

# Questions

## Respondent Details

| Question 1   | Respondent details  |
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| Name   | Graham Watts OBE  |
| Position (if applicable)   | Chief Executive   |
| Organisation (if applicable)   | Construction Industry Council   |
| Address (including postcode)   | 26 Store Street, London WC1E 7BT  |
| Email address  | <a href="mailto:gwatts@cic.org.uk">gwatts@cic.org.uk</a>                                  |
| Telephone number   | 0207 399 7402   |
| Please state whether you are responding on behalf of yourself or the organisation stated above | Responding on behalf of the Construction Industry Council and its 36 Member Organisations |

| Question 2  | Select one  |
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| Please indicate whether you are applying to this consultation as: |   |
| • Builder / Developer   |   |
| • Designer / Engineer / Surveyor                                  |   |
| • Local Authority   |   |
| • Building Control Approved Inspector                             |   |
| • Architect   |   |
| • Manufacturer  |   |
| • Insurer   |   |
| • Construction professional                                       |   |
| • Fire and Rescue Authority representative                        |   |
| • Property Manager / Housing Association / Landlord               |   |
| • Landlord representative organisation                            |   |
| • Building Occupier/ Resident                                     |   |
| • Tenant representative organisation                              |   |
| • Other interested party (please specify)                         | Built Environment Professions Together – Council of the Built Environment Professional Bodies |

| Question 3   |   |
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| a. Do you agree that combustible materials in cladding systems should be banned? | <p><b>Yes – with some exemptions</b></p> <p>We agree with a ban on combustible materials in cladding systems with some exemptions, which we set out in our answers to Question 7.</p> |

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|   | <p>It would be highly impractical for an outright ban on the use of all combustible materials in all elements. Our approach would be for regulations to have a prescribed list of elements where combustible materials are acceptable.</p> <p>Such a ban should be subject to a further review as findings emerge in the Grenfell Tower Public Inquiry; the responses to <i>Building a Safer Future</i> (The Hackitt Review of Building Regulations and Fire Safety); and new testing regimes that will develop over time.</p> <p>The construction and fire safety industries – together with representatives of building owners and managers - are putting in place measures to improve the competency of all those designing, constructing, managing and maintaining higher-risk residential buildings through the work of the IRG Steering Group on Competences for <i>Building a Safer Future</i>. In time, a consistently competent workforce could also merit a change to this proposed prescriptive approach, which may well be anomalous in the context of a performance-based approach to fire and life safety.</p> <p>The CIC refers the MHCLG to the responses of individual members on this and all other questions in order to ascertain their detailed individual responses.</p> <p>This response from CIC represents a consensus arrived at through a composite of members' views gathered in various workshops and meetings and through the sharing of papers and draft responses.</p> |
| <p>b. Should the ban be implemented through changes to the law?</p> | <p><b>Yes – through changes to the Building Regulations</b></p> <p>A ban can only be achieved through legislation</p>  |

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| c. If no, how else could the ban be achieved? | N/A |
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| <b>Question 4</b>  |  |
| Do you agree that the ban should apply:  |  |
| a. to buildings 18m or over in height?   | <b>Yes – but with qualifications [see below]</b>   |
| b. throughout the entire height of the wall, i.e. both below and above 18m?  | <b>Yes – Our view is that the ban should apply to the entire height of the wall</b>  |
| c. to high-rise residential buildings only?  | <b>No – the ban should be drawn wider than HRRBs and should apply to all buildings over 18m in height; and any building above one storey in which vulnerable people gather.</b>  |
| d. to all high-rise, non-residential buildings e.g. offices and other buildings, as well as residential buildings? | <p><b>Yes – the ban should apply to all buildings over 18m in height, including offices.</b></p> <p>Buildings are often subject to change of use. There is a case to argue that current requirement B4 in the Building Regulations, which covers the prevention of external fire spread, already, prohibits the use of combustible cladding on any building.</p> <p>Fires from office blocks could spread to adjacent residential buildings</p>  |
| e. Please provide any further information in relation to your answers above.                                       | <p>Vulnerable people have a constrained capacity to access means of escape.</p> <p>Therefore, to ensure their safety combustible cladding should be banned on any building above one storey where vulnerable people gather. This would include care homes; schools; hospitals, leisure and recreational buildings; and certain mixed-use developments.</p> <p>There no longer appears to be any relevant rationale for the 18m definition in terms of modern firefighting practices.</p> <p>Therefore, we also recommend that more</p> |

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|  | <p>work is done by MHCLG to establish whether this historic measure remains the appropriate height above which to impose tighter restrictions.</p> <p>We are aware that in Scotland, for example, the equivalent requirement is set at 11m. There needs to be a full and effective assessment – made in conjunction with the Fire &amp; Rescue Services – to establish if the same height requirement should be adopted in England and Wales.</p> <p>It would be logical to have the same height requirement in relation to a ban on combustible cladding consistently applied throughout the UK.</p> <p>Other factors to be considered are:</p> <ul style="list-style-type: none"> <li>• Combustible cladding should not be used at ground level where there is a risk of ignition from external sources (such as bin fires and barbecues);</li> <li>• Combustible cladding should not be used in any way adjacent to a building exit; or where fire spread may prevent escape via a single staircase; and</li> <li>• The use of combustible cladding on external walls below 18m in height could pose a wind-borne fire hazard to adjacent buildings.</li> </ul> |
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| <b>Question 5</b>  |   |
| <p>a. Do you agree that the European classification system should be used and do you consider that Class A2 or better is the correct classification for materials to be used in wall construction?</p> | <p><b>Yes – the general consensus of CIC members agrees with this assessment.</b></p> <p>However, we note that one of our members – the RIBA – is advocating that materials used in insulation and other cladding products should have A1 classification.</p> |
| <p>b. If no, what class should be allowed in wall construction and why?</p>  | <p><b>N/A</b></p>   |

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| <b>Question 6</b>  |   |
| a. Do you agree that a ban should cover the entire wall construction?                                | <b>No</b><br><br>The specification of what is meant by the <i>'entire wall construction'</i> needs to be carefully defined.   |
| b. If no, what aspects of the wall should it cover?  | The ban should only cover sheathing boards; insulation; and the outermost cladding products in the external wall construction; not the building's primary structure which should have adequate fire protection (see Building Regulations Requirement Part B3) <b>and also meet requirements with respect to fire spread across surfaces.</b><br><br>There is a case to consider whether the ban should also extend to the inner leaf of the external wall (A2-s1, d0 classification). |
| c. Should a ban also cover window spandrels, balconies, brise soleil, and similar building elements? | <b>Yes – the ban should cover all the elements listed.</b>  |
| c. Please provide any further information in relation to your answers above.                         | There may need to be a time limited delay in implementing certain aspects of a ban, depending upon its scope (eg for expansion joints, gaskets and sealants) where the materials sector may need time to develop new products that are non-combustible.<br><br>There is a case to consider that expandable foam used in external wall construction should have a fire resistance rating of at least 120 minutes.  |

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| <b>Question 7</b>  |  |
| a. Do you agree that a limited number of wall system components should, by exception, be exempted from the proposed ban? | <b>Yes – there should be exemptions for a limited number of wall system components</b> |

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| <p>b. If yes, what components should be included on an exemption list and what conditions should be imposed on their use?</p> | <p>There should be exemptions for products required in external wall construction (ie there is no practical alternative to their use) that cannot be obtained with an A1 or A2 classification.</p> <p>There should also be exemptions for products where the risk of external fire spread caused by their use is so minimal that it would be a disproportionate measure to ban their use. This would include double glazing; gaskets; sealants; internal wallpaper and paint.</p> <p>If it is considered that any combustible materials represent an unacceptable risk then there would need to be a reasonable period of time to enable the materials sector to develop non-combustible alternatives.</p> <p>Timber window frames should also be exempted as they do not contribute to fire spread. Plastic frames should be banned unless used in conjunction with other materials that will retain the glazing in place during the early stages of a fire.</p> |
| <p>c. Would you recommend an alternative way of achieving the policy aims stated above?</p>                                   | <p>We recommend that the list of exempted elements needs to be exhaustive and not open to interpretation. The policy would need to be reviewed and updated regularly to allow for innovation.</p> <p>There is an argument that the ban should apply to specific product types rather than being subject to a long list of exemptions but such an approach would require to be reviewed and updated regularly.</p> <p>There is a strong case for retaining the use of BS8414 full-scale test regime as a means to demonstrate that the inclusion of an exempted product or component is safe under prescribed circumstances.</p>   |

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| Do you agree that:   |   |
| a. a risk-based approach is appropriate for existing buildings?  | <p><b>Yes</b></p> <p>See our points in 8e for further detail.</p>   |
| b. the ban should apply to alterations to existing buildings, including over-cladding?                                   | <p><b>Yes – but there is a need for careful attention to detail in what constitutes ‘alterations’</b></p> <p>If work on an existing building falls within the scope of a material alteration as defined by regulation, then the ban should apply.</p> <p>However, this should only apply to alterations to the building envelope, rather than internal modifications; and it cannot apply to issues of minor maintenance since building owners may refuse to carry out such maintenance if it is likely to trigger a ban and thus avoid the cost of large scale remedial work.</p>  |
| c. the ban should extend to projects that have been notified before the ban takes effect but work has not begun on site? | <p>Careful attention is required to what is meant by <i>‘notified’</i> in this question, which is not sufficiently clear, since notification can be interpreted in several ways.</p> <p>When a ban comes into force, it should be applied to all new projects upon which the ban applies, which are in the process of being designed.</p> <p>The MHCLG needs to be mindful that the building design process has a long gestation period and early notice of a ban would ensure that as many new buildings, relevant to the scope of the ban, are included.</p> <p>Changing the external wall system on a building after it has been designed will present challenges since replacing like-for-like is not always a viable solution.</p> |
| d. the ban should not affect projects where building work has already begun?   | <p><b>Yes – the ban should not be imposed on projects that have already started on site</b></p>   |

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|   | <p>There will be a need to define what is meant by ‘<i>where building work has already begun</i>’.</p> <p>Buildings that have started on site at the time of the ban should be subject to the same mandatory review as existing buildings with combustible cladding in situ – as outlined in (e) below</p>  |
| <p>e. Please provide any further information in relation to your answers above.</p> | <p>The consensus view of CIC members is that it is not practical to define a prescriptive approach that can be applied to all buildings.</p> <p>For existing buildings, the only practical approach is for a competent person – or, more likely, persons – to conduct a professional assessment of the existing building to include the façade; the fire protection systems; the occupancy; the means of escape; the location; the amount and location of combustible materials in the external wall system; and all other relevant risk factors; and to thoroughly assess the safety of that particular building.</p> <p>This cannot be undertaken as a desktop exercise.</p> <p>The professional assessment of existing buildings with combustible materials could be made a mandatory requirement to be carried out at a periodic frequency.</p> <p>Taking a lead from the MoT test for motor vehicles; this might be regarded as a statutory “MHCLG test” for existing buildings constructed (or under construction) before the ban came into force. This test would be required at a defined frequency for as long as the combustible material remained in situ.</p> <p>The work of the Steering Group on Competences for <i>Building a Safer Future</i> will create a “licence to practice” for all those involved in designing, inspecting, constructing, managing and maintaining</p> |

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|  | <p>HRRBs. This could provide a pool of competent engineers that would be capable of carrying out the “MHCLG test”.</p> <p>Residents would need to be consulted and they could complain to a suitable authority (the JCA?) if they believe that their safety is compromised by a decision to leave combustible materials in situ on the basis of such professional advice. Such decisions should be subject to a mandatory third-party review.</p> <p>CIC supports the current policy of the MHCLG, through the Expert Panel and IRG, to provide firm and effective advice to building owners, managers and residents about combustible cladding on existing buildings. This needs to continue to be a priority.</p> |
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| <b>Question 9</b>   |  |
| <p>a. Which wall elements are likely to be affected by the proposed change – i.e. where they would pass as part of a cladding system in a BS8414 test but would not meet the proposed Class A2 or better requirement (e.g. sheathing boards or vapour barriers)?</p>  | <p>We are unable to add further comment to that previously provided in earlier answers</p> |
| <p>b. We understand that since the Grenfell tower fire, a high proportion of relevant building work is already using elements which meet Class A2 or better. How frequently are elements which do not meet the proposed requirement, as identified in question 3, currently being used on buildings in scope?</p> | <p>We do not have any information upon which to base an answer.</p>                        |
| <p>c. What the impact of removing access to the BS8414 for those buildings affected by the ban test is likely to be?</p>  | <p>We do not have any information upon which to base an answer.</p>                        |
| <p>d. What types of buildings 18m or over are likely to be affected by this change (e.g. hotels, residential, student accommodation)? What proportion of each type would likely be affected by the</p>  | <p>We do not have any information upon which to base an answer.</p>                        |

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| proposed change?   |   |
| <p>e. How much extra cost would typically be involved in meeting the proposed new requirements over and against a building which meets the current requirements? (Please provide any further details.)</p> | <p>Based on the collective experiences of members, it would appear that the figure quoted for the extra cost of a ban on combustible material for a 15-storey new-build construction – of £25-£75K per building and an overall cost of implementation of £7.5m-£11m (over a ten-year period) is a <b>gross underestimate</b>.</p> <p>We welcome the MHCLG proposal for further analysis. The RICS is proposing to set up a roundtable of cost consultants to provide further evidence of the likely additional cost and we recommend that the MHCLG takes note of this –and other relevant - work in its own cost assessments</p> |
| <p>f. Please provide any further comments on the likely impact of this change for construction (e.g. supply chains)</p>  | <p>We recommend that a decision on a ban is made quickly and that the ban is effective as soon as practicable.</p> <p>Continuing uncertainty about the fire safety of our buildings appears to be inhibiting inward investment into the UK. It is also affecting the valuation of buildings.</p> <p>In addition, UK banks and lenders are nervous about investing in projects while this uncertainty persists.</p>  |



# About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

# Annex A

## **Personal data**

The following is to explain your rights and give you the information you are be entitled to under the Data Protection Act 2018.

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

### **1. The identity of the data controller and contact details of our Data Protection Officer**

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at [dataprotection@communities.gsi.gov.uk](mailto:dataprotection@communities.gsi.gov.uk)

### **2. Why we are collecting your personal data**

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

### **3. Our legal basis for processing your personal data**

The Data Protection Act 2018 states that, as a government department, MHCLG may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation. There is a statutory requirement in the Building Act to consult on substantive changes to the building regulations.

### **4. For how long we will keep your personal data, or criteria used to determine the retention period.**

Your personal data will be held for two years from the closure of the consultation.

### **5. Your rights, e.g. access, rectification, erasure**

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

### **6. The Data you provide directly will be stored by Survey Monkey on their servers in the United States. We have taken all necessary precautions to**

**ensure that your rights in terms of data protection will not be compromised by this.**

**7. Your personal data will not be used for any automated decision making.**

**8. We use a third party provider (Survey Monkey) to gather data. Once the consultation has closed, your data will be moved to a secure government IT system.**