) found nearly 60 listings on prominent marketplaces including Amazon, eBay, Wish.com, and AliExpress which fell below the required safety standards for sale to UK consumers. We would therefore welcome much-needed legislation to ensure these dangerous products are more strictly regulated.

Furthermore, current guidance via the building regulations' Approved Documents means that many parts of the built environment are not designed to withhold or withstand modern fire loadings. Greater reliance on technology is now an integral part of our lives. Fire loading is increasing in homes due to both the materials used, which create toxicity, and a greater quantity of materials which create a larger volume of smoke.

Recent high-profile car park fires have provided some evidence that the current levels of fire resistance are not fit for purpose. A [recent fire](#) at Luton Airport destroyed more than 1,400 vehicles and a full structural report has confirmed the need to fully demolish the structure. A [similarly destructive car park fire](#) happened at the Liverpool Echo Arena in 2017. We would urge caution regarding any steps toward further deregulation when the built environment is already struggling to keep up with new risks.

We also highlight how seemingly innocuous, low-risk products can lead to significant safety concerns, such as in the case of artificial foliage. These decorative artificial green wall products are now ubiquitous in both domestic and commercial settings. We have concerns that flammable products are being used to cover extensive sections of wall or ceiling, creating a serious risk of ignition and resultant rapid fire spread. Whilst it is acknowledged that businesses have their own legal responsibilities to make sure their premises are safe, there are no such requirements in people's homes.

**Question 12: Do you consider that guidance issued by UK regulatory bodies makes the regulatory system clearer and easier to understand?**

The regulatory system is only made clearer if relevant guidance and standards are kept up to date and the scope of application is clear. Unfortunately, this has not happened. Following the Grenfell Tower fire, the Government announced in 2018 that it was going to undertake a full review of Approved Document B and that it was likely to take five years. Five years on from this we are yet to see anything beyond piecemeal updates to the guide. There also seems to be uncertainty within the construction industry about the application of guidance to specific products and methods of construction. The Approved Documents only apply to 'common building types' and do not give guidance to innovative new methods of construction. Where there is a need for additional guidance, this should be produced by the Government and regulators in a timely fashion to ensure that we are not left with legacy safety issues, as has been demonstrated recently with the need to demolish several schools in Essex due to concerns of the structural stability of the products used.

Additionally, the guidance for grid-scale batteries is largely reliant on the cooperation of manufacturers. It is understood that due to the rapid pace of development, it is difficult for governments to keep pace with innovation, though it may be possible to develop a framework for safety that outlines key benchmarks that new products need to achieve (including but not limited to life safety, environmental protection, and non-worsening standards).

**Question 13: Do you find UK regulators to be agile and responsive to new and emerging issues?**

No. We have a significant concern that some risk data may take time to reach an evidential threshold for action (e.g. corrective action such as a product recall being required). This leads to a scenario in which marketplace innovation is significantly ahead of product safety standards. Therefore, we believe that standards and testing requirements should be considered for emerging trends where there is a safety hazard based on criteria such as the rate of escalation in such events. This could be achieved through a generalised framework for safety that should outline the expectations of emerging products and new technologies. This framework could be used to hold developers and manufacturers to account if it is found that innovative products do not meet safety expectations.

Devices with lithium power cells and electric vehicles are among these examples. London Fire Brigade has reported that in 2023 it has been called out to an e-bike fire approximately every two days. This is their fastest-growing fire trend and resulted in three deaths and over 50 injuries in London alone over 2023. Another example is domestic Battery Energy Storage Sites, infrastructure projects that follow a planning route outside of building regulations. No guidance states where these sites are located. These technologies support the drive toward greener energy and net zero ambitions, and NFCC supports the drive to encourage innovation and support decarbonisation ambitions. However, this should not be at the cost of safety and associated regulations should not be seen as a burden to businesses of any size.

**Question 14: What factors do you think work for and against UK regulators' ability to respond sufficiently rapidly?**

It is clear that some product markets can outpace the relevant legislation, and we would suggest that further consideration should be given to ensuring that emerging trends and rapidly escalating safety threats can be incorporated into a new regulatory landscape.

A lack of regulatory powers concerning online and overseas markets works against UK regulators, too. This is mainly due to regulators' insufficient resources (including OPSS), especially in fields such as emerging issues and online safety.

Regulators need to be suitably resourced to discharge their function (see our response to Question 18). A notable example is Trading Standards. The Journal of Trading Standards reported that research by Unchecked.uk found that the total net spend by local authorities on trading standards services in England dropped by [52% from 2009 to 2019](#).

NFCC has previously supported ambitions to ensure any company selling products in the UK must have a compliance function based in the UK. If managed correctly, this could expedite regulators' enforcement abilities.

**Question 16: In the sector(s) that you operate in, do you think there are specific improvements that UK regulators and / or the Government could make to facilitate a more agile implementation of rules and regulations?**

NFCC supports the ambition to make product regulation more efficient and ensure that businesses can continue to develop innovative products in emerging sectors. However, we are concerned that an eagerness to remove 'red tape' and encourage business innovation comes with increased safety risk. We suggest that a baseline level of safety should be applied to all businesses based in and trading in the UK, after which further regulatory impact to business can be considered on a risk-assessed basis. Regulation is not something that should be feared by those wishing to develop safe products, rather it acts as a benchmark of safety that can be expected by consumers in the UK, and marketing a product as being safe and fit for purpose can in turn produce commercial value and return on investment, driven by consumer demand.

We believe that there are clear opportunities to improve efficiency and effectiveness by having OPSS as the single point of contact for product safety recalls. Our experience with white goods clearly highlights that there is confusion from the public and business when it comes to reporting, which was demonstrated in recent years during the [Hotpoint/Whirlpool tumble dryer recall issues](#).

Regulatory review clauses could be shortened (perhaps to three years), which would ensure that safety standards are maintained, and any emerging fire risks are considered.

**Question 17: Do you think UK regulators have the appropriate mix of skills to deliver their objectives?**

This can be challenging due to the specialist nature of some businesses and technology, where the regulator does not have the sufficient technical knowledge to properly scrutinise the facts being provided to them. A Primary Authority working with a business such as a white goods manufacturer may not be able to check the accuracy of the risk assessment/mitigation process without calling in specialist technical support. This results in a situation in which the regulator is reliant on the regulated party to provide accurate information, which was seen during the events that eventually resulted in the above-mentioned large national programme of corrective action for tumble dryers.

**Question 18: Do you think UK regulators are appropriately resourced to discharge their duties?**

No. A [Chartered Trading Standards Institute report](#) found a 56% reduction in Trading Standards officers from 2009 – 2016. A regime without adequate resources for market

surveillance, intelligence, product testing, and enforcement activity where needed, will indirectly support an unsafe environment, putting consumers at risk. Enforcement powers should be able to be applied at all parts of the supply chain. There is also a risk that where regulations are changing to a more performance-based approach to safety, such as in the furniture and furnishings regulations, there is a greater burden on regulators in terms of their resources and the need for competence in the areas being regulated. At present, the remit of trading standards is becoming broader at the same time as their resources are lessening.

**Question 21: In making decisions that involve risk, which of the below do you consider most accurate?**

- 1. UK regulators are too risk averse in their decision making**
- 2. UK regulators achieve the right balance of risk in their decision making**
- 3. UK regulators allow for too much risk in their decision making**

3 – UK regulators allow for too much risk in their decision making. Independent Reviews, including Dame Judith Hackitt's 2018 [\*Building a Safer Future\*](#) (BaSF), and 2023's [\*An Independent Review of the Construction Products Testing Regime\*](#), contained some key insights for construction product safety and regulation, which can and should apply more generally. The reports were clear that more should be done; we note here some of the key findings:

- The independence and credibility of testing bodies: Independence should be assured and strengthened.
- Inconsistent and fragmented testing practices: There are inconsistencies in the testing methodologies and standards used by different testing bodies within the construction industry. This lack of uniformity can lead to variations in product performance and reliability.
- Lack of transparency and traceability: There is a lack of transparency and traceability in product testing procedures. The reports emphasised the importance of clear documentation and accessible information regarding the testing processes, results, and certifications.
- Limited oversight and enforcement: There is a need for improved governance, oversight, and enforcement of testing standards. The reports emphasised the importance of regulatory bodies playing a more active role in monitoring and ensuring compliance with testing requirements.
- Insufficient regulation and accountability: There are weaknesses in the regulation and accountability of manufacturers and suppliers of construction products. It

suggests that clearer guidelines and responsibilities need to be established to ensure that products meet the required standards, and that appropriate action is taken in cases of non-compliance.

BaSF also recognised the need for a centralised system to track essential information about construction products, including their origin, performance characteristics, test results, and compliance with safety standards. This should also apply to products of significant fire safety concern, such as those containing lithium-ion batteries. A centralised system would improve transparency, enable effective traceability, and support regulatory oversight. In the event of a fire safety investigation, this information would be readily available, allowing authorities to quickly assess the compliance of products.

Consideration should be given, where appropriate, to include information highlighting to the public that there is no current standard for the product being sold. This information should be available centrally and coordinated by OPSS. E-bike conversion kits and modern methods of construction are examples of products that do not have a safety standard. This may highlight that, for example, there may not be compatibility or conformity between makes/models/accessories.

The Government is also allowing for too much risk on the part of regulators. One example is the proposed new furniture and furnishings regulations, which introduce greater burdens on regulators at a time when they are particularly under-resourced. The Government is introducing regulatory change well ahead of the industry's ability to formulate suitable standards to test products so that they can meet new regulations.

**Question 42: Are there any further points you would raise about regulation, including the functioning of the regulatory system or any recommendations you have on the stock of regulations from the Government which should be removed or reformed and modernised?**

We will be watching with interest the potential for improvements following the commencement of the Building Safety Act 2022, and the extension of the period of limitation for consumers to take claims. Construction products are increasingly being brought into the market with short shelf lives (such as cladding systems which are intended to be replaced every 20 years). It is unclear how much consumer awareness there is of these issues, and how this will potentially be approached in the future, including whether such products should be deemed capable of fulfilling the functional requirements of the Building Regulations 2010.

NFCC would like to see full consideration of the specific hazards associated with certain products to ensure they are not unduly dismissed as low risk, as well as considering how a risk in a product may emerge - this may happen over time or through use (e.g. plastics may become brittle, insulating materials for electricals may break down). We believe this area



should be kept under review, with more attention placed on consumer education, and would welcome the Government playing a central coordinating role in this space.

**Question 43: In what capacity do you interact with UK regulators or regulated businesses? (Please select the most appropriate option that represents you, and respond according to your primary responsibilities)**

- **Regulated entity (i.e. business)**
- **Consumer**
- **Regulator**
- **Academic or think tank**
- **Other**

Other – registered charity and membership body.

**Question 44: If you are a business, how many employees do you have?**

- **Not Applicable – not a business**
- **1 – 9 employees**
- **10 – 49 employees**
- **50 – 99 employees**
- **100 – 499 employees**
- **500+ employees**

100-499 employees.

**Question 45: Please name the Sector(s) that you operate in - you may wish to reference [Standard Industrial Classifications](#).**

Fire service activities.

**Question 47: What is your name, or the name of your organisation?**

Gavin Tomlinson, Protection & Business Safety Scrutiny Committee Chair.

**Question 49: We usually publish a summary of all responses, but sometimes we are asked to publish the individual responses too. Would you be happy for your response to be published in full?**

- **Yes**
- **Yes, but without identifying information**
- **No, I want my response to be treated as confidential**

Yes.

NFCC hopes this response is helpful and welcomes further discussion following the outcome of the call for evidence.

Regards,



**Gavin Tomlinson**  
Protection & Business Safety Scrutiny Committee Chair  
NFCC