



**NFCC**  
National Fire  
Chiefs Council

The professional voice of the  
UK Fire & Rescue Service

National Fire Chiefs Council  
West Midlands Fire Service  
99 Vauxhall Road  
Birmingham  
B7 4HW

Telephone +44 (0)121 380 7311  
Email [info@nationalfirechiefs.org.uk](mailto:info@nationalfirechiefs.org.uk)

Building Regulations,  
Welsh Government,  
Cathays Park,  
Cardiff,  
CF10 3NQ.

Sent to: [enquiries.brconstruction@gov.wales](mailto:enquiries.brconstruction@gov.wales)

12 May 2023

## **Consultation on the draft definition of a higher-risk building for the design and construction elements of the new building safety regime**

The National Fire Chiefs Council (NFCC) is pleased to respond to the consultation published on 17 February 2023 *Building safety for higher-risk 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 and Reform Unit (PRU).

This response was drafted in consultation with our members across Welsh FRSs, and reflects their expertise and competence on the subject matter.

### **General Comments**

NFCC has serious concerns about the proposed definitions within this consultation. We believe that the proposals fail to deliver improvements across the entire built environment, particularly for vulnerable people who are excluded from the definitions.

NFCC has raised concerns with the UK Government about the proposals within this consultation multiple times. We continue to be disappointed about the need for NFCC to reiterate identical concerns as they were not taken on board and are still outstanding. We stressed that risk was not related to height during the drafting of the Building Safety Act (before it was introduced to Parliament), during its progress through Parliament, and during the drafting of regulations in England.<sup>1</sup> This consultation document continues that misconception especially in care homes and hospitals.

While it is essential to have a clear and concise definitions to avoid any ambiguity in applying the regulations, the inclusion of hospitals and care homes with a minimum height threshold of over 18m or 7 storeys high within the scope of the definition of high risk building is not appropriate. Fires of a severe nature will persist, and hospitals and care homes, regardless

---

<sup>1</sup>[https://www.nationalfirechiefs.org.uk/write/MediaUploads/Consultations/2022/CR202221\\_Higher\\_Risk\\_Buildings\\_\(Descriptions\\_and\\_Supplementary\\_Provisions\)\\_-NFCC\\_Response.pdf](https://www.nationalfirechiefs.org.uk/write/MediaUploads/Consultations/2022/CR202221_Higher_Risk_Buildings_(Descriptions_and_Supplementary_Provisions)_-NFCC_Response.pdf)

of their height, will remain a significant risk with the potential for catastrophic consequences, including the loss of multiple lives and critical community resources., FRSs cannot be expected to fully mitigate fire events beyond the expectations of the building regulations, and are not able to provide a safety net where buildings are inherently unsafe and at risk of rapid fire spread.

NFCC has observed a contradiction in the regulations for care homes in Wales. We find it inconsistent that while Wales mandates the installation of sprinklers in all new care homes, regardless of their height, the proposal does not acknowledge that care homes are high-risk buildings unless they exceed 18 meters or 7 storeys in height. We believe that this inconsistency in the regulations poses a potential hazard to the safety of the residents and staff.

We believe that the proposed exclusion of temporary leisure establishments, such as hotels, lacks clarity as it does not differentiate between short and long-term stays. The inclusion of hotels that offer amenities for extended stays blurs the line between temporary and permanent housing. There is also uncertainty about how to regulate short-term lets for holiday purposes. The exclusion of temporary leisure establishments based on their active management ignores the fact that some may be managed similarly to residential buildings. It is important for the Welsh Government to consider the implications of this proposed exclusion.

NFCC believe that these regulations fail to take into account a number of risks and impacts of the proposed definition of higher-risk buildings and its inclusions and exclusions. We would encourage Welsh Government to make changes and amendments to the industry with the intent of making it safer..

Yours sincerely,



**Nick Coombe**

Head of Protection and Reform Unit  
Protection and Reform Unit

## **Organisational Information**

### **What is your name?**

Nick Coombe

### **What is your position?**

Head of Protection and Reform Unit

### **What is the name of your organisation?**

National Fire Chiefs Council

### **What is your email address?**

PPRUAdminTeam@nfcc.org.uk

### **Are you responding as an individual or on behalf of an organisation?**

Organisation

### **What is your type of organisation?**

The NFCC is a professional body.

### **In which specific countries do you operate?**

The NFCC is a UK-wide organisation, and our members include Chief Fire Officers and other senior members from FRSs across England, Wales, Scotland, and Northern Ireland.

## **Questions**

### **Q1. Do you agree with the definition of a residential unit?**

- yes**
- no**
- unsure**
- not applicable**

### **Please support your views**

The NFCC agrees with the definition of a residential unit in the draft regulations as it encompasses a broad range of residential living and sleeping arrangements.

### **Q2. Do you agree with the proposal to include a building which has a single residential unit, as opposed to two or more residential units, within the definition of “higher-risk building”?**

- yes**
- no**
- unsure**
- not applicable**

### **Please support your views**

We would support the proposal to include a building with a single residential unit in the definition of a "higher-risk building," as it would lead to greater fire safety standards and ultimately improve the safety of occupants.

The NFCC is pleased that this appears to demonstrate Welsh Government are taking a whole building approach which means that multi-use buildings are included in the new regime where they contain at least one residential unit, though we would welcome clearer clarification and confirmation of a whole building approach inclusive of the commercial parts of any buildings. This acknowledges that all buildings, regardless of their size, location or use, can pose a fire risk to occupants, and that fire safety measures must be in place to minimize this risk.

**Q3. Do you agree with the proposal to include hospitals and care homes?**

- yes**
- no**
- unsure**
- not applicable**

**Please support your views**

NFCC fully support the proposal to include hospitals and care homes in the definition of higher-risk buildings, but we do not agree with imposing a height or storey limit on these buildings.

We believe that all care homes and hospitals are high risk, regardless of their height, as evacuating dependent occupants and critical reliance on staff during emergencies pose the greatest risk factors. We have been firm in our stance on this issue, as the current legislative and building control frameworks and minimal fire protection requirements do not allow for the full mitigation of serious fires and fire spread.

We do not support the proposal to only include care homes and hospitals over 18m or 7 storeys high, as this threshold rarely applies to these buildings. Imposing a minimum height threshold does not fulfil the policy intent of the regime, as it does not protect the majority of care homes and hospitals, which are vulnerable and present significant evacuation challenges.

Although Dame Judith identified culture within the building industry as a significant issue, we have yet to see any tangible change in culture within the industry, and there is still a culture of building to the minimum standard required until required otherwise.

**Q4. Do you agree with the proposed exclusions of secure residential institutions (e.g. prisons)?**

- yes**
- no**
- unsure**
- not applicable**

**Please support your views**

NFCC fully support excluding secure residential institutions such as prisons. We agree with the rationale that these buildings have specific security considerations which need to be considered and that the Ministry of Justice have their own building and fire safety arrangements. Prisons are also unlikely to be repurposed for residential use at a later date.

However, we do not support the inclusion of secure hospitals and secure local authority accommodation within the definition of secure residential buildings and would like them to be exempt from exclusion. We outlined the serious consequence of excluding hospitals and care homes over 18 metres or 7 storeys above and see secure hospitals and residencies as riskier. The equality duty is more likely to apply to these as they are often the permanent residence for those with mental health challenges. Secure accommodation can also include temporary respite facilities and sanctuary schemes which further exacerbate the need to ensure the buildings are safe reflecting the vulnerabilities of the residents within them.

**Q5. Do you agree with the proposed exclusion of temporary leisure establishments (e.g. hotels)?**

- yes**
- no**
- unsure**
- not applicable**

**Please support your views**

The proposed exclusion lacks clarity as it fails to differentiate between short-term and medium to long-term temporary leisure establishments. Many hotels offer facilities that allow people to stay for extended periods, such as kitchens and washing machines, which blurs the line between temporary and permanent housing.

Further clarification is needed on short-term lets, as it is unclear whether those who short-term let out a room, for instance, for holiday purposes, would become both residents and duty holders simultaneously. This raises concerns about how to regulate such situations across applicable regulators, and it is essential to gain a better understanding of the consequences.

It is concerning that the exclusion of temporary leisure establishments is based on the rationale that these properties are generally actively managed. It ignores the fact that some establishments may be managed similarly to a residential building. Given the statement in the consultation document that "residential units still present the greater fire risk," it is crucial that the Welsh Government considers the implications of excluding such establishments and implements suitable measures to ensure the safety of occupants.

**Q6. Do you agree with the proposed exclusion of military premises (e.g. military barracks)?**

- yes**
- no**
- unsure**
- not applicable**

**Please support your views**

NFCC supports the proposal to exclude military premises from the new building safety regime. It is crucial, however, to consider the entire lifespan of a building that falls within the scope of the new regulations. Although a building may be exempt during its construction, its exemption may not apply during occupation or future renovations. It is essential to ensure that even exempt buildings can be modified or used in the future without incurring excessive costs or compromising safety measures. We would suggest that the Ministry of Defence (MOD) adhere to the new regime's key elements in their future arrangements.

The Welsh Government should verify that MOD's proposals meet the necessary requirements before accepting this exemption.

**Q7. Do you agree with the proposed definition of “building”?**

- yes**
- no**
- unsure**
- not applicable**

**Please support your views**

The NFCC agrees with the proposed definition of building. NFCC notes that the Welsh Government is committing to the definition of a building as per the Building Act 1984, a definition widely understood in common law to encompass the whole of a building. NFCC supports the use of this definition to support a whole building approach. We presume the intent that this consultation is outlining is a commitment to extending through the use of this definition within any supporting secondary legislation towards implementing these policies. We would encourage the Welsh Government to avoid the approach which has been taken in England of introducing new definitions for ‘independent sections’ of a building within secondary legislation.

We also note that this definition introduces an exclusion of plant which is not included in the equivalent legislation in England. The Welsh Government should consider the possible impacts for developers that may arise from including this exclusion in the definition. This should be considered alongside other relevant elements of this consultation, such as the counting of storeys. We believe that careful consideration of these issues is essential to ensure that the proposed definition is both effective and workable.

**Q8. Do you agree with the proposed method for determining the height and storeys of a building?**

- yes**
- no**
- unsure**
- not applicable**

**Please support your views**

NFCC support the proposed method for measuring height as they provide consistency across the regime in England and Wales. The industry is also used to measuring the height of a building in this way and is expected to reduce potential confusion.

We note that separate guidance is being developed in England to support the regulations, including specific scenarios to help determine whether a building falls under the scope of the

new regime or not. Similar guidance should be provided in Wales to assist Accountable Persons in determining whether their buildings need to be registered and compliant with the new regime's requirements. This would ensure greater clarity and consistency in the application of the regulations across both countries.

**Q9. Are you content that the costs as set out in the economic impact assessment cover all likely costs of the enhanced regime for higher-risk buildings?**

- yes
- no
- unsure
- not applicable

NFCC acknowledges the wider monetised and non-monetised benefits the government has identified. The consultation document, however, states that costs were set out in the Economic Impact Assessment which was produced for the design and construction elements of the Building Safety Bill for Wales. Given the changes in the wider economic climate since then, we are not able to provide an opinion on the matter.

**Q10. Do you think any aspect of this policy will adversely impact on those with protected characteristics?**

**(The protected characteristics under the Equality Act 2010 are age, disability, gender re-assignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex, and sexual orientation).**

- yes
- no
- unsure
- not applicable

**Q11. If yes, please tell us which aspect of this policy you think will adversely impact those with protected characteristics.**

We believe that care homes and hospitals should not be excluded based on height.

**Q12. For each aspect that you have identified, please tell us who you think will be adversely affected and how.**

Including height restrictions in the definitions would have negative consequences for vulnerable individuals in care homes and hospitals for reasons we as we have previously stated. We have not been provided with any valid reasons for excluding these types of premises based on height, especially since care homes are already on the national risk register and pose significant risks.

**Q13. We would like to know your views on the effects that the proposed policies would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

N/A – NFCC is not aware of any specific effects that the proposed policies would have on the Welsh language.



**Q14. Please also explain how you believe the proposed policies could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

N/A – NFCC is not aware of any specific opportunities that may arise from the proposed policies that could impact the Welsh language.

**Q15. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.**

N/A – Please see letter above.