



NFCC
National Fire
Chiefs Council

The professional voice of the
UK Fire & Rescue Service

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12 October 2020

Fire Safety – Government consultation

To the Home Office,

Please find attached the National Fire Chiefs Council (NFCC) response to the consultation paper published on 20 July 2020 titled *'Fire Safety – Government consultation.'*

NFCC is the professional voice of the UK fire and rescue services (FRS) and is comprised of a council of UK Chief Fire Officers. This submission was put together by NFCC's Protection Policy and Reform Unit (PPRU), following extensive consultation across UK FRSs, and was overseen by the NFCC Protection and Business Safety Committee.

Our engagement strategy for developing responses to this consultation has followed a process of national workshops, including Protection practitioners, Chief Fire Officers, senior leaders, and representatives of NFCC's Operations Committee.

This widespread engagement has been undertaken to ensure NFCC's response is as representative as possible of the views of the UK fire and rescue services. The feedback collected has been used to inform responses to the consultation questions.

The evidence collected by NFCC suggests that, generally, FRSs welcome this set of proposals, and it is pleasing to see the Home Office addressing many of the areas highlighted by the NFCC in our 2019 response to the Call for Evidence.

Some outstanding issues remain; a key aspect is interaction of overlapping legislation and accompanying proposals within the draft Building Safety Bill, where it is not clear that the policy intent has been met for simplifying the management of buildings while in occupation, particularly where the building is mixed-use.

In line with our 2019 response, we would also like to see a mechanism to resolve the fundamental barrier to safety improvements created by the non-worsening conditions of section 4(3) of the Building Regulations. We ask that Home Office colleagues raise this as a matter for further policy development with the Ministry of Housing, Communities and Local Government.

NFCC supports the Government's approach to publicly consulting on how to implement the Grenfell Tower Inquiry Phase 1 recommendations. This consultation provides an opportunity to gather wider views on how to practically deliver the recommendations in a way that brings the maximum benefits to public safety.

NFCC has been engaged in the development of the Fire Safety Bill and this consultation and are supportive of the approach being taken. It is important as noted by Sir Martin that his recommendations command the support of those who have experience of the matters to which they relate. The recommendations must be properly considered and delivered in a way which helps fix the broken system identified by Dame Judith Hackitt, and restores public confidence in fire safety. The consultation is an important step in this process.

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

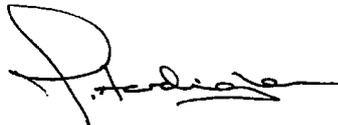
Yours sincerely,

Roy Wilsher



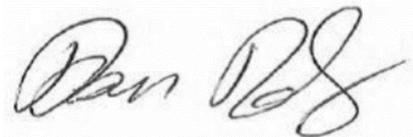
**Chair, National Fire
Chiefs Council**

Mark Hardingham



**Chair, NFCC Protection
and Business Safety
Committee**

Dan Daly



**NFCC Protection Policy
and Reform Unit**

Executive summary

Clarification and strengthening of the FSO

In our response to the call for evidence in 2019, NFCC highlighted a number of areas where our members felt the FSO could be strengthened and improved. These included:

- A review of current enforcement and sanctions.
- Supporting guidance is severely out of date and incorrect in places.
- Articles 3 and 5 do not ensure that Responsible Persons can be easily identified and held to account.

NFCC is pleased to see Home Office consulting on a number of areas NFCC have raised.

Implementation of the GTI Phase 1 recommendations

NFCC supports the Government's approach to publicly consulting on how to implement the Grenfell Tower Inquiry Phase 1 recommendations. Many of the Home Office proposals provide pragmatic solutions to delivering the recommendations made by Sir Martin Moore Bick without degrading the intended public safety benefits.

We agree the GTI recommendations be properly considered and delivered in a way which helps fix the broken system identified by Dame Judith Hackitt, to restore public confidence in fire safety.

NFCC is working alongside others to improve building safety, using the learning from the Inquiry and have accepted the principle of the recommendations. FRSs across the UK have raised a number of concerns with us about the implications and unintended consequences, if the recommendations were to be interpreted literally. In this regard, we agree with Sir Martin that the recommendations 'command the support of those who have experience of the matters to which they relate'. This consultation on how to get the details of the recommendations right, is an important step in this process.

A key example are the GTI recommendations about Personal Emergency Evacuations Plans (PEEPs), which have raised concerns about the impacts on vulnerable leaseholders and residents.

Because PEEPs generally require on-site staff to facilitate them, they are usually only recommended in buildings specifically built to house vulnerable persons. If PEEPs became a legal requirement in buildings not designed for them, large numbers of staff may be required for landlords to meet their new legal duties, and these costs could be passed on to leaseholders and residents, in a similar way to those already facing costs due to waking watches in their buildings.

There are also challenges around how to keep the information up to date as well as privacy considerations. Information could become out of date or inaccurate due to changes in residency, the temporary nature of some conditions leading to mobility issues (e.g., recovery from illness or injury) and at the time it may be most relevant, should the need for an evacuation arise, the information may not reflect the occupancy of the building at that time, when people may be out of the building for any number of reasons. In order to prepare a

PEEP, those residents with vulnerabilities would need to disclose personal information to their landlord. In some cases, those vulnerabilities affecting individuals are not always visible and obvious and may only be temporary. Would a legal requirement compel them to disclose this to their landlord?

If a risk assessment found it wasn't financially sustainable or possible to arrange a PEEP for a vulnerable person, would they face being evicted from a place they may have lived in for 20 years? Or face discrimination when attempting to secure a tenancy because of the additional requirement for a PEEP?

With an excess of 13.9 million persons recorded as disabled, would those with hidden disabilities be expected to declare every factor which may compromise their ability to evacuate without assistance, such as mental health issues, dementia, or heart problems?

NFCC has held workshops with every FRS in England and nearly all of them raised these concerns. We are therefore pleased to see Government have prepared a practical set of proposals to implement the intent of the GTI's findings and protect the rights of residents.

Ultimately if a person is vulnerable enough to require assistance to evacuate, management should be considering if there are further measures which would better protect their safety (such as increased use of sprinklers, refuge areas and evacuation lifts). These are things NFCC has advocated for a number of times to be included within the relevant design guidance in Approved Document B. If a building is high risk enough to suspend a stay put strategy, such as those identified with combustible external wall systems, then the building must be remediated as a matter of urgency.

The best way to protect vulnerable persons is to make sure building standards require high levels of built-in fire protection from the outset and that buildings are built and maintained properly; this is what NFCC has called for.

The proposals in this consultation are therefore a good starting point for what can be practically achieved in a timely way; NFCC would be happy to participate in a task and finish group to examine this issue further, to see if other technical solutions could help to better support evacuation strategies. We look forward to further engagement with government on this matter.

Areas of outstanding concern

Interface of the Housing Act 2004 and Regulatory Reform (Fire Safety) Order 2005

Dame Judith's proposals recommended the Government look to minimise overlaps in legislation, and that where multiple Response Persons can exist in a single building, that this be simplified to make it easier for residents and enforcing authorities alike.

The proposals within the accompanying draft Building Safety Bill however introduce a system that not only retains the possibility for multiple Response Persons, but now also multiple Accountable Persons plus Building Safety Managers in the same building. NFCC therefore remain concerned, particularly in regard to mixed-use buildings, that the Government's policy intent for the management of safety in occupation has not been met.

Life safety vs property protection

Whilst NFCC appreciates the current intention of the regime is primarily life safety, further emphasis on environmental impacts and property protection could have significant additional benefits for communities and the safety of firefighters.

We recommend that government consider whether there are opportunities within the full technical review of supporting design guidance to improve property protection, particularly for key community assets such as schools and heritage buildings.

Non-worsening provisions versus continuous improvement

The FSO is based on the principle of buildings being built correctly. This has left FRSs without powers to address critical safety failings within buildings, particularly with regards to firefighting facilities.

There remains a fundamental disconnect between the non-worsening conditions of Building Regulations, and the expectations of continuous improvement through the fire risk assessment process set by the FSO.

Section 4(3) of the Building Regulations 2010 states that where the work did not previously comply with Schedule 1 that when the new work is complete it should be no more unsatisfactory in relation to that requirement than before the work was carried out.

This is interpreted as allowing fire precautions to be removed and replaced on a like-for-like basis – meaning a building can be refurbished many times but the general fire precautions may never get improved to modern standards. This runs contrary to the principles of prevention outlined in the FSO, that premises risk assessments should adapt to technical progress and reduce overall risk within buildings.

Non-worsening provisions are resulting in lost opportunities to improve building safety. This requires a practical solution. A good case study of this is the total refurbishment of Lakanal House following a multiple fatal fire, which overlooked opportunities to improve the fire safety for the building, despite significant investment in the refurbishment works.

Article 38 of the FSO, provides that fire authorities can require firefighting facilities to be maintained, but have no powers to require them to be installed where they have not been included in the first instance. If FRS requirements are missed during construction, fire authorities have no ability to require improvements to address this.

NFCC recommends the amendment of Article 38 to enable the FSO Enforcing Authority to require the installation of firefighting measures that are relevant for the safety of firefighters and effective firefighting activity, which otherwise have not been included as part of non-worsening. NFCC also believes a change of use or major refurbishment should trigger a cost/benefit analysis of reasonable life safety improvements balanced against the value of the building works in question; we recommend further policy development is undertaken with the Ministry of Housing, Communities and Local Government on this point.

About you and your response	
Q1. Please select in what capacity you are responding to this consultation. Please select any that apply	i. Other
Q2. Please indicate whether you are responding as an individual or on behalf of an organisation	b. On behalf of an organisation (skip to question 4)
Q4. If you are responding on behalf of an organisation, please provide details of a) the name of the organisation you are representing, and	The National Fire Chiefs Council
b) how many people the organisation employs	c. 50 – 249
Q5. If you are responding on behalf of a trade body or other representative group of individuals or organisations, please provide	
a) the name of the group	The National Fire Chiefs Council
b) a brief description of its objectives	NFCC is the professional voice of the UK fire and rescue services (FRS).
c) number of members	NFCC is comprised of a council of UK Chief Fire Officers.
d) number of members	2. 250 – 999

	Respondent details
Full Name	Nick Coombe
Position (if applicable)	NFCC Building Safety Team Lead, NFCC Protection and Business Safety Committee
Contact details	
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Section 1: Strengthening the Fire Safety Order and Improving Compliance (for all Regulated Premises)

1.1 Guidance

Q6. To what extent do you agree that Article 50 is a sufficient basis for providing guidance to RPs to support their compliance with their duties under the Order?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q7. To what extent do you agree that a strengthened legal basis for guidance under the Fire Safety Order is needed such as a Code of Practice?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q8: If you agree that a strengthened legal basis for guidance is required, then can you set out which specific areas or issues you think should be covered by an 'Approved Code of Practice'?

- a) **Responsible Persons**
- b) Enforcement and Sanctions
- c) **Fire Risk Assessments**
- d) Higher Risk Workplaces
- e) **Provision of Information**
- f) Other

If 'Other' please outline what other areas should be considered to be covered by a code of practice and why:

A, C, and E.

The FSO call for evidence highlighted that guidance is often flouted and ignored as 'advice'. Approved codes of practice have specific legal standing, providing more weighting than 'guidance', and requires Responsible Persons (and duty holders such as those identified in Article 5 of the FSO) to actually apply the guidance.

An ACoP for resident engagement would be a beneficial tool as it gives the emphasis necessary that fire safety is important, and that residents play a clear role in maintaining that safety. It would also clearly set out what the minimum expectations are, removing any ambiguity for the RP as to their responsibilities or the expectations of the residents – giving the same weighting as Provision of Information and ensuring it does not get lost and really does reflect that residents are at the heart of the system.

Q9: If you do not agree that the legislative basis for guidance needs to change, to what extent do you agree/disagree that the format and style of Codes of Practice (such as the Health & Safety Executive's) should be adopted for any new or revised guidance under the existing provisions within the FSO?

N/A

1.2 Responsible Persons

Q10. To what extent do you agree that a requirement for RPs to record who they are, the extent of their responsibility under the FSO, and their contact information will facilitate the identification of RPs?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q11. To what extent do you agree that the requirements set out in proposal 1 be extended to others that have control of the premises, such as dutyholders?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q12. To what extent do you agree that the information the RP is required to record should include a UK based contact address?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q13. To what extent do you agree that the duty to cooperate and coordinate (Article 22) should be amended to include a requirement for RPs to take steps to identify themselves to all other RPs (and where applicable Accountable Persons and/or Building Safety Managers as proposed under the Building Safety Bill) where they share or have duties in respect of the same premises.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q14. Do you have any other comments to further support your answers above?

One of the most significant issues that FRSs have reported to NFCC in enforcing the order is the difficulty experienced in identifying the RP. This is further compounded in complex situations where multiple RP's exist, and legal assistance has to be sought in order to review the contractual elements in order to identify the details within the contract in order to clarify the "control".

NFCC encourages the amendment of Art.22 and further suggest that both their contact details and the extent of their responsibilities should be recorded to enable clear identification. Where there are multiple RPs, that a lead/principle RP is nominated, and a clear handover process is in place and recorded for when there is a change in the lead/principle RP or any of the respective RPs – e.g. a logbook of ownership similar to that of a car where the enforcing authority is able to see the history of ownership.

1.3 Quality of Fire Risk Assessments

Q15. To what extent do you agree that the FSO should include a competency requirement for fire risk assessors and other fire professionals engaged by the RPs?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q16. To what extent do you agree that the name and contact information of an individual engaged by the RPs to undertake any or all of the fire risk assessment, should be recorded within the completed fire risk assessment.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q17. Please set out any further information you think fire risk assessments should include.

As part of the strengthening of the FSO, it is important to have suitable guidance that defines the need for a tiered approach regarding when it is unsuitable for an RP to complete their own FRA. This will make it clear to an RP where a competent fire risk assessor and other fire professionals are required.

It is also important that as well as the contact information of the individual being recorded in the fire risk assessment, that their qualifications and 3rd party accreditation is also recorded, in a similar manner to that of a medical practitioner e.g. 'Ms Fire Engineer: L4dip FS IFE.' this will enable the FRS & RP to be able to verify the credibility of the 'competent person.'

Q.18 To what extent do you agree that a duty should be placed on all RPs to record their completed fire risk assessments?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q19. To what extent do you agree that all RPs should be required to record their fire safety arrangements (Article 11)?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q20. Do you have any other comments to further support your answers above?

With regard to Q18 and 19 above, this has to be defined by size of undertaking. Again, this could be burdensome for a small business owner, who has a ground floor shop as a sole trader. Therefore, a clear tiered structure needs to be encompassed within guidance. It must be remembered that within a simple premises, the various CLG guides actually encourage owners/employers/operators to undertake their own Risk Assessment. Any competency requirement will have to be very carefully considered so as not to cause all small businesses to need to incur additional expenditure when it is not necessary.

However, NFCC does recognise and strongly supports that in more complex premises, especially those with a sleeping risk, or with vulnerable occupancy, that the Fire Risk Assessment and fire safety arrangements should be undertaken by a competent registered fire risk assessor and the whole of the fire risk assessment be required to be fully recorded.

NFCC recognises this could add additional burdens to some businesses however, there are examples of tools such as ‘keep your business in business’ designed to enable RPs of smaller businesses to undertake a suitable and sufficient fire risk assessment that is both proportionate and valid for their premises. It is important that adequate guidance is provided as part of the guidance overhaul as per section 1.1 above for the RP to be able to undertake this duty competently.

1.4 Provision of Information

Q21. To what extent do you agree that a new requirement should be placed on RPs to provide information to specific relevant persons (residents) on fire safety in multi-occupied residential buildings (excluding individual flats/private dwellings) in which they reside?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q22. To what extent do you agree that a new requirement should be placed on RPs to take steps to provide the following information to residents in multi-occupied residential buildings:

a) Information on the risks identified by the fire risk assessment;

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

b) The preventative and protective measures in place to mitigate fire risk;

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

c) The role and responsibilities of relevant RPs and dutyholders, including their name and contact details; and

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

d) The fire risk assessment (available on request).

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q23. Please note any comments you have on whether the information outlined above should be provided to specific relevant persons (residents).

It is important that residents are provided with a sufficient level of relevant information to enable them to better understand what fire safety arrangements are in place to keep them safe and this provision of information should align with the requirements of the Resident Engagement Strategy as set out in the draft BSB; to ensure that there is no discrepancy between residents living in HRRBs and those that do not.

The guidance on Provision of Information should make clear the expectations of a duty holder (A.5.3 person) e.g. leaseholders who sub-let. Engagement with the FRSs and the MHCLG BPG (Social Housing best practice group) identified that Provision of information is vital in building trust between residents and landlords, and residents feeling safe in their own homes. They also identified that the way the information is provided is equally important and should be available in an accessible manner (e.g. language, formats, age specific etc) to all.

Q24. What other information, if any, should RPs be required to provide specific relevant persons (residents)?

- The emergency procedures (what to do in a fire and why) and any special arrangements related to evacuation.
- Who they should be reporting any concerns to regarding the fire safety arrangements, including the route for escalation and redress.
- What the duties of the residents are in assisting the RP in their undertaking, i.e. not to interfere with any of the fire safety systems, not to change their front doors etc, and what the enforcement routes are, and the relevant sanctions.
- A clear definition of the term 'resident'.
- Home safety information of how to keep themselves safe such as the infographic posters (MHCLG Social Housing Best Practice Group Pilot)
- Signposting for vulnerabilities – being able to contact their local Community Fire Safety (Prevention) Officer

Q25. The intention of proposal 6 is to provide information to residents of all multi-occupied residential buildings subject to the FSO. To what extent do you agree that this information should be available on request to other 'relevant persons'¹ within:

¹ Under the FSO, a relevant person is defined as any person who is or may be lawfully on the premises and any person in the immediate vicinity of the premises who is at risk from a fire on the premises.

a) multi-occupied residential buildings covered by the Order

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
		Neither agree nor disagree			

b) All buildings covered by the Order

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
		Neither agree nor disagree			

Q26. Please note any additional information to support your answer to Question 25.

Q25 defines relevant persons, which could realistically include those who will only be in the building infrequently or for short durations, such as a delivery person. They would be “relevant” as they are lawfully in the building, but for the RP to provide all persons who may access a building with relevant information could be impractical and unworkable.

For example, it could be burdensome for the RP to provide the visitors of residents with fire safety information due to their transient nature. This could be a duty of the ‘resident’ to ensure that their visitors are aware of the fire safety arrangements when it is appropriate.

However, it would be highly relevant in premises such as short-term lets, as well as student accommodation (this would be subject to them being classed as “residents”).

Q27. To what extent do you agree that a new requirement should be placed on RPs to take steps to share all relevant fire safety information with subsequent RPs?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q.28. In addition to fire risk assessments, is there any other information that should be shared between successive RPs?

- Everything relating to Reg 38 as required by the building regulations.
- The emergency evacuation strategy.
- The identities of anyone at particular risk where specific arrangements have had to be enacted to aid their ability to react to the need to evacuate.
- Any near misses and any refurbishment works - the equivalent of ‘golden thread’ provisions.

Q29. Please note any other gaps in the FSO in relation to the provision of information and how they could be addressed.

Additional training for residents who are part of the tenant resident association or are board members/directors of the TMO – setting out their roles and responsibilities

Q30. Do you have any other comments to further support your answers above?

1.5 Enforcement and Sanctions

Q31. To what extent do you agree that a level 3 fine (£1,000) provides a suitable deterrent and carries a suitable financial penalty?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

Q32. To what extent do you agree that a level 4 fine (£2,500) would provide a suitable deterrent and carry a suitable financial penalty?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

Q33. To what extent do you agree that a level 5 fine (unlimited) would provide a suitable deterrent and carry a suitable financial penalty?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q34. Do you have any other comments to further support your answers above?

The level of enforcement and sanction needs to be balanced across the sector to ensure it is suitable for the offence and reflects the seriousness of the breach. The FSO levels should mirror and be proportional to that of the BSR, HSE, Environment Health Officers, and Housing Act enforcing authorities, in a balanced way that enables FRSs to carry out their duties in a trusted manner but is not seen as a regulator without teeth.

It should also not create additional burdens on the FRSs to recover the fines – currently the process of recovering a £1,000 fine is not cost effective for an FRS. Any fine needs to serve as a deterrent for not only the RP receiving it, but for other RPs.

1.6 Maintenance, including the role of residents

Q35. To what extent do you agree that Article 17 makes sufficient provision for ensuring that premises and any facilities etc are subject to a system of maintenance and are maintained to an appropriate standard for the safety of relevant persons?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q36. To what extent do you agree that the FSO sufficiently provides for the replacement of defective or substandard facilities, equipment and devices including fire doors?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
			Tend to Disagree		

Q37. To what extent do you agree that Article 17 is effective in ensuring the occupier (of parts of a building to which the FSO does not apply) co-operates with the RP?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
			Tend to disagree		

Q38. To what extent do you think that the occupier (of residential parts of a building to which the FSO does not apply) in buildings out of scope of the new regime should be under duties similar (in relation to fire safety) to those being considered under the Building Safety Bill?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q39. To what extent do you agree that the powers of enforcement available to Fire and Rescue Authorities are effective in ensuring remediation for breaches of Article 17?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q40. Do you have any other comments to further support your answers above?

The clarification in the Fire Safety Bill makes it clear that Flat front doors (fire doors) are within the scope of the FSO, however there is no clear mechanism for how the RP will ensure doors are maintained at the right standard or replaced. In many cases the terms of leases do not expressly cover this. In other cases, leases will only deal with issues of maintenance, not improvement or replacement. This leaves FRS in a position where to bring about necessary safety improvements they would have to act directly against each individual flat – e.g. fifty enforcement actions for a block of fifty flats. This is impractical and disproportionately resource intensive. A clear mechanism is needed to enable fire authorities to enforce against the RP for the whole block, who would then be responsible for enforcing individual leases to keep their front doors at the right standard or replace them.

Article 17 could be strengthened further and provide for enforcement action similar to that of Housing or Environmental health whereby the regulator makes arrangements for the defective equipment to be replaced and made safe and recharged to the RP when the RP fails to do so despite an enforcement notice being served. This however needs to be balanced against the RP then adding additional costs to the residents and leaseholders.

There is also a consideration that applies to resident's responsibility in assisting and cooperating with the RP in ensuring Article 17 is complied with by informing the RPs of any deficiencies, not removing FS measures such as fire doors, smoke detectors, or if they are having any works done (such as installing satellite TV) requesting permissions to undertake internal building works that may compromise the structural integrity or compartmentation. Where there is evidence that this is wilfully neglected by the resident, there needs to be appropriate enforcement and sanctions in place for FRSs to apply, which currently are not clear within the FSO (clarification around A.32(10)).

Use of the term "common parts" together with express coverage of external walls and structure by the amendments proposed within the Fire Safety Bill are intended to clarify that the Order captures all parts of the building outside of individual flats, regardless of whether they are parts accessed by residents or not, and anything within flats that forms part of a common service, such as interconnected alarms or a fire suppression system like sprinklers. The Bill will therefore make it clear that Article 17 should cover these systems.

Q41. To what extent do you agree that Article 38 makes sufficient provision for ensuring that premises and any facilities etc are subject to a system of maintenance and are maintained to an appropriate standard for the safety of fire-fighters?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
			Tend to disagree		

Q42. To what extent do you agree that Article 38 is effective in ensuring that the occupier (of parts of a building to which the FSO does not apply) co-operates with the Responsible Person?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
			Tend to disagree		

Q43. To what extent do you agree that the powers of enforcement available to Fire and Rescue Authorities are effective in ensuring remediation for breaches of Article 38?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q44. Do you have any other comments to further support your answers above?

Article 38 can be used to ensure systems are maintained however, where those systems were not installed at the time of build, then it is not at all effective. This is a serious limitation of both Article 38 and the non-worsening clause within section 4(3) of the Building Regulations 2010.

There remains a fundamental disconnect between the non-worsening conditions of Building Regulations, and the expectations of continuous improvement through the fire risk assessment process set by the FSO.

Regulation 4(3) of the Building Regulations 2010 states that where the work did not previously comply with Schedule 1 that when the new work is complete it should be no more unsatisfactory in relation to that requirement than before the work was carried out.

This is interpreted as allowing fire precautions to be removed and replaced on a like-for-like basis – meaning a building can be refurbished many times but the general fire precautions may never get improved to modern standards. This runs contrary to the

principles of prevention outlined in the FSO, that premises risk assessments should adapt to technical progress and reduce overall risk within buildings.

Non-worsening provisions are resulting in lost opportunities to improve building safety. This requires a practical solution. A good case study of this is the total refurbishment of Lakanal House following a multiple fatal fire, which overlooked opportunities to improve the fire safety for the building, despite significant investment in the refurbishment works.

Article 38 of the FSO, provides that fire authorities can require firefighting facilities to be maintained, but have no powers to require them to be installed where they have not been included in the first instance. If FRS requirements are missed during construction, fire authorities have no ability to require improvements to address this.

It is the duty of the RP to protect relevant persons, however firefighters are not relevant persons at the time that they are having to make use of the “facilities, equipment and devices”. Furthermore, to make firefighters relevant persons would set an impractically high bar for other related provisions.

This means however that an offence can't be committed, as firefighter life safety (death or serious injury) is not considered within the Order, therefore prosecution for non-compliance against Article 38 is very difficult.

NFCC recommends this is addressed through the amendment of section 4(3) of the Building Regulations 2010 to include a trigger clause which would require people to make improvements as nearly as is reasonably practicable when building works are being undertaken. NFCC recommends Home Office engage with MHCLG as a matter of priority to explore further policy development in this area.

NFCC also recommends the amendment of Article 38 to enable the FSO Enforcing Authority to require the installation of firefighting measures that are relevant for the safety of firefighters and effective firefighting activity, which otherwise have not been included as part of non-worsening.

1.7 Higher Risk Workplaces

Q45. What risk factors are of most concern to you in higher risk workplaces (such as prisons, hospitals, sheltered and supported housing, residential educational buildings, care homes) and why? For example:

- a) Occupancy (who is on the premises: children, patients, the elderly, etc.);
- b) Use of premises (what activity is carried out);
- c) Existing fire strategy;
- d) Design and construction of the building (e.g., layout, materials, size, etc.);
- e) Other – please specify.

The risk posed to relevant persons is a factor of all of the above, and therefore it is not possible to define which one raises the greatest concern. Having “elderly” persons in a

well constructed, well compartmented care home, with a suitable fire strategy, and fire alarm system raises little concern.

The risks posed to vulnerable and dependent persons is a common factor in all of the above higher risk occupancy types, and all of the above factors are critical. However it must be emphasised that the evacuation (or rescue) of vulnerable and dependent persons from even a well constructed, well compartmented building, with a suitable fire strategy, fire detection and alarm system, and sufficient numbers of well-trained staff with appropriate evacuation equipment (wheelchairs/evac mats etc) will still be challenging and take considerable time. However, if any one of those elements fails during a fire - the risk of death or injury to staff and/or residents increases significantly. This is the reason that a high proportion of inspections carried out by the FRS are on such buildings, and why they account for a high proportion of the enforcement actions by the FRS.

Many of these property types have either 'stay put', or 'Progressive' evacuation strategies with minimal staffing levels to support the movement or evacuation of residents, resulting in high levels of occupancy when the FRS arrive to tackle a fire. Such strategies place a high reliance on the expected performance of the building in the event of a fire and staff managing the movement/evacuation of residents. In cases of a higher risk occupancy 'building that fails' (due to compartmentation defects) the ability to evacuate, rescue and firefight will be severely compromised and the risk of multiple fatalities is high. Where staff have failed to act appropriately in managing the evacuation strategy, this can hinder initial firefighting actions and priorities and again places residents at increased risk. A number of near misses in recent years have demonstrated this level of risk.

The building structure, layout and size, vulnerability and dependency of its occupiers, its fire safety systems, evacuation strategy, staffing levels and training must be evaluated fully, accurately and holistically in defining the level of risk within each higher risk premises. A large modern hospital built to the latest design and construction standards, with high levels of sprinkler protection and many highly trained staff available 24/7 may be considered at 'lower risk' of having a fire, or suffering severe consequences from a fire. Whereas a small house used for Supported Living with poor standards of separation, maintenance, management and staffing may pose higher and immediate risks of multiple injuries or fatalities in the case of a fire.

The risks and concerns identified above will be reduced by the additional requirements recommended in Q46 below.

Q46. What additional fire precautions requirements – over and above those already required under the Order – should apply to higher risk workplaces to increase fire safety?

- a) Provision and maintenance of means of escape;
- b) Provision and maintenance of firefighting systems;
- c) Provision of employee training on fire safety;

- d) Provision of sufficient employees present on the premises to ensure means of escape can be safely and effectively used all times;
- e) Annual review of the fire risk assessment;
- f) Record keeping demonstrating the specific requirements;
- g) Other – please specify.

All of the above would be required in any workplace. It is the level of risk/complexity that would define the level of general fire precautions that should be provided. We therefore believe the proposals should focus on ensuring the quality of those Fire Risk Assessments.

The quality of the Fire Risk Assessment and advice from the fire risk assessor to the RP about all the risk factors mentioned above is critical within all these higher risk premises. The following additional requirements should apply to these to cater for these higher risks:

1. A requirement for Fire Risk Assessments for higher risk buildings to be completed by competent, qualified and experienced Fire Risk Assessors only.
2. A requirement for the formal PAS 79 methodology to be mandated as the only methodology to be used for all higher risk premises.
3. A requirement for the CQC Registration of Care Homes to be subject to the above criteria.
4. A requirement for minimum staffing levels for emergency evacuation purposes to be calculated and expressed in fire risk assessments of Care Homes/Hospitals/Supported Housing/Extra Care Sheltered.
5. A requirement for an Additional Licencing scheme by Local Authorities for any type of Specialised Housing (Sheltered, Extra Care, Supported Living) to include requirements of 1 & 2 above. This will improve the regulatory oversight of fire safety standards in these property types. This is likely to require additional funding to Local Authorities to support implementation.
6. A requirement for Premises Information Boxes in all of the above property types.
7. A requirement for automatic fire suppression systems (Sprinklers) in all of the above property types.

NFCC also believes that there needs to be further clarity to define the scope of a “higher risk workplace”; for example, is a HMO where a carer attends to the care of a vulnerable resident considered a higher risk workplace?

Q47. Based on the above, please also indicate what specific requirements should apply to what type of higher risk workplace building:

Sprinklers in all high risk workplaces that provide sleeping accommodation, however, as per previous the definition of a “higher risk workplace” needs to be clarified.

Q48. Do you have any other comments?

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1.8 Fees and Charges

Q49. To what extent do you agree that the current provisions for prohibition of charging within s.18B(8) of the Fire and Rescue Services Act 2004 should be removed to align with the proposed approach to charging for enforcement action in the Building Safety Bill (the starting scope of the regime is proposed as HRRBs of 18 metres or more in height, or more than six storeys)?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q50. Alternatively, to what extent do you agree that the current provisions for prohibition of charging within s.18B(8) of the Fire and Rescue Services Act 2004 should be removed in their entirety to enable charging for enforcement activity for all premises subject to the FSO?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q51. To what extent do you agree that the proposed ability to charge would incentivise compliance with the FSO?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q52. To what extent do you agree that FRAs should be able to charge for all unsatisfactory audits conducted under the FSO?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

Q53. To what extent do you agree that FSO Inspectors should be able to charge only for unsatisfactory audits that result in:

a) Informal notifications

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

b) Enforcement notices;

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

c) Prohibition notices; and

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

d) Alteration notices

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
			Tend to disagree		

Q54. To what extent do you agree that there should be charging guidance for FRAs in relation to charging provisions in the Fire and Rescue Services Act 2004?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q55. Please share any thoughts you have on levels of charging and when and how these charges should be applied by FRAs if provision was made for charging in relation to FSO activity.

Charging should be appropriate and not unnecessarily punitive to create the right incentives. It should be based upon wilfulness/intent.

For example, where a business approaches the FRS for assistance because they have just taken over a premises (e.g. sleeping accommodation above a shop), and the FRS finds it needs to serve an Enforcement Notice; enforcing against the RP after they have approached the FRS for support to help them comply with their obligations (essentially

trying to do the right thing) could have a negative impact, and could create a deterrent to RPs seeking assistance in future.

This could continue to place persons at risk through a lack of awareness, due to a fear from RPs that they will be fined if they ask for help and something is found to be wrong.

However where the FRS is aware of people wilfully neglecting their obligations, then the flexibility of charging can provide an additional tool. The claim of “ignorance” should not lead to an automatic defence, however the FRS should be able to review all relevant information to ensure it is not being used inappropriately.

NFCC has not made comment in this consultation about the ability to charge for building consultations, as we understand policy development on this subject is taking place within MHCLG in regards to the draft Building Safety Bill, and cost recovery mechanisms for the Building Safety Regulator.

Q56. Do you have any other comments?

1.9 Charging for False Fire Alarms

Q57. To what extent do you agree that charging can be a beneficial tool when attempting to reduce FFA and encourage behaviour change?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q58. Please provide further information on your thoughts around possible behaviour change (both positive and negative).

NFCC has long recognised the demands placed on FRSs by attendance to Unwanted Fire Signals (UwFS) from automatic fire detection and alarm systems, in cost and time and absorption of resource. UwFS can also create an increased risk to the public and firefighters through the generation of an emergency response.

NFCC has always supported the intent and purpose of the charging provisions as part of its toolkit to encourage premises owners and operators to hold themselves to appropriate high standards in the installation, maintenance, and use of automatic fire alarm systems.

NFCC also recognises the distinction drawn in the current British Standard 5839-1 (2017) between UwFS and false fire alarm signals:

- An Unwanted Fire Alarm Signal is ‘a false alarm from an automatic fire detection and fire alarm system that has been passed on to the fire and rescue service’. It will

be appreciated that there is no opportunity for a control centre to test the accuracy of such a report.

- A false alarm is a fire signal resulting from a cause(s) other than fire (which the Standard divides into four categories).

FRSs have faced obstacles due to the wording of the charging provisions. The lack of clarity created by the wording has led to significant resistance on the part of a number of premises and creates the potential for protracted proceedings to enforce a process which should be straightforward.

The status of alarm systems located within the common – non-domestic - parts of high rise residential tower blocks requires clarification. Such systems are increasingly common following the Grenfell Tower fire, and appear to be excluded from the charging provisions.

Fire detection and alarm systems may incorporate large numbers of individual detectors. There is a concern as to whether the requisite persistency can be generated by the system as a whole, or must be linked to a particular detector or piece of equipment within the system. Premises which generate between one and three UwFS annually account for a significant percentage of FRS UwFS attendance. It is unclear whether this would be considered to meet the standard for persistency in the legislation.

Where local or remote monitoring is incorporated as part of the fire strategy for the premises it is not always effective and there continues to be notable levels of UwFSs originating from commercial premises being passed to the FRS, via local or remote monitoring, resulting in unnecessary FRS responses.

Charging when other engagement activity has failed to bring about the required change can stimulate further conversation when previous engagement has proven unsuccessful. The ability to impose a financial penalty reaffirms the importance of fire safety by increasing the importance of the regulator's message.

Many FRSs have seen RP's use the FRS as a mechanism for securing their premises. During daytime hours when a premises is occupied there is no reason why competent persons on site cannot react to an alarm activation and investigate the cause; calling the FRS only where they identify the presence of fire, or an unknown smell of burning. For a workplace to completely evacuate and call the FRS to investigate the cause of the alarm is unnecessary and removes firefighters from being available to respond, prevent, protect and train for emergencies.

Consideration could also be given to having FAMO (False Alarm Monitoring Organisation) contracts for workplaces that do not involve monitoring during occupied hours.

Occupiers need to be more responsible for their fire alarm systems. Charging for repeat offenses can bring about a change in attitude, and cause them to address the underlying issues causing the activations. However, many of the worst offenders are other public buildings like hospitals and it would seem perverse to charge other public bodies. Opportunities exist to support cultural change through national campaigns which could

raise awareness of the consequences of UwFS and help shift the views of the Public into the impacts that poorly installed and managed fire alarms have on FRS daily business.

Q59. To what extent do you agree that barriers to the current charging system for FFA exist?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q60. Please provide further information on your views

We strongly agree that barriers to charging exist, particularly because Section 18C does not adequately extend to incorporate poor management and/or maintenance. Except for where poor maintenance may lead to a 'malfunction', 18C does not include sufficient provision to charge for poor management practices, for example the absence or lack of alarm filtering.

The lack of clarification gives a significant amount of 'wriggle-room' for businesses and can reduce the efficiency and effectiveness of outcomes following UwFS engagements.

From a cultural perspective, there is little understanding of the resourcing commitments or associated costs placed on emergency services from mismanaged systems.

Where there is charging, there is no clearly defined level that this should follow (Section 18A(4) states that FRAs can charge what they determine), and this can lead to potential inconsistencies across jurisdictions, particularly for businesses which operate across multiple fire and rescue authority/service areas.

Q61. To what extent do you agree that the following terminology, under 18C(3) FRSA, in relation to charging for FFA are appropriate and clear?

a) Malfunctioned;

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

b) Misinstalled; and

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

c) Persistent

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

Q62. Please provide further information on your thoughts around the following terminology, under 18C(3) FRSA, in relation to charging for FFA –

a) Malfunctioned;

If the device has detected a substance that it interprets as being smoke, then it has not malfunctioned. If it has detected steam or an aerosol, then (depending upon the type of detector) it cannot be defined as having malfunctioned, as it is detected what it has interpreted as being smoke. Therefore, a very clear definition of the circumstances relating to “malfunctioned” needs to be given.

To the Responsible Person, this term should be clear. However, RPs tend not to consult the FRSA for guidance on false alarms and UwFS. This term is not overtly clear to the lay RP, leading to reliance on industry standards and guidance that stop short of fully commenting on the consequences of UwFS.

Neither ‘malfunction’ nor ‘mis-installation’ capture the primary category of false alarms, where the system functions predictably and/or as designed to fire like phenomenon, accidental damage, or inappropriate human behaviour. Examples of typical occurrences in this category are accidental use of break glass call points, or the use of a toaster in the proximity of a sensor. The meaning of mis-installation is also unclear as covered below.

The term malfunction does properly capture equipment false alarms. However, in some FRS experience, evidencing an equipment malfunction upon attendance at premises has challenges. A system may be re-set before the FRS attendance or by an operational crew working on the assumption that an emergency situation may be occurring and subsequently not indicate whether it was an equipment failure or not.

b) Mis-installed;

The RP is unlikely to have installed the device themselves, and therefore the responsibility for a “mis-installed” detector potentially lies with the competent person that installed it.

The device may have been correctly installed at the time of commissioning; however internal alterations can subsequently make the location inappropriate. This may not have been considered as part of the risk assessment review (if one was even conducted as part of the works). As per comments above, layperson RPs may be unaware of the potential for such issues.

The British Standard and FRSs generally understand this to be ‘the work of fixing and interconnecting the components and elements of a system.’ The concept of mis-installation

is not so recognised (and is not a word recognised by the OED). Saving where the system producing a false alarm is new or at least relatively so, FRSs have found it difficult to evidence causal connections between the incidence of a false fire alarm and the installation (or mis-installation) of the system.

c) Persistent; and

The key factor to both (a) and (b) above is the qualification given within Section 18C(3)(d), in the word “and persistent”. The CFA guidance document (published in [June 2014](#)) on avoiding unwanted fire signals provides for a tolerance of UwFS and therefore if and where it is determined that charging is appropriate it must be after regard has been given to the persistent nature of the UwFS.

NFCC believes it would support consistency if there was further guidance on the term persistent. The tolerances set in the British Standard were written as to apply to maintenance considerations, rather than the number of times an unwanted fire signals translate into the number of times fire and rescue services are called out to the building.

Further guidance on this would help clarify for RPs the BS 5839 position, separating the terminology of false alarms from Unwanted Fire Signals to FRSs.

e.g. a national retailer could find themselves being charged in one part of the country for a number of unwanted fire signals, but not in another presenting opportunities for legal challenge.

As described above, to the lay RP using BS 5839 (which discusses the need to carry out investigative work during a service- see below), a lack of clarity about how false alarms translate into UwFS attaches expectations of acceptable thresholds. As noted in the CFA guidance the level of false alarms considered acceptable in BS5839, is a separate matter to what constitutes an acceptable level of UwFS.

BS5839

“At least, a preliminary investigation should be carried out as part of the service work if any of the following apply:

- 1) the rate of false alarms over the previous 12 months has exceeded one false alarm per 25 detectors per annum;*
- 2) 11 or more false alarms have occurred since the time of the previous service visit (i.e. typically, within the previous 6 months);*
- 3) two or more false alarms (other than false alarms with good intent) have arisen from any single manual call point or fire detector (or detector location) since the time of the last service visit;*
- 4) any persistent cause of false alarms is identified.”*

d) Other (Please note any other terminology you would like to comment on).

Terminology should be amended to allow for just “persistent”. It currently requires for an FFA that is related to Malfunctioned and Persistent, or Mis-installed and Persistent. As per the commentary above a FFA may be caused by factors not linked to malfunction or mis-

installation, therefore to have to qualify “persistent” with one of these other terms may not address the issue.

‘Mismanagement’ is a term that should be included in future revisions. Whilst the BS5839 allows compliance to remain for a number of false alarms in a rolling period. Mismanagement is where the false alarm translates into an unwanted fire signal resourcing demand for FRSs.

Inclusion of this or a similar definition will help support discussions with Responsible Persons, leading to:

- Better opportunities to recover costs (e.g. for incorrect testing procedures - failure to notify FRSs of system testing, maintenance etc.).
- Stronger messaging about responsibilities, particularly regarding the updating of alarm systems (e.g. premises changes of use) that can remain British Standard compliant but still generate resourcing demand for FRSs.

There are different interpretations of existing terminology. Further education, advice and campaigns could benefit all parties involved in the design, operation, maintenance, response, and regulation of fire alarms.

Q63. To what extent do you agree that FRA can charge for the following types of FFA?

FFA is defined into four categories under BS 5839-1: False alarms with good intent, malicious false alarms, equipment false alarms and unwanted alarms.

a) False alarms with good intent;

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

b) Malicious false alarms

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

c) Equipment false alarms; and

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Strongly agree					
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d) Unwanted alarms.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q64. Please provide further information on your views

a) Whilst we want businesses to improve their procedures, infrastructure and equipment to reduce UwFS, we do not want to discourage people calling the fire service when they have a genuine reason to suspect a fire. It would be inappropriate to levy a charge for responding to what was considered to be a fire at the time of call.

b) There are occasions when malicious false alarms could be 'indirectly' linked to a system being mis installed. For example, a licensed premise such as a bar should not have manual call points at the exit door. RPs are unable to be fully accountable (in the first instances) for public or third-party malicious activations. Repetition activations (or persistent) suggests mismanagement under the descriptions provided in answer to Q62(d).

c) This will depend upon precisely understanding the causation, and links to the comments made above under "malfunctioned". A device that has detected steam, is not in error, despite having raised an alert against a product that is not related to a fire. It has responded to a product that it has interpreted as smoke, which can be relating to the type of detector that it was built to be (i.e. light obscuration). Mismanaged systems resulting persistent unwanted fire calls should be charged for. Charging thresholds above the limitations of 'cost recovery' could incentivise positive action from RPs in this respect, but penalty measures may have an adverse effect on genuine calls. This is an area that may warrant further research to steer national direction.

d) The BS 5839 definition of an unwanted alarm across all three scenarios can be largely designed out of a system. An 'unwanted fire signal' is one that has caused the mobilisation of an FRS resource. Therefore, all of the above can have caused such.

In 2018, ~231,000 Unwanted Fire Signals accounted for around 40% of FRS mobilisations – enough to mobilise every 2 minutes to a non-existent fire. A reduction in UwFS provides more time for FRSs to be available and to train for actual emergencies and provide protection and prevention outcomes. It is inefficient for public sector organisations to pick up the cost of poorly administered, mis-installed or faulty systems.

Q65. To what extent do you agree that we should take steps to change the current approach to charging under 18C(3) FRSA?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Section 2: Grenfell Tower Inquiry Phase 1 Report Recommendations

2.1 Definition of Height for High-Rise Buildings

Q66. To what extent do you agree that we should apply the same height definition for high-rise residential buildings to that set out in the proposed Building Safety Bill (18 metres and above and / or more than six storeys whichever comes first) to any proposed regulations made under the FSO?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

Q67. Do you have any other comments to further support your answers above?

At present, the FSO does not discriminate by height for any aspects of its application. While we appreciate an approach linked to the scope of the Building Safety Regime may seem like a clear and intuitive place to start, it may be that tying the provisions to those in the draft Bill could have unintended consequences and limit the flexibility and risk based approach of the FSO in the longer term.

Equally, NFCC does not support the scope of the draft Building Safety Bill as it stands. While NFCC welcomes the draft Bill's flexibility for the scope to be widened over time, we believe the intention to begin with residential buildings of 18 metres or more could be more ambitious.

The consultation notes the proposed scope is mitigated by the introduction of sprinklers from 11 metres – however this applies to new builds only. Because non-worsening conditions of section 4(3) of the Building Regulations 2010 have still failed to be addressed by MHCLG, despite the recommendations from Dame Judith, this means there is still no mechanism to require proportionate safety improvements in existing buildings where it may be appropriate to do so.

We also remain concerned at the introduction of the wording “more than” in respect to six storeys, effectively taking the scope to seven storey buildings, or those 18 metres and above. This is because a number of existing six storey buildings have been deliberately constructed just under the current thresholds set in guidance to avoid certain fire safety measures.

These proposals would miss an opportunity to improve safety in this set of existing buildings. We know designers and approvers have not only evaded safety for many years by deliberately constructing to the limits of guidance to avoid trigger height thresholds and cut costs, but confusion created by the differing measurement methods has led to mistakes being made.

Even where existing thresholds are being implemented, we know of developers trying to claim buildings of 32 metres are inconsequentially above 30 metres to justify the installation of sprinklers. It is clear industry will not change its culture unless forced to, despite the greatest loss of life in a fire since WWII.

The confusion created and ambiguity in relation to the different methods of measuring buildings contained with Approved Document B (ADB) is a key factor. Previous iterations of ADB have had different methods of measurement of heights of a building depending on what it is referring to. These are namely:

- Measuring 'storey' height.
- Measuring 'building' height.

Ways to address this in future could include:

- A single building height measurement for everything in the next ADB and
- A clear definition of a storey height.

2.2 External Walls

Q68. To what extent do you agree with the above proposal to make regulations as described above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

NFCC agrees that information about the design and materials of External Wall Systems can be useful for both operational firefighting and fire safety inspection purposes. We also agree that standardisation of the information and ensuring it is kept up to date is key to ensure this information is useful.

There is a clear need to ensure that the dangers posed by the presence of combustible EWS are identified, but careful thought is needed about the format of the information to ensure it is useful to FRSs, to minimise administrative duplication, and to support the right behaviours in the system.

Key factors to consider are:

- **Performance data** – FRS need information on how the materials would behave in a fire to ascertain the risk. Some products, or combinations of wall products, have no available test performance data; even highly trained fire engineers may have difficulty being able to make an assessment of the risk posed.
- **Behavioural incentives** – there is a risk of creating an expectation amongst building owners that they are not responsible for assessing the risk, and that the FRS will do this for them. The new regime is intended to put responsibility back into the hands of those who design, build, and own buildings. These proposals must be implemented in a way that doesn't undermine incentives for behavioural and cultural change which the draft Building Safety Bill seeks to achieve.
- **Regulatory duplication** – these buildings are presumed to also be subject to the proposed Safety Case Regime (where an Accountable Person would have to demonstrate how the building is safe, holistically including information about the external walls). The Regulators Code places an onus on regulators to avoid multiple information requests. In addition, requiring fire safety officers to process the information before it is passed to crews would create additional impacts on resourcing.
- **Speed** – crews need to know how the building might behave in a fire and have this information readily to hand.

We believe these proposals should only be implemented on the inclusion of the following critical elements:

- 1. A requirement on the Responsible Person to state how their system performs. This will require a pathway for enabling RPs to comply with this obligation.**
- 2. A readily understandable classification system is needed to support this. Pathways to demonstrating compliance for untested products may require further thinking or solutions.**
- 3. The information also needs to be in a short and manageable format in order to be accessible to crews, able to be readily interpreted, and loaded onto Mobile Data Terminals (MDTs).**

NFCC notes the comments that the identification of materials is linked to the competence and capacity of the market. Building Control Bodies currently have the role of assessing compliance against building regulations, including the functional requirement which has always been clear that “The external walls of the building should adequately resist the spread of fire over the walls and from one building to another, having regard to the height, use and position of the building.” As such, there exists a body of personnel who already require the competencies to make this assessment, and have the legislative mandate to do so.

Noting the potential for regulatory duplication of roles and information requirements to the new BSR, we ask if any impact assessment has been carried out on the option of this information filtering first through building control as part of the new Building Safety Regulator in order to inform the safety case regime and any necessary regulatory interventions.

We believe these proposals could follow a similar approach to the Government's Consolidated Advice Note (CAN²).

This notes that **“The need to assess and manage the risk of external fire spread applies to buildings of any height”**. This should apply and where the fire risk assessment finds that the EWS is likely to aid the spread of fire, then information about these buildings should be passed to the FRS.

Q69. In your view, what form should the information in relation to fire risks linked to the design and materials of the external wall structures, and the mitigating steps, be provided:

- a) A bespoke standard format, or
- b) The relevant section of the fire risk assessment that is related to external walls.

Q70. Do you have any other comments to further support your answers above?

a) A bespoke standard format

It is more important to ensure that the right information is provided rather than being specific about which document it should be included in. While the EWS information may be included in the fire risk assessment, especially when considered as part of that process, it will also be required for safety cases, and ought to be readily available. It is not clear that the FRA should, therefore be the best place for it.

As per our comments above in Q68, there should be a common approach to recording the information and the passing of that information to the FRS and other interested parties.

This should be supported through the development of a standard of information and a readily understandable classification system which states how the system performs in a fire. These could include elements such as:

- Specific information on the products used.
- Testing results.
- Expected effect of the EWS during a fire.

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/869532/Building_safety_advice_for_building_owners_including_fire_doors_January_2020.pdf

- Where alterations are taking place, elements such as what is being changed, how long will it take and what are the impacts on safety likely to be.
- What effect the EWS information has on existing safety elements such as evacuation and the effectiveness of general fire precautions.

There is already some work that is ongoing with the specification of plans. This includes the special interest group for PIBs and the BS8644 for digital management of fire safety information; the provision of this type of information should ensure it aligns to these.

2.3 Plans

Q71. To what extent do you agree with this proposed approach to make regulations as described above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

NFCC agrees these proposals would help to support effective operational response.

FRSs have raised some concerns about the ability to receive and process large quantities of such data, particularly where this would include buildings of relatively low risk. As such we suggest consideration is given to applying the requirements to provide floor plans in buildings 11m and above, where it has also been found that their EWS may aid the spread of fire.

Q72. Please indicate what key firefighting equipment could be included in the building plans:

- Dry risers;
- Wet risers;
- Location of the nearest fire hydrant;
- Smoke control systems;
- Suppression systems (including associated operating instructions);
- Lifts; or
- Other (please specify).

NFCC agrees that the list offered above provides a suitable start for production of plans for operational use. The following are offered as additional elements which could be beneficial that should not add unnecessary complexity to the plans:

- Location and duration of fire compartmentation.
- Isolation points for services (gas, electric, solar etc).
- Sprinkler stop valves.

- Fire alarm zones and panel locations including repeaters.
- Location of any controls for evacuation systems (where fitted), smoke control or other relevant fire specific features.
- Any specific hazards that can be clearly identified such as charging rooms or service routes or cupboards that penetrate multiple compartments.
- Access to specific service rooms such as lift motor rooms in which operational activities may be carried out.
- Any battery storage systems or photovoltaic cells, or other power supplies.

Q73. Please indicate whether you think building plans should be provided for every floor of a building or only for those floors that are different in their layout?

- a) Every floor of the building;
- b) Only for those floors that are different in their layout.

b) **Only for those floors that are different in their layout.**

It should not be necessary to include a plan for every floor, depending on the circumstances. For example, there is a high degree of repetition in many blocks of flats due to their design. Plans should be provided, per floor, where:

- There is a material (i.e. physical difference that may result in a change of ingress, egress or travel routes) difference in layout. This includes reverse layouts and may include multiple floor penetrating features.
- There are key items of note for FRS personnel including control panels which are unique to a floor.
- A floor with access or egress routes to the exterior of the building.
- A floor with access or egress routes leading to and from a commercial area and the plans of these areas should also be provided.

Q74. Do you have any other comments to further support your answers above?

There is already some work that is ongoing with the specification of plans. This includes the special interest group for PIBs and the BS8644 for digital management of fire safety information. Further work in this area should not be undertaken without taking this, and other, work into account so that learning opportunities are not lost and there is compatibility across the sector.

The complexity of the plans needs to be considered. Where plans are provided in electronic form, they should use readily available systems so they can be easily accessed.

There is the opportunity in such plans to provide additional information very easily such as electrical layouts and structural details.

The ability of FRS to receive, process, store and, ultimately, retrieve the plans, should be taken into account. It may be that only one plan type is appropriate. It should be a duty for the RP to communicate with the FRS in order to deliver plans in the most appropriate format.

Where buildings comprise a mixed use – there should be a requirement for the RP of the commercial element to also provide plans where there is means to travel directly from the domestic section of the building to the commercial or where FRS and residents must travel through a commercial section to access or exit the building.

The provision of physical plans should be focused on providing clear information that will support early operational actions. It may be that the content of any physical plans should be different than electronic plans. Consideration should be given to having two distinct standards of information provision so that:

- Plans must meet the minimum information requirements for operational firefighting use and such plans may be physical or electronic following consultation with the relevant FRS.
- Plans must meet the minimum technical requirements for use by FRS for the purpose of protection activities including regulation, planning and building control and risk management.

This is covered further in the PIB question (2.4). It should be made clear that where any plans are provided, their purpose should be clearly stated and they be fit to meet that purpose. Physical plans should include a requirement they be laminated to support action on the ground.

2.4 Premises Information Boxes

Q75. To what extent do you agree with this proposed approach to make regulations as described above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

NFCC supports the proposals for PIBs and floor plans, although we disagree that the PIB should contain a copy of the Fire Risk Assessment; FRSs submitted mixed views on this point, but in the majority expressed that the PIB should retain an operational focus, and that the FRA was too large a document for inclusion. NFCC suggests PIBs could reasonably be required in a wider range of buildings. As a base minimum this should apply to six storey buildings regardless of their height.

Q76. To what extent do you agree that the Premises Information Boxes should include copies of the completed fire risk assessment?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
			Tend to disagree		

Q77. To what extent do you agree that the Premises Information Box should include the contact details for the relevant Responsible Person?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q78. To what extent do you agree that there should be a consistent approach to Premises Information Boxes between the Fire Safety Order and the Building Regulation guidance?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q79. To what extent to you agree that Approved Document B should set the threshold at 18m top storey height only in relation to the Premises Information Boxes requirement?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

Q80. Do you consider that other recommendations should be provided? Please explain.

The below items could be recorded and stored within the PIB, in addition to the plans:

- Key Holder Information
- Contact details for people who will respond when requested such as security and keyholders. It is important that this includes those who will respond in an out-of-hours scenario.
- Smoke and heat exhaust ventilation systems (Shevs) and other fire engineered solutions in a simple way. These are already mentioned as part of the plans section, but this seems to focus how they works rather than where they are located.

Q81. Do you have any other comments to further support your answers above?

NFCC recognises the time and effort that will be required of the RP when maintaining the PIB and its contents. In the future, there may be an opportunity to remove the need for physical boxes. This would require a robust technical solution that would work across all FRS and Responsible Persons. While we would support such a system once technically possible, we are not in a position to put that forward as a solution.

2.5 Lifts

Q82. To what extent do you agree with this proposed approach to make regulations as described above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

NFCC welcomes the pragmatic approach from the Home Office to apply these proposals on an exceptions reporting basis.

The undertaking of checks of lifts designed for use by firefighters does already occur. This proposal seeks to increase the timing of such checks. Consideration should be given to other factors which may already influence this function. For example, BS9999 is already referenced by the appropriate lift standards as providing a means of routine testing and maintenance which appears to exceed the requirements of the recommendations (a general test is weekly with additional monthly tests and others annually). Consideration should be given to the consequences of altering existing testing regimes where they provide compliance with relevant British Standards.

We also welcome that the proposals go further than the GTI by extending the requirements beyond lifts to other firefighting facilities which may be of even greater importance if they go wrong; such as dry risers – problems with water at a fire can have significantly greater impact on operations.

The proposals however don't account for older buildings where the lift standard is not that of a modern firefighter lift and may offer little protection. There is no mechanism to require gradual improvements or enhancements to safety which may be reasonable, and the

barriers presented by the non-worsening provisions in section 4 (3) of the Building Regulations 2010 have still not been addressed.

Q83. What would you suggest is a sufficient threshold for the reporting timeframe to the local Fire and Rescue Services?

- a) Within 24 hours of the fault or issue being identified;
- b) Within 48 hours of the fault or issue being identified;
- c) Within 72 hours of the fault or issue being identified; or
- d) Other – please specify.

The reporting thresholds all offer a range of challenges, notably to RPs who must identify the issue, undertake measures to effect repair and notify the FRS and other relevant parties. RPs must be able to action in a timely manner which may be challenging in some cases and FRS must be able to process the information and ensure that this information is disseminated appropriately to both operational and protection staff.

In some cases, the failure of a lift may have a fundamental impact on the general fire precautions within a building that will prompt a response from protection departments. There is no single best solution but allowing some flexibility to RPs may be beneficial to all concerned. For example, using the 24 hour method as an example, the following steps could be followed:

- Lift fault is discovered; out of order sign placed on lift.
- Within 24 hours, remedial work is actioned and the fault is physically notified on site on the lift doors and within the PIB or some other suitable place.
- RP assesses the risk to relevant persons. Where a risk is identified, the FRS should be informed without delay.
- RP notifies the FRS directly once that assessment has taken place with the fault notification, the effect on resident safety and the likely timescales including a ‘I will notify you not later than’ commitment that will provide additional update. The timescale for this phase can be longer but not exceed 72 hours.

This degree of flexibility could be varied via local agreement between the RP and FRS.

Q84. To what extent do you agree that the proposal should cover all lifts within a building?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

Q85 To what extent to you agree that the proposal should cover other pieces of key fire-fighting equipment

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Strongly agree					
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Q86. What other pieces of key fire-fighting equipment, excluding lifts and the mechanism with through which fire-fighters can take control of the lifts, would you suggest should be included in this proposal (therefore tested or inspected every month and reported to the local Fire and Rescue Service in the event of failure)?

- a) Dry risers;
- b) Wet risers;
- c) Smoke control systems;
- d) Suppression systems (including associated operating instructions); and
- e) Other (please specify).

NFCC agrees that the list offered above provides a suitable start point, but we would support any measure that is installed for the purposes of assisting firefighting activities by FRS (rather than occupants) should be dealt with in the same way. This could be covered by amending the scope of Article 38 in terms of scope to ensure all firefighting measures apply, and the need for a specific list could then be removed.

e) Other – this should include evacuation lifts.

Q87. To what extent do you agree that the proposal should be extended to include a requirement for information about the monthly checks to be made visible to residents?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q88. Do you have any other comments to further support your answers above?

With regard to non-firefighting lifts, NFCC has received some mixed views, which may depend on FRS area, with the types of lifts and associated risks FRS may encounter locally.

Part of the issue is the potential for misidentification of lifts which may well be marked as firefighter's lifts but which do not actually meet the requirements of one (this is common where older lift installations included a 'fireman's switch' or where replacement installations have not removed them). This means FRS could be notified of lift failures which have no consequence on firefighting activities or occupant egress.

Keeping residents informed is in general a common sense and practical measure. There should be some consideration to the form and context of how information is provided. Telling residents that a single riser outlet (for example) is not working could provide

unnecessary or undue concern when suitable measures can easily be put in place. Presenting the information in the right way is important.

2.6 Evacuation Plans

Q89. To what extent do you agree with the proposed approach to make regulations as described above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

NFCC has had some challenge commenting on these proposals due to the lack of definition provided for what is meant in this context by “Evacuation Plan”. Depending on the audience different types of information may be needed by different parties. To FRSs, this may be interpreted as an evacuation strategy, which would most often be one of the following common strategies: a Stay Put strategy, a Phased Horizontal Evacuation strategy, or a Simultaneous Evacuation strategy.

We have assumed for the purposes of this consultation that “Evacuation Plan” in the context of these proposals can include and incorporate a mixture of evacuation strategies. If this is not the Government’s intent, we reserve the right to comment further when additional clarity on this definition is provided. NFCC supports the provision of evacuation strategies and the clear communication of these to residents. We also support the inclusion of these in a PIB, and the proposals that these be kept under regular review. In the majority of cases, the evacuation strategy will be straightforward in nature and could be communicated in the same way as it is to the residents.

Where the strategy is communicated to the FRS via the PIB, in most cases the core element required is to know whether the strategy is stay put or simultaneous evacuation. More detail may be required where there is a temporary evacuation policy in place (although this is likely to be already known to the FRS) or where there is a mixed evacuation plan such as simultaneous and stay put e.g. mixed commercial and residential.

We suggest these proposals could be graduated:

- in residential buildings between 11 and 18 metres that there be a hard copy requirement only for the evacuation strategy to be included on site in a PIB.
- in residential buildings 18 metres and above, and in care homes and sheltered accommodation, NFCC suggests the proposals include electronic copies to the FRS as well copies on site in a PIB.

Q90. Do you think this proposal should be extended to cover all multi-occupied residential buildings of 11 metres and above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

It is noted that the proposals will result in a large influx of data to FRS. NFCC suggests these proposals should be balanced in a graduated way taking into account where plans might be more complex, such as in care homes and sheltered accommodation.

The majority of evacuation strategies in residential buildings would be simple in nature, in most cases the key element required is to know whether the strategy is stay put or simultaneous evacuation. NFCC suggests that:

- in residential buildings between 11 and 18 metres that there be a hard copy requirement only for the evacuation strategy to be included on site in a PIB.
- in residential buildings 18 metres and above, and in care homes and sheltered accommodation, NFCC suggests the proposals include electronic copies to the FRS as well copies on site in a PIB.

Q91. What information do you think should be included in an evacuation plan?

An evacuation plan should offer sufficient information to inform FRS of the expected actions of residents. These will include elements such as:

- How the fire alarm will be sounded.
- What to do on it sounding (including closing doors or isolating power)
- When they should evacuate:
 - On alarm sounding (if the strategy is simultaneous evacuation).
 - If they feel they are in danger (e.g. smoke entering their flat).
 - If informed by police/fire/building concierge etc. to do so.
- How they should evacuate.
- Where residents should go once they have made their way out.

For general operational purposes, FRS may only need to know if there is a stay put or simultaneous evacuation policy in place. Additional information that may be of more specific use in fire service activities could include:

- Notification of routes and multiple assembly points.
- Presence and procedures for on-site staff who may manage the evacuation.
- Methods of communication to residents in stay put situations.
- Specifics of phased evacuation.
- Numbers of residents and staff.
- Locations of vulnerable persons who may need assistance.
- Where there are void (unused) premises.
- Any provision for the emergency evacuation of the building (where a stay put strategy is normally in place).

Q92. Do you have any other comments to further support your answers above?

The need to understand the evacuation plan of a premises is, perhaps most important for the residents. Proposals 20 and 21 focus more on how to get the information to FRSs than on how to ensure the information is provided clearly to residents.

For the most part in a residential building, evacuation plans will be simple and could be expressed in a single phrase. This information could be imparted to the FRS on site via the PIB rather than passing that information to the FRS electronically. While it might be the kind of information some FRS would include on their turnout information, there is a risk of overloading some FRSs ability to record and process the influx of data.

Where more complex evacuation plans are in place, such as PHE, there would be staff managing it and other fire procedures to support the FRS to understand the evacuation which should already be in progress on arrival. Also, there are some rules of thumb which would be used by FRS such as the knowledge that certain premises types, such as care homes or other premises with vulnerable persons would generally expect a certain evacuation type in those buildings.

There may be benefit in some cases for FRS protection departments to be aware of the evacuation plans of a premises where this departs from what would typically be expected in that type of building; this information could be determined during an audit or any other interaction as and when needed. This may have benefits if an RP was moving to a clearly unsuitable evacuation plan (e.g. PHE to simultaneous) which would require further investigations immediately.

2.7 Personal Emergency Evacuation Plans

Q93. To what extent do you agree with the proposed approach to make regulations as described above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

NFCC supports the pragmatic approach around proposal 24 to implementing the GTI's findings, which would apply only in buildings which have needed to temporarily move from a stay put to a simultaneous evacuation strategy due to an increased risk.

NFCC would welcome further detail on proposal 22 and what is meant by 'assistance' as it appears to apply to many premises without any on-site staff to assist. It is presumed that assistance in this context would be expected from FRSs; it should be noted that such assistance in this context would technically be defined as a rescue rather than an evacuation. An evacuation is something which should be underway or completed by the time the FRS arrive. A large uptake in this option has the potential to increase the necessary Pre-Determined

Attendance or weight of response, which the Home Office may wish to note could come with resourcing implications. It is recommended that an impact assessment be carried out to undertake this assessment in more detail.

The reasons we believe that proposal 24 is a proportionate way to implement the GTI's recommendations, is because there would be a number of practical issues associated with a blanket legal requirement for PEEPs in residential buildings. Because PEEPs generally require on-site staff to facilitate them, they are usually only recommended in buildings specifically built to house vulnerable persons. NFCC's concern would be if PEEPs became a legal requirement in buildings which are not designed for it, that large numbers of staff would be required for landlords to meet their new legal duties, and these costs may be passed on to leaseholders and residents, some of whom are already facing unacceptable costs due to waking watches.

There are challenges around how to keep the information up to date as well as privacy considerations. If somebody has a temporary mobility issue associated with a broken leg, or a vulnerable resident is away on holiday, real challenges would be faced by RPs to ensure information was up to date. As noted in the consultation, firefighters responding based on information which was out of date could risk their lives or precious time trying to locate a resident who was not there or is no longer vulnerable.

If a risk assessment found it wasn't financially sustainable or possible to arrange a PEEP for a vulnerable person, would they face being evicted from somewhere they may have lived in for 20 years? With an excess of 13.9 million persons recorded as disabled, this has the potential to have wide implications, with many hidden disabilities potentially compromising a person's ability to evacuate without assistance, such as mental health issues, dementia, and heart problems.

The proposals in this consultation are therefore a good starting point for what can be practically achieved in a timely way; NFCC would be happy to participate in a task and finish group to examine this issue further, to see if other technical solutions could help to better support evacuation strategies. We look forward to further engagement with government in this matter.

Ultimately if a person is vulnerable enough to require assistance to evacuate, management should be considering if there are further measures which would better protect their safety (such as increased use of sprinklers, refuge areas and evacuation lifts). These are things NFCC has advocated for a number of times to be included within the relevant design guidance in Approved Document B. If a building is high risk enough to suspend a stay put strategy, such as those identified with combustible external wall systems, then the building must be remediated as a matter of urgency.

The best way to protect vulnerable persons is to make sure building standards require high levels of built-in fire protection from the outset; this is what NFCC has called for.

NFCC's previous submission on the full technical review of Approved Document B can be found [here](#).

[https://www.nationalfirechiefs.org.uk/write/MediaUploads/Grenfell/Technical_review_of_ADB - 1 March 2019 - FINAL.pdf](https://www.nationalfirechiefs.org.uk/write/MediaUploads/Grenfell/Technical_review_of_ADB_-_1_March_2019_-_FINAL.pdf)

NFCC's previous submission on sprinklers and other fire safety measures can be found here: [https://www.nationalfirechiefs.org.uk/write/MediaUploads/Consultations/NFCC_Response - Sprinklers and other fire safety measures ADB - 28 November.pdf](https://www.nationalfirechiefs.org.uk/write/MediaUploads/Consultations/NFCC_Response_-_Sprinklers_and_other_fire_safety_measures_ADB_-_28_November.pdf)

Q94. To what extent do you agree that a RP should notify their local Fire and Rescue Service of any residents who cannot self-evacuate (subject to the resident's consent and self-identification)?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
		Neither agree nor disagree			

Q95. What information, other than location, do you think should be provided to Fire and Rescue Services in relation to residents who cannot self-evacuate?

As per our answer to Q93, NFCC would be happy to participate in a task and finish group to examine this issue further, to see if other technical solutions could help to better support evacuation strategies.

This proposal could help to better inform pre planned operational responses, however as above it should be noted that this could come with operational resourcing implications, particularly if people face significant vulnerabilities. Note that under normal circumstances, FRS assisting people from a building is defined as a rescue and not an evacuation. As above, it should be noted that this has the potential to increase the necessary Pre-Determined Attendance (PDA) or weight of response needed. FRSs have also raised some concerns about the ability to receive and process large quantities of such data, particularly where the proposals will capture buildings of relatively low risk.

There is already some work ongoing in this regard with the Special Interest Group for Premises Information Boxes; this should be taken into account.

Q96. To what extent do you agree that a Responsible Person should notify their local Fire and Rescue Service of any residents who cannot self-evacuate (subject to the resident engagement, resident self-identification and consent)?

Please refer to our answers to Q94.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q97. Please indicate what information you would like to see included in the supporting guidance?

The guidance needs to consider three key audiences:

- Responsible Persons
- Resident
- Fire and Rescue Service

The guidance must be clear on any new responsibilities, liabilities or costs that any of the proposals above may place onto relevant parties, particularly where there is the potential for costs to be passed onto residents or leaseholders, as has been the case with some waking watches.

Guidance directed to the FRS should clearly set out what expectations on them are if they are effectively being asked to undertake evacuation action that would normally be the responsibility of the RP. Would FRSs turning out to a building with a number of residents requiring assistance take on the responsibility and any liabilities which would normally be the key functions of the RP? Would this create unintended outcomes or perverse incentives on RPs to not take accountability for safety in these buildings?

Note that FRSs getting people out of a building would be considered a rescue, mass rescue or emergency evacuation (and not an evacuation). As above, it should be noted that this has the potential to increase the necessary Pre-Determined Attendance (PDA) or weight of response needed which would have associated resource implications.

Q98. Do you have any other comments to further support your answers above?

Ultimately if a person is vulnerable enough to require assistance to evacuate, management should be considering if there are further measures which would better protect their safety (such as increased use of sprinklers, refuge areas and evacuation lifts). These are things NFCC has advocated for a number of times to be included within the relevant design guidance in Approved Document B. If a building is high risk enough to suspend a stay put strategy, such as those identified with combustibile external wall systems, then the building must be remediated as a matter of urgency.

The best way to protect vulnerable persons is to make sure building standards require high levels of built-in fire protection from the outset; this is what NFCC has called for.

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2.8 Information to Residents

Q99. To what extent do you agree with this proposed approach to make regulations as stated above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

At present the FSO does not expressly require provision of information to residents. NFCC supports proposals for better and clearer information to be provided to residents.

Q100. Other than the information already listed under Proposals 25 and 26, what other information or instruction should be provided to residents?

Much of the other information that should be provided will fall under other elements already mentioned, specifically the evacuation plan.

- Responsibilities of residents in relation to the safety of others (e.g. balcony safety, common parts housekeeping and maintenance of flat entrance doors).
- Measures to prevent fire within their own flat.
- Information on smoke alarms (e.g. types, power sources, ancillary facilities, such as warning equipment for deaf and hard of hearing people, hush buttons, remote transmission, etc.).
- Importance of testing smoke alarms every month.
- Arrangements for reporting defects.
- Arrangements for whistle blowing.
- Arrangements to notify the RP if concerned about ability to evacuate in the event of fire.

Q101. What factors should be taken into consideration in relation to the:

a) “nature of the building”, and

The nature of the building should take into account its layout, the specific nature of any evacuation strategy (such as Stay Put, PHE, simultaneous, or possible combination such as in some mixed-use buildings) and what to do once they have left the building – it is important that they are in a safe place outside the building which may be an extended distance where the building is tall.

It is especially important that residents understand the nature of the buildings where it interfaces with other buildings (and may allow access from one to the other), shared escapes (balconies), scissor flat arrangements (multiple exits) and where they must enter and pass through commercial elements within the same building (mixed use).

b) the RPs “knowledge of the occupants”?

This alludes to the RP having knowledge of the residents. In supported housing schemes we would expect more detailed knowledge on the vulnerabilities of residents but in general needs blocks this comes with all the issues as outlined in Q93/94.

Q102. Please indicate what information you would like to see included in the supporting guidance?

The nature of the guidance needs to consider three key audiences:

- Responsible Person
- Resident
- Regulators

It is important that the expectations of all parties are clearly outlined. There should also be clear workflows which offer guidance to all parties on their responsibilities. For example, the steps that the RP must go through to determine what information should be given and how resident information should be selected based on their needs is useful because, in some cases, the RPs will not have had any previous experience of dealing with residents in this way. Also, what constitutes their legal obligation being fulfilled when they experience difficulties (a simple question like who should you provide the information to in a family to determine the information has been ‘passed on’ requires careful consideration, and includes potential safeguarding issues).

Some consideration should be given to the extent any guidance is available to residents and the form it should take. Given that they may be given responsibilities, it is reasonable to expect they be given some guidance just as any other party with responsibilities would do. Clearly, creating guidance suitable for the lay person requires special consideration to ensure it is understood but legally correct.

Of common concern with guidance, especially in this case where there may be multiple pieces of legislation in action, is that not enough detail is provided as to who takes the lead, which legislation has primacy, and how the regulators should interact. Clear boundaries should be defined which will allow regulators to act in an efficient way.

Q103. Do you have any other comments to further support your answers above?

Ultimately if a person is vulnerable enough to require assistance to evacuate, management should be considering if there are further measures which would better protect their safety (such as increased use of sprinklers, refuge areas and evacuation lifts). These are things NFCC has advocated for a number of times to be included within the relevant design

guidance in Approved Document B. If a building is high risk enough to suspend a stay put strategy, such as those identified with combustibile external wall systems, then the building must be remediated as a matter of urgency.

The best way to protect vulnerable persons is to make sure building standards require high levels of built-in fire protection from the outset; this is what NFCC has called for.

NFCC’s previous submission on the full technical review of Approved Document B can be found here:

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2.9 Fire Doors

Q104. To what extent do you agree with this proposed approach as described above?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q105. Do you have any other comments to further support your answer?

NFCC suggests the following is considered:

- doors in the common parts checked at six monthly intervals
- flat front doors including self-closers to be assessed as part of the fire risk assessment process, which would then allocate an inspection frequency to each door.

NFCC agrees it could be achievable to require doors in the common parts to be checked at three monthly intervals, with these doors having the greatest usage (for all buildings 11 metres and above). While this could be achieved, some industry guidance suggests that six monthly checks would be sufficient.

However we are not sure the proposal for flat front doors to be checked every six months is achievable or proportionate, and may impose burdens that are likely to be disproportionate to the level of risk and any perceived benefits. Some industry guidance

suggests that six monthly is appropriate, although this is dependent on the frequency of use and is more likely to be an appropriate benchmark for doors in the commons parts.

A six monthly requirement to get access to flats is likely to have significant implementation issues, particularly for councils and housing associations. While they could take tenants to court if needed, it would seem excessive for this to be an obligation at such regular intervals when weighed against the risk. In addition, the power to force entry is pointless if the process of forcing entry itself damages or compromises the integrity of the door in the question.

Other requirements in a residential setting to check elements which pose greater risks (such as gas safety checks on boilers) are only required annually; while a 12 monthly interval would align with boiler inspections, these types of risks are not comparable. Boilers pose an active form of risk, whereas fire doors provide a passive form of protection as part of a layered strategy of fire safety measures; i.e. the risk posed by an underperforming fire door, is not in danger of starting a fire or promoting active fire spread in the same way as other hazards.

A more proportionate approach could be to have all flat front doors risk assessed as part of the fire risk assessment process, which would then allocate an inspection frequency to each door. A building which needs a large number of doors replacing is going to require a commensurate cost. It may be more effective in such cases to spend that money on the installation of other fire safety measures which could better protect the entire building.

Non-compliant fire doors are already a known risk. Fire and rescue authorities, as enforcers under the Fire Safety (Regulatory Reform) Order 2005 frequently observe sub-standard fire doors and issue letters and notices suggesting the same to Responsible Persons.

In 2016/17 there were 17,151 unsatisfactory fire safety audits, and this resulted in 14,200 informal notifications and 2,025 formal notices. The most common article of non-compliance to the FSO resulting in action of any type (excluding prosecutions) in England was Article 14 (Emergency routes and exits), which accounted for 7,250 instances (15%) of non-compliance. Findings under article 14 capture fire door failures, and it is reasonable to assume this figure includes a high incidence of fire door non-compliance, which may be as high as 75% (approximately).

As a primary regulator for fire safety, fire and rescue authorities exercise appropriate regulatory actions to remedy these issues when they are found. This recognises the importance we place on functional fire resisting doors. However, fire and rescue authorities would rarely serve a prohibition notice (to restrict the use of a building) or enforcement notice purely on the grounds of sub-standard doors.

Remediation should be considered in line with Expert Panel advice, which can be audited against according to regular audits and inspections, including by the Building Safety Regulator in the future.

The integrity of fire doors is potentially more critical in certain other types of building such as Care Homes, Sheltered Housing, Supported Living and HMOs. This is due to the variations in evacuation strategies which may rely on:

- greater levels of passive protection/compartimentation
- progressive/phased evacuation approaches
- support from staff to evacuate residents
- slower movement of residents

Q106. Please note any factors we should consider in the implementation of these proposals.

Some flats may involve a protected lobby approach to fire safety which involves the doors leading from the entrance hall behind the flat front door being fire rated. This would still require maintenance, but the RP would have no immediate rights to gain entry. While they are going to be gaining some powers under the draft Building Safety Bill, buildings that do not fall within the scope of that legislation will not benefit from its measures.

The evaluation and checking of a fire door will require access to both sides of the door, which may bring about access issues as alluded to in Q105. The solution suggested in the consultation document of using lease agreements is only effective where those agreements are in place, which will not be in all cases.

There needs to be enough capacity in the industry to undertake the work. Use of a more graduated approach may have the benefit of spreading the demand out. See question 107 for further details.

Some RPs may be in charge of tens of thousands of fire doors and already have programmes of door inspection and replacement. The implementation of these recommendations should not impact on existing processes where it can be shown they are effective.

Q107. Please provide any additional comments on the related matters on which we are seeking views.

Consideration should be given to the comments made in question 105. An element of a risk based approach has already been determined in the consultation and this could be extended to having all doors risk assessed as part of the fire risk assessment process which would then allocate an inspection frequency to each door.

This would allow for a more effective use of resources (in terms of undertaking the inspections themselves), be based on a methodology from a competent person, and the risk assessment process would still allow for changes to be made should it be determined the frequencies are not sufficient.

In line with some of the answers in question 106, the enforcement of this requirement will fall to the RP (depending on the door) and ultimately the FRS. Consideration should be given to the effects on existing or future risk assessments and pre-planned programmes of inspection that may offer an alternative approach. It may be unlikely that FRS will undertake formal enforcement through to prosecution where an effective testing regime is already in place but deviates from this proposal.

Q108. To what extent do you agree with this proposed approach as described above?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q109. Do you have any other comments to further support your answers above?

We disagree with proposal 29 on the basis that it could slow down the pace of cladding remediation; it is not clear why in buildings identified to incorporate unsafe cladding why the recommendations focus on fixing doors within the building, rather than on remediating the cladding itself.

Following identification of hazardous EWS, owners and managers should immediately make sure that flat entrance doors are self-closing. Unless the flat entrance doors are seriously defective (i.e. fail to meet the recommendations of existing guidance), embarking on a major door replacement programme would detract available funding away from much more relevant mitigation measures such as remediation of the EWS.

Q110. Please note any factors we should consider in the implementation of these changes in this proposal?

Implementation should ensure there is a clear mechanism for how the Responsible Person will ensure doors are maintained at the right standard or replaced. In many cases the terms of leases do not expressly cover this. In other cases, leases will only deal with issues of maintenance, not improvement or replacement. This leaves fire and rescue services in a position where to bring about necessary safety improvements they would have to act directly against each individual flat – e.g. fifty enforcement actions for a block of fifty flats. This is impractical and disproportionately resource intensive.

A clear mechanism is urgently needed to enable fire authorities to enforce against the Responsible Person for the whole block, who would then be responsible for enforcing individual leaseholders to keep their front doors at the right standard or replace them.

In addition, determining the standard of a fire door is not straightforward where they have been changed by leaseholders or where door furniture has been added. It is important to ensure the entire door set is compliant and not just the door leaf. Previous renovations or

replacements may not have taken the frame and furniture into account even though the door may have a test certificate. The burden and level of proof regarding the door should be clearly laid out. This will assist occupants, RPs and the FRS as the regulator. It is also reasonable to expect that in older premises, due to the lack of test/installation information, many doors will be determined as unsuitable. This could massively increase costs and demands on suppliers and fitters.

Q.111. Please provide any additional comments on the sufficiency of the Government's actions to date to address the Inquiry's concerns.

NFCC has consistently outlined that height is a blunt tool to assess risk in buildings. While a legal requirement to upgrade doors in these specific buildings would provide an additional tool, NFCC notes Sir Martin Moore Bick's point, and Dame Judith Hackitt's wider observations about the lack of mechanisms overall for bringing fire safety measures up to modern standards. Whilst the FSO requires facilities are maintained, there is a lack of powers to require owners to improve fire safety measures where they were never installed to begin with.

We believe that a far more effective response to the findings of both the Inquiry and the Independent Review would be to address the non-worsening provisions in section 4 (3) of the Building Regulations.

A core principle of the regulatory framework for buildings is that when you refurbish them, you only have to replace things on a 'like for like' basis, with an aim to making the building no worse than it was before. This is because requiring people to bring things completely up to current standards could make many building works prohibitively expensive; NFCC doesn't dispute this.

However, in some countries there are exceptions to this rule for key fire safety measures, such as means of escape. In this type of system, people are required to make an assessment of what improvements to fire safety might be reasonable compared to the overall value of the building project.

NFCC believes the current legislative vehicles and suite of proposals underway offer a unique opportunity to introduce this type of mechanism. This would go some way to resolving the tension identified by Dame Judith between the principles of non-worsening, vs. continuous improvement.

NFCC has had engagement with MHCLG officials on this issue. We have been reassured that Safety Cases will provide a means to requiring upgrades, where it is to manage serious risk. However, we still hold some concerns in this regard, because the threshold defined in the Bill is a "major incident" (resulting in a significant number of deaths, or serious injury to a significant number of people).

We are concerned this may leave conditions of a Safety Cases open to challenge on the grounds of the non-worsening principles in Regulation 4(3) and remain unsure if Safety Cases will provide a mechanism for pursuing reasonable gradual improvements over time, particularly where these are not supported within Approved Document B.

NFCC is not proposing requirements which would be prohibitively expensive, however we believe a change of use or major refurbishment should trigger a cost/benefit analysis of reasonable life safety improvements balanced against the value of the building works in question.

This could be applied to the **entire built environment** over time, to help gradually improve safety across building stock

As above, we do agree that remediation should be the key to making buildings safer, but this proposal does not take into account any other measures that could be implemented. For example, a building which needs a large number of doors replacing is going to require a commensurate cost. It may be more effective to direct that effort to other fire safety measures such as the installation of a fire alarm system which would be preferable in protecting the entire building by giving early warning of fire. The existing fire doors will still provide a degree of protection and, as commented on in the proposals, the general risk to public safety from under-performing doors is low.

2.10 Non-legislative Grenfell Tower Inquiry Phase 1 recommendations and alignment with Approved Document B

Q112. To what extent do you agree that the installation of sprinklers in existing buildings should continue to be guided by the fire risk assessment process rather than be made mandatory under the FSO?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

The consultation notes that the retrospective installation of sprinklers should be considered on a risk assessed basis, however NFCC is not aware of any regulatory mechanism FRSs could use to require this, even if a risk assessment did recommend sprinklers be installed. To our knowledge the recommendation of sprinklers in a fire risk assessment are extremely rare.

As above, we believe that a far more effective response to the findings of both the Inquiry and the Independent Review would be to address the non-worsening provisions in section 4 (3) of the Building Regulations.

NFCC has had engagement with MHCLG officials on this issue. We have been reassured that Safety Cases will provide a means to requiring upgrades, where it is to manage serious risk. However, we still hold some concerns in this regard, because the threshold defined in the Bill is a “major incident” (resulting in a significant number of deaths, or serious injury to a significant number of people).

We are concerned this may leave conditions of a Safety Cases open to challenge on the grounds of the non-worsening principles in Regulation 4(3) and remain unsure if Safety

Cases will provide a mechanism for pursuing reasonable gradual improvements over time, particularly where these are not supported within Approved Document B.

NFCC is not proposing requirements which would be prohibitively expensive, however we believe a change of use or major refurbishment should trigger a cost/benefit analysis of reasonable life safety improvements balanced against the value of the building works in question.

This could be applied to the **entire built environment** over time, to help gradually improve safety across building stock.

Ultimately if a person is vulnerable enough to require assistance to evacuate, management should be considering if there are further measures which would better protect their safety (such as increased use of sprinklers, refuge areas and evacuation lifts). These are things NFCC has advocated for a number of times to be included within the relevant design guidance in Approved Document B. If a building is high risk enough to suspend a stay put strategy, such as those identified with combustibile external wall systems, then the building must be remediated as a matter of urgency.

The best way to protect vulnerable persons is to make sure building standards require high levels of built-in fire protection from the outset; this is what NFCC have called for. NFCC's previous submission on the full technical review of Approved Document B can be found here:

[https://www.nationalfirechiefs.org.uk/write/MediaUploads/Grenfell/Technical_review_of_A_DB - 1 March 2019 - FINAL.pdf](https://www.nationalfirechiefs.org.uk/write/MediaUploads/Grenfell/Technical_review_of_A_DB_-_1_March_2019_-_FINAL.pdf)

NFCC's previous submission on sprinklers and other fire safety measures can be found here:

[https://www.nationalfirechiefs.org.uk/write/MediaUploads/Consultations/NFCC_Response - Sprinklers and other fire safety measures ADB - 28 November.pdf](https://www.nationalfirechiefs.org.uk/write/MediaUploads/Consultations/NFCC_Response_-_Sprinklers_and_other_fire_safety_measures_ADB_-_28_November.pdf)

Q113. To what extent do you agree that regulations should be made requiring wayfinding signage to be introduced in multi-occupied residential buildings?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q114. Should the requirement for wayfinding signage be introduced in:

- a) all multi-occupied residential buildings; or**
- b) multi-occupied residential buildings of 11 metres and above?**

a) all multi-occupied residential buildings

The introduction of wayfinding signage is welcomed and it is noted this provision is already incorporated into Approved Document B for buildings in excess of 11 metres. NFCC believes the provision of such signage will prove beneficial to occupants as well as for firefighting operations where floors must be identified in potentially difficult situations. The situations where wayfinding signage would be of benefit are not limited to buildings in excess of 6 storeys. The opportunity to become disorientated or the need to identify specific floors for a variety of reasons remains in any premises exceeding a single storey. This is especially the case where there are multiple exits on different floors (buildings on slopes), the use of different exits on different floors of flats (maisonettes for example) or where access from stairs does not cover every floor.

As a result, and bearing in mind the cost per building of implementing this measure is likely to be low, it is our position to support the provision of wayfinding signage in all multi-occupied residential buildings.

Q115. To what extent do you agree any requirement for evacuation alert systems should be informed by the outcome of the programme of research and testing?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Section 3: Building Control Bodies Consultation with Fire and Rescue Authorities

3.1 Better Information

Q116a. To what extent do you agree, that further guidance should be provided on the information which needs to be supplied?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q116b. If you agree, please specify what information this should cover

The information that should be provided, as a minimum, should include the information asked for in the Pro-forma checklist that forms Appendix J of the '[Building Regulations and](#)

[Fire Safety Procedural Guidance](#)' document. In addition to this, information that should be included in any consultation with the FRS should include:

- The proposed use of the building.
- Details of the occupier of the building – where this is unknown, assumptions about the level of management required should be given in order to assess the likely compliance of the finished building with the requirements of the Regulatory Reform (Fire Safety) Order 2005.
- Plans showing the layouts of all floors which include details of the design that are proposed in order to meet the functional requirements of Part B of the Building Regulations 2010
- Where fire engineering is to be used as part of the design, a fire strategy document outlining the proposal and the methodology used.
- Where appropriate, other fire safety information to support the consultation e.g. fire safety manual.

Q117. To what extent do you agree that a standardised set of building fire safety information requirements describing what information is to be provided would be helpful?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q118. To what extent do you agree that a standardised format for providing the above information would be helpful?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

3.2 Plans Certificates

Q119. To what extent do you agree that plans certificates should be mandated for FSO buildings?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q120. To what extent do you agree that plans certificates could allow for conditions to be set?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q121. To what extent do you agree that plans certificates should be mandated only where building work affects fire or structural safety matters?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

Q122. As an alternative, to what extent do you agree that further guidance would be sufficient?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
				Strongly disagree	

Q123. Please explain your views on plans certificates further:

NFCC supports the wider use of plans certificates in principle, however it would be naive to believe that culture will change without any strengthening of regulation. The experience of FRSs shows that, at present, plans certificates are rarely used as the design process is iterative, and consultation with the FRS only occurs at one point in this process.

There remains the possibility of developers being able to submit compliant plans in order to gain approval then change aspects of the design to non-compliant solutions during the construction phase as well documented in Dame Judith's report. A set of plans that have been given a plans certificate may lead to less scrutiny from building control bodies during construction as it may lead to the assumption that the final build will follow the plans exactly.

This is precisely why the new Gateway processes are being introduced; unfortunately, these Gateways will apply only to buildings in scope. The key risk NFCC has continuously identified, is that for all other buildings the perverse incentives which have arisen since the introduction of competition into the building control market will continue, leading to a two-tier standard of safety.

As outlined previously³, NFCC has consistently stated that clients should not be able to 'shop around' to choose their own building control body. While there is evidence that private sector participation in building control can bring efficiencies, if not implemented

³https://www.nationalfirechiefs.org.uk/write/MediaUploads/Grenfell/NFCC_Submission_review_building_regs_final.pdf

correctly such a delegation of regulatory mandate can come with significant unintended consequences.

A 2018 report by the World Bank⁴ into construction regulation across 190 economies noted that integration of private sector entities should be accompanied by appropriate safeguards that favour the public interest over private profits; for such an arrangement to work as intended, the public sector should regulate private third-party professionals and firms.

The report also found that in 76% of economies that make use of third-party inspectors, regulations explicitly require the independence of third-party inspectors; they should have no financial interests in the project and should not be related to the investor or builder.

NFCC therefore welcomes this consultation from Home Office on additional ways to tighten the process for buildings *not in scope* of MHCLG's proposals. In lieu of the scope of the Gateways system being widened, we would favour an approach which encompasses greater accountability throughout the whole building control process. This could be achieved by placing greater emphasis on the importance of the existing guidance '[Building Regulations and Fire Safety Procedural Guidance](#)'. For example, it could be made an approved document. Giving it a greater basis of authority would mean that building control bodies would be minded to include consultation with FRSs and thorough plans and checks in all aspects of the approval process, which would include re-consulting with FRSs when there are changes.

3.3 Timely Consultation

Q124a. To what extent do you agree that there are additional consultation points that could be specified in legislation or guidance?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q124b. If yes, please specify what these points are and whether these should be specified in legislation or guidance?

NFCC believes that there should be points in a design process where FRS are consulted beyond the current requirements. These consultation points will vary between projects. They may not always be necessary in smaller projects, whereas larger projects may need many more. For this reason, it would be better to stipulate these consultation points in relevant guidance.

As in our response to Q123, NFCC would prefer to see greater emphasis given to guidance on consultation with FRS as part of the building control process.

⁴ <https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB18-Chapters/DB18-Construction-permits.pdf>

FRS should also be consulted on any significant changes in the design process to ensure that they are aware of the final design rather than just one fixed point in the design/approvals process, as is currently the case. This would follow the process that is laid out in the '*Building Regulations and Fire Safety Procedural Guidance*'.

3.4 Appropriate Response Times

Q125. To what extent do you agree that there should be a fixed statutory timeframe in legislation for response by Fire and Rescue Authorities (upon receipt of the appropriate information from building control bodies)?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q126a. If a statutory timeframe were to be introduced in legislation, to what extent do you agree that it should be

a. 15 calendar days

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
		Neither agree or disagree			

b. 21 calendar day

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
		Neither agree or disagree			

c. other – please specify.

There should be a stepped scale dependent upon the complexity of what is being submitted, with the possibility for extension where appropriate. Please see below.

Q126b. Please explain your response

For many submissions, FRSs are able to respond to Building Control Bodies within the current timelines of 15 working days. However, this is dependent upon the amount and quality of information that is supplied with the submission. Our members have reported large proportions of building consultations being held up due to the insufficient detail being provided, or potential safety concerns. A set format of information, as detailed in

section 3.1 of this consultation would significantly aid response to consultation and allow for better quality responses.

However, there should be scope to extend the consultation for projects which involve a level of complexity, which may include non-standard design or fire engineering. These projects may require a greater level of resource in order to provide a comprehensive response which may take more time.

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 significant time and resources to appropriately assess the information provided.

Timescales need to be sufficient enough to be able to adequately assess the information provided, whilst supporting the industry by not delaying construction longer than is necessary. They would also need to consider the administrative arrangements for liaising with other regulators who would need to be consulted as part of the process. Timescales may need to operate on a stepped scale dependent upon the complexity of what is being submitted.

Q127. To what extent do you agree that there should be a flexible arrangement where all parties involved including developer, building control body and Fire and Rescue Authority are able to agree an extension to the timeframe to meet the need/s of the specific project?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q128. Please note any other factors we should consider relating to introducing statutory timeframes for consultation between building control bodies and Fire and Rescue Authorities.

As referenced in the answer to Q126b, complex buildings which utilise fire engineering as a means of demonstrating compliance with the functional requirements of the Building Regulations may benefit from a more flexible approach to the approvals process. The process laid out in BS 7974 for a qualitative design review of complex projects may be beneficial in engaging relevant stakeholders, including FRSs, at the earliest opportunity.

3.5 Enabling Dispute Resolution

Q129a. Are there problems with resolving disputes between building control bodies and Fire and Rescue Authorities which could benefit from a mediation

panel with appropriate representative bodies providing advice on resolving disputes?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q129b. Please explain your answer

As a statutory consultee on Building Regulations consultations, FRSs allocate significant resources to making their comments and observations on Building Regulations, the FSO and other non-statutory advice. This is in pursuance of ensuring premises are constructed and altered safely and to avoid the need for abortive work.

Where there is a disagreement in the proposals between the building control body (BCB) and FRS there is currently very limited scope for FRSs to escalate any issues to an independent body to make a determination, and comments and observations made by the FRSs are often ignored. This results in FRSs having to address fire safety deficiencies using the FSO retrospectively, which is not its intent. To address deficiencies satisfactorily may subsequently be outside the scope of the FSO, especially where there are deficiencies regarding the requirement for access and facilities for the FRS. This can place firefighters and occupants at risk in event of fire.

NFCC believes that an independent mediation panel could address disputes in a way which would improve the current situation. To be effective, any process will need to be clearly defined, robust, supported by a framework and statutory guidance/an ACOP and importantly - timely. Any process that allows work to continue at a pace to the detriment of the building, prior to any determination being made, loses any credibility and will ultimately, not achieve what is required.

Q.130. Which bodies should be involved?

NFCC considers the mediation panel should be independent and unbiased, with representation from across the sector to provide the robust process and abiding decision desired and required. The panel should be comprised of those within the sector and be sector competent, with subject matter experts where required. Representation could include, as a minimum, LABC, ACAI, NFCC, and may include MHCLG, neighbouring FRSs and interested parties e.g. CQC, OFSTEAD.

The proposed Building Safety Regulator could establish and run such a panel, with their regulatory oversight of the building control profession, and would provide a route for the collation of information to inform sector learning.

3.6 Better Guidance

Q131a. To what extent do you agree that standing advice, separate to but complementing Approved Document B and the Procedural Guidance, for use at the local level would be helpful?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
			Tend to disagree		

Q131b. If so, please specify all areas it would be helpful to address

NFCC does not necessarily consider there to be a need for separate standing advice. The revised *Building Regulations and Fire Safety Procedural Guidance* and *Approved Document B*, once uplifted, should provide the level of information and guidance required.

It is widely accepted *Approved Document B* needs updating, as per our response⁵ to the full technical review notes. We acknowledge that work is underway to obtain the information to inform this review, although this will take some time. Once complete it should provide the level of guidance required nationally which will promote consistency and robustness. In addition, and as indicated in our answer to Q.123, the elevation of the *Building Regulations Fire Safety Procedural Guidance* e.g. to an *Approved Document*, would further enhance this approach.

It is important the above documents are then kept under regular review and updated, with views from across the sector, to ensure they remain valid and are fit for purpose. Depending on the time taken to inform the review of *Approved Document B* there may be the need for standing advice in the intervening period.

3.7 Fire Safety Information (Regulation 38)

Q132a: To what extent do you agree that the application of Regulation 38 should be extended to material alterations and/or other types of building work?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q132b. If you agree, please specify which types of work.

NFCC understands that the intent behind Regulation 38 is to provide fire safety information to the Responsible Person, as defined in the FSO, to allow them to operate and maintain

⁵ https://www.nationalfirechiefs.org.uk/write/MediaUploads/Grenfell/Technical_review_of_ADB_-_1_March_2019_-_FINAL.pdf

a premises to ensure relevant persons are provided with sufficient fire safety measures in event of fire. The Responsible Person will achieve this by making a suitable and sufficient fire risk assessment which is informed by all relevant information.

As such, NFCC is of the view that the application of Regulation 38 should be extended to all premises to which the FSO applies, regardless of the nature of the works. This will ensure the Responsible Person will be provided with all relevant information to fully inform their fire risk assessment. Where the nature of works and provision of information has limited scope and influence on the fire risk assessment, the review of that information and its impact will be relatively simple.

Q133. To what extent do you agree that the building control body should have to approve the fire safety information to be handed over?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q134. To what extent do you agree that a review of the Regulation 38 information should be included in any formal consultation requirements between the building control body and the Fire and Rescue Authority prior to the issue of a completion or final certificate?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q135. To what extent do you agree that there should be a requirement for the developer to provide a formal notice to the building control body that fire information has been handed over (including confirmation from the Responsible Person to that effect)?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q136. To what extent do you agree that further guidance would be useful, for example through a British Standards such as BS 8644?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
Strongly agree					

Q137. Overall, please state which of the three options is your preference.

- a) Option 1;
- b) Option 2;
- c) Option 3; or
- d) None.

Please explain the reason/s for your preference:

a) **Option 1** – The Building Control Body approves the information to be handed over. But this could be supplemented with elements of the other options.

NFCC considers that the current provision and enforcement of Regulation 38 fire safety information is insufficient, and the Regulation is not being complied with. Non-compliance with Regulation 38 can impact the management of premises, and a lack of information can lead to non-compliance with the FSO, both of which place persons at risk in event of fire.

NFCC believes that the options proposed above should not be considered in isolation. Rather, there could be an amalgamation of the option to ensure sector wide involvement and support. This could provide the required uplift, as they all provide positive proposals in addressing the issues.

Some have suggested that FRSs should ‘approve’ the R38 information, however we believe this could create a conflict of interest with our auditor role as the regulators of the FSO. However there needs to be enhanced roles for building control bodies and the FRS in the way fire safety information is documented and confirmed with those carrying out the work. This needs to be supported with appropriate guidance. Guidance should be encompassed within the uplift of existing guidance as identified above in our answers to Q.123 & 131.b, again ensuring robustness and consistency nationally, in addition to the work being carried out in the development of BS 8644. As an integral part of the Golden Thread of information, NFCC considers these to be the appropriate routes to achieve the desired outcome.

3.8 Impacts

Q138a. If implemented, to what extent do you agree that the changes would provide benefits to your work?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q138b. Please specify how

If implemented in their entirety and in line with suggestions above, and to a level where all stakeholders apply the principles and intent, NFCC considers there may be benefits to FRSs, as well as others. Ultimately though, we believe the ability to choose your own regulator needs to be removed across the entire built environment.

Well informed and timely consultations where the FRSs comments and observations are considered and acted upon at appropriate stages in the development of a premises, may see safer premises in the event of fire. This will not only reduce the risk and impact of any fire for the occupants and those in the vicinity of the premises, but also the wider community and operational firefighters where response could be maximised.

Whilst additional resources may be required to review the enhanced information provided, there may also be the benefit of FRS not having to continually seek additional information to allow consultation to take place. This may also lead to enhanced compliance with the FSO across premises where the FRS comments and observations have been considered and acted upon. Where premises have been subject to a consultation, there may be a reduced need for further action and would allow FRSs to concentrate resources.

Q139a: If implemented, what extent do you agree the changes would result in any additional costs to your organisation?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know
	Tend to agree				

Q139b. Please specify how

As discussed above, if proposals are not implemented in full benefits may be neutral.

The proposals in Part 3 may increase costs through the training of staff in the new guidance and procedures, and through the provision of support if taking part in the disputes panel. There is a nationally recognised shortage of competent fire safety professionals, which affects the FRS, who are facing increased costs to not only recruit and train competent staff of all levels, but also to retain them.

Proposals earlier in this consultation could also potentially impact on costs. Examples could include:

- Costs of establishing roles to administer any processes which result in increased charging (e.g. UWFS) accepting these may eventually become cost neutral or indeed income generating (the latter being an area that would require scrutiny).
- Cost of creating and maintaining ICT processes / systems and associated roles to administer any processes necessary to receive and process in an accurate and timely manner any premises plans and any other relevant Protection information (defective lifts etc).

We trust that a full impact assessment will be carried out following the results of this consultation, to ensure any potential new burdens which may not be covered by recent uplifts to Protection funding are identified.