



NFCC
National Fire
Chiefs Council

The professional voice of the
UK Fire & Rescue Service

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

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

Building Safety Position Statement
Pre White Paper Consultation
Building Safety Team
Welsh Government
Cathays Park
Cardiff
CF10 3A

Sent via email to: buildingsafety@gov.wales

30 September 2020

To the Welsh Government Building Regulations team,

Please find attached the National Fire Chiefs Council (NFCC) response to the Pre White Paper Consultation on the proposed Building Safety Regime and Fire Safety Regime as set out in the [Building Safety Position Statement](#).

The NFCC is the professional voice of the UK fire and rescue services, and is comprised of a council of UK Chief Fire Officers. This submission was put together through the NFCC's Protection and Business Safety Committee, which I Chair. The Committee is comprised of protection and fire safety specialists from across the UK.

In the wake of the fire at Grenfell Tower, it is vital that we use this time to reflect and examine the shortcomings that contributed to the terrible events of 14 June.

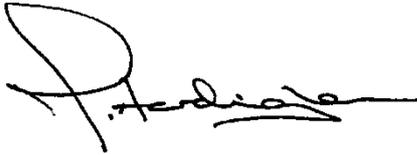
To summarise some of the key points covered within this submission, NFCC:

- supports a broader scope than one that is limited to high rise residential buildings of 18m or more (or more than six storeys);
- believes a wider scope will help to mitigate the potential for a two-tier system of safety that is to the detriment of premises where the most vulnerable occupants of society reside;
- notes that a trigger height of 18m is arbitrary and does not reflect modern firefighting equipment and practices;
- believes scope needs to be clearly defined in a way that will prevent 'gaming';
- believes scope should reach beyond life safety and include environmental impacts, community loss, and property protection;
- recognises that it would be difficult to justify the investment into new structures for a single regulator to oversee Gateways processes in Wales if the proposed scope remains at 18m within these proposals, given the changes would only apply to 4 or 5 new builds per year. It must be noted that NFCC is in support of the proposals for

England to have a single regulator supported by existing local regulators as we believe this is crucial to mitigate risk of a two-tier standard of safety.

We trust that the attached submission is helpful, and would welcome further discussions with your department following the outcome of the consultation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. Hardingham', with a large, stylized initial 'M'.

Mark Hardingham

**Cadeirydd, Pwyllgor Diogelwch a Diogelwch Busnes / Protection and Business Safety
Committee Chair**

Cyngor Penaethiaid Tân Cenedlaethol / National Fire Chiefs Council

Llais Proffesiynol Gwasanaeth Tân ac Achub y DU

The Professional Voice of the UK Fire and Rescue Service

Pre White Paper – Welsh Government Building Safety Position Statement

NFCC understands the proposed Building Safety Regime will set out new processes for the design and construction of buildings, and management of buildings in occupation similar to the Gateways and Safety Case regime set out for England. The pre white paper poses the question of which buildings the new processes should apply to as below:

Are high rise residential buildings of 18m or more (or more than six storeys) in height the right scope for the Building Safety Regime? Should we consider including a wider range of buildings within the scope of the Building Safety Regime, for example 11m or more (or more than four storeys) in height? If so, what buildings would you suggest being included? What is your evidence in proposing this?

1. NFCC supports a broader scope than one that is limited to high rise residential buildings of 18m or more (or more than six storeys). While we are pleased the proposals go beyond Dame Judith's initial recommendations for buildings at 30 meters, we believe the scope should expand to include:

1.1. Residential buildings of 11 meters and above, and specialised housing for:

- the full gateway process in construction;
- the safety case and registration schemes, for new builds; and
- the safety case and registration schemes for existing buildings; NFCC understand this would have significant resource implications and may require a staged approach to implementation. We would like to offer our help to determine how this could be managed using a risk-based approach.

1.2. New higher risk workplaces such as residential care homes, higher risk sleeping accommodation (e.g. hotels, hostels, hospitals, hospices), secure residential institutions (e.g. prisons and detention facilities), student accommodation and educational facilities:

- should be part of the full gateway process;
- in existing higher risk workplaces, a strengthened Fire Safety Order (FSO) would suffice for management during occupation. This scope should be regularly reviewed, with the ability for the regulator to expand over time.

2. NFCC believes a wider scope will help to mitigate the potential for a two-tier system of safety.

2.1. To limit the scope to 18m or more (or more than six stories) has the potential to create a two-tier building regulatory system, where a limited set of buildings that are defined as higher risk are required to meet more robust standards than

premises where the most vulnerable occupants of society reside. Lower standards of safety should not be accepted.

- 2.2. Risk analysis should not be limited to the height of buildings. In line with our previous responses to the [MHCLG's Building a Safer Future Consultation](#) in 2019 and more recently in response to the Draft Building Safety Bill Pre-legislative Scrutiny Committee questions (14.09.20), NFCC would like a system that incorporates a more holistic understanding of risk factors, including the vulnerability of building occupants.
- 2.3. Widening the scope in this way will ensure more buildings are built correctly to begin with and that vulnerable people are protected. This should include residential care homes, higher risk sleeping accommodation (e.g. hotels, hostels, hospitals, hospices), student accommodation, secure residential institutions (e.g. prisons and detention facilities), and educational facilities.
- 2.4. NFCC notes that within other available risk data, such as Government's Integrated Risk Management Planning (IRMP) Guidance, while this guidance does need to be updated, buildings such as hospitals and care homes do score amongst the highest risk buildings, and are seen as higher risk than purpose-built blocks of flats. Older people, especially those aged 65 and over, are at greater risk of dying in a fire; according to Office for National Statistics population projections, those aged 80 and over made up five per cent of the population but accounted for 20 per cent of all fire related fatalities in 2016/17.

3. NFCC believes there is capacity to broaden the scope.

- 3.1. The paper notes that there are 147 high rise residential buildings in Wales, with around 4 or 5 additional high rise buildings being built each year. With only 4 or 5 buildings per year falling within the scope of the proposed Gateways system, we believe the system has capacity to include a wider range of new builds in the construction process from the outset.
- 3.2. By the time new rules would come into force, it is anticipated the existing higher risk residential buildings will have had additional attention due to the high profile of concerns about these buildings following Grenfell and scrutiny being driven by the market, and emerging guidance and best practice such as Consolidated Advice Note (CAN) published by MHCLG's Expert Panel. As such, there may be more to gain from applying the new rules in a wider set of buildings.

4. A trigger height of 18m is arbitrary and does not reflect modern firefighting equipment and practices.

4.1. Whilst 18m aligns with some areas of current guidance (ADB and British Standards) it is a historical height that can be considered at best out of date, and what seems to be in reality, an arbitrary threshold.

4.2. Currently, there is an anomaly for protection of buildings between 11m and 18m. Front line equipment carried by Fire and Rescue Services (FRS) is primarily fit for external firefighting and rescue up to 11m in floor height.

4.3. NFCC has stressed before, including our response to the Welsh Government consultation on banning the use of combustible materials in 2018, that height thresholds lend themselves to gaming (discussed at [5]), and convenient interpretations.

4.4. NFCC has highlighted that trigger heights and thresholds should be reviewed within supporting guidance with consideration as to how they interact, particularly:

- The height at which firefighting facilities are required, which we suggest should begin at 11m or 3 floors for some of the provisions in ADB.
- Compartment sizes, access to perimeters, hose length distances, and maximum suppression sizes (particularly for warehouses and factories).
- Above 11m, internal protection should be strengthened, whether this is achieved through active or passive building safety measures. If the intention of the proposals was to align the new regime to firefighting equipment and response, then it may be more appropriate to adopt a threshold of 11m which aligns with current operational equipment carried on front line fire appliances.

5. NFCC would like to stress that whatever is in scope needs to be clearly defined in a way that will prevent 'gaming'.

5.1. In the experience of FRSs, there is significant scope for gaming hard parameters, such as trigger heights and aspects such as how buildings are measured. FRSs have reported designers employing 'convenient interpretations' to seek to justify clearly inappropriate solutions.

5.2. Guidance is often used as a 'maximum' benchmark for fire safety. Some in the building and design sector appear to be under the impression a solution is appropriate simply because the guidance does not explicitly say that it isn't.

5.3. One example is a residential building of 30m not requiring sprinklers because ADB uses the phrase more than 30m. Some attempt compliance by stealth, designing just below thresholds to avoid certain measures.

- 5.4. If a height threshold is chosen, it should specify that where trigger heights exist (e.g. 18m) it should include the number of floors, using wording which would require the higher of the specified requirements. For example, '18m or 6 floors, whichever threshold is reached first'. This would prevent the current practice of designing a building up to a current threshold without having to put in requisite additional measures.
6. NFCC believes the scope should reach beyond life safety and include environmental impacts, community loss, and property protection.
 - 6.1. This could have beneficial flow-on effects, particularly for communities and firefighter safety. Rather than seeking to achieve an appropriate level of safety, incentives exist for designs to be 'just good enough'; where the intention is not to protect the structure, but for the building to remain stable long enough for users to evacuate. The 'build to fail' principle is commonly applied where building to a standard to prevent total building failure would be prohibitively expensive to achieve. This principle is employed in minimum earthquake standards for structural integrity.
 - 6.2. We do not believe application of this principle in the context of fire is justifiable, especially to buildings where people sleep. Such designs are accepting potential significant losses to people, property, community assets, and business continuity. They ignore sustainability and could be seen as a progressive degradation of standards. Enabling innovation must always be balanced against the single most important objective – the safety of end-users and emergency responders.
7. Regardless of how scope is defined, NFCC recommend that the white paper take the opportunity to address the problem of non-worsening provisions. It is unclear how the Safety Case proposals will interact with non-worsening provisions, which do not require improvements to building standards to be retrospectively applied.
8. NFCC believe that 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, to help gradually improve safety across building stock over time.
9. The Safety Case proposals provides a mechanism to challenge assumptions that have been made about safety issues. However, it is unclear how this will interact with the non-worsening protection afforded to owners and developers.

What do you consider to be the most appropriate way of regulating the new Building Safety Regime - A single regulator, or multiple regulators? What is your rationale for this?

10. NFCC is in support of the proposals for England to have a single regulator supported by existing local regulators as we believe this is crucial to mitigate risk of a two-tier standard of safety. However we recognise that if the proposed scope remains at 18m within these proposals for Wales then the changes would only apply to 4 or 5 new builds per year; it would be difficult to justify the investment into new structures for a single regulator to oversee Gateways processes if this were the outcome.
11. NFCC suggests that this decision be guided by the outcome of the decision on scope, as a larger number of new builds per year might provide economies of scale which would justify the introduction of a single regulator model. The existing overlaps between multiple regulators and confusion over their powers is the reason for the 'broken system' that Dame Judith Hackitt refers to in her report.
12. If the multiple regulator pathway is selected, care should be taken in the detail of regulation to generate the right behavioural incentives in the system for duty holders, i.e. responsibility and accountability for building safety must remain with those who build and manage buildings. Any new system should not be viewed as a pathway for handing over responsibility for the safe design and management of buildings to the FRS, for example by incentivising designers to rely on FRS protection departments as free fire safety consultants.
13. NFCC notes that multiple regulators pathway should not add to the challenges that residents already face or create further confusion regarding who they should escalate complaints to. The regime needs to reflect that residents are at the heart of the proposals.
14. NFCC also notes in regard to the proposals for the management of buildings in occupation, that the new Fire Safety Regime would apply to all parts of all residential buildings. This has the potential to create significant additional auditing burdens for Welsh Fire and Rescue Services but could have some benefits for public and firefighter safety. It is also noted that the legislative separation of residential buildings and commercial buildings provides clarity on the application of the relevant legislation in each case.