



MINISTRY OF HOUSING, COMMUNITIES AND LOCAL GOVERNMENT

## **CONSTRUCTION PRODUCTS REFORM GREEN PAPER**

PUBLIC CONSULTATION: 26 FEBRUARY-21 MAY 2025

The Builders Merchants' Federation (BMF) is the UK trade association for businesses in the building materials' supply chain. Since 1908, we have represented merchants, manufacturers & distributors who make and deliver building materials, home improvement products and civils & drainage systems. Our 1,020 members have combined sales over £51.6bn, employ more than 198,000 people and trade from just under 6,500 branches throughout all 4 home nations.

Merchants are the most efficient route-to-market for raw materials and finished goods from manufacturers, suppliers & importers. BMF members perform a vital national function in distributing materials & products from quarries, brickworks, sawmills, factories & ports to where they are used.

Buildings and structures (especially housing) are not erected - nor are properties (especially homes) repaired, maintained or improved - without the primary materials and value-added products that our members make and deliver, on a daily basis, in most weathers, all year round.

The BMF is an economic trade association - and apart from general remarks - we confine ourselves to what we know best. Not all questions answered. We are not a technical research organisation but can support contributions & conclusions others will make.

### **PART A: THE CASE FOR CHANGE**

#### **CHAPTER 1: OVERVIEW OF THE CONSTRUCTION PRODUCTS SECTOR AND REGULATORY REGIME**

Para 1.2: we note HM Government's determination to take decisive action to deliver system-wide transformation of the construction materials & products regime - including through regulation.

##### **The construction products sector**

Para 1.7: the revelation that current regulations cover no more than one third of all materials & products on the market - meaning that the other two-thirds are unregulated - will doubtless have come as a surprise to many.

##### **The current regulatory framework**

Para: 1.19: we note a reference to the existence of Regulation 7 in the Building Regulations - but suspect that it is neither properly understood nor applied.

#### **CHAPTER 2: AN OVERVIEW OF THE PROBLEMS**

##### **The problems in the construction products sector**

The existing regulatory regime does not sufficiently support product safety

Paras 2.6 to 2.11: we note that the original idea behind the European Union Construction Products Regulation (EU-CPR) was to remove trade barriers in the European Single Market. A common mistake often made is the belief that CE Marking is a mark of safety - it is not.

#### The regulatory regime does not cover most construction products

Para 2.14: we note the view that the development of new standards is slow - such that many materials & products are not subject to regulatory requirements before being placed on the market. If true, then HM Government will doubtless take this as the spur to action.

#### Insufficient competence, rigour and transparency in the key institutions responsible for the testing and certification of products and in setting standards

Para 2.16: we note the view that Conformity Assessment Bodies were regarded - by both the Grenfell Tower Inquiry Phase 2 Report and the Morrell & Day Review of Product Testing & Certification - to have fallen short in their roles & responsibilities for a variety of reasons described.

#### Existing rules on information required are insufficient and manufacturers made misleading claims

Para 2.27: the fact that some manufacturers sought to make information about their goods inaccessible - and make exaggerated claims when selling such goods - means HM Government will doubtless take this as the spur to action.

### **Enforcement action is insufficient**

Para 2.34: we note that the Morrell-Day Review said it was unable to identify any prosecutions brought under construction products regulations since they were enacted.

### **Conclusion**

Para 2.40: we note the belief that current arrangements fail to protect citizens, companies & communities who should expect safe materials & products in their homes and other buildings.

Question 1: do you agree with this problem definition? [Yes/No]. Please explain your answer.

Yes.

- the current Construction Products Regulation applies to a limited number of materials & products - and has not hitherto been about the safety of such goods;
- there has been little or no enforcement of these regulations;
- conflicts of interest between regulatory duties & commercial pressures have weakened the conformity assessment, certification & labelling process;
- the way that some manufacturers marked their goods was wholly unacceptable and misleading to customers who (consequently) may not have made well-informed buying decisions.

Question 2: are there particular functions that the sector does well that should be protected or encouraged? [Yes/No]. Please explain your answer.

The supply chain has done a lot to improve the way it operates. The most obvious example is the establishment of the Code for Construction Product information (CCPI) that is having a noticeable effect on the way merchants, manufacturers & distributors describe and market their goods.

## **CHAPTER 3: OUR VISION FOR REFORM**

### **Objectives**

Para 3.2: we note HM Government's 3 objectives that are the basis for this consultation.

### **Responsibility for reform**

Para 3.3: it is logical for ministers to expect the changes they make (when decided) to be owned and taken forward by the construction materials & products' supply chain itself.

### **Overlap with other regulatory regimes**

Para 3.10: the BMF represents merchants & manufacturers who make and deliver drainage and other systems used in civil engineering works. We ask for some clarity in how the MHCLG intends to deal with a possible cross-over between the applicable regulations.

Question 3: what, if any, other potential overlapping rules, regulations or guidance should we consider when designing the construction products regulatory regime?

- the Building Regulations and the Approved Documents.
- the Gas Safety (Installation and Use) Regulations 1998.
- the UK REACH Regulation 2021.
- the Construction (Design and Management) Regulations 2015.
- regulations that govern water supply and water quality - because materials & products related to potable water are excluded from the Construction Products Regulation.

## **PART B: SYSTEM REFORM - A REGULATORY REGIME THAT CAN BE TRUSTED**

### **CHAPTER 4: INTERACTION WITH THE UNITED KINGDOM INTERNAL MARKET AND THE EUROPEAN UNION**

#### **UK 's relationship with the European Union construction products regulation**

Para 4.2: many manufacturers of construction materials & products are part of pan-European conglomerates with factories & plants in several countries - and head offices often outside the UK. While the boards of directors of such companies regard the United Kingdom as an important sales market, their operations are mainly geared towards European markets for obvious reasons. N.B. we say European, rather than the EU, because it can mean Norway, Switzerland & Turkey.

Many respondents to this consultation will urge HM Government to negotiate a UK-EU Mutual Recognition Agreement for (a) the conformity assessment, certification & labelling of goods and (b) to make international trade as smooth as possible. British businesses would prefer to have a Mutual Recognition Agreement in place before 2026 - which is when the current UK-EU Trade and Cooperation Agreement is due for joint review.

#### **United Kingdom Internal Market**

Para 4.4: the BMF took part in government consultations prior to the passing of the UK Internal Market Act 2020. We regard the principles of mutual recognition, market access and non-discrimination as essential to protect and encourage trade throughout all 4 home nations.

#### **The EU's Construction Products Regulation review**

Para 4.8: we are aware that the European Commission is taking steps to review & revise the EU-CPR with the aim of full implementation on 8 January 2027. This will have consequences for British business who export - and for construction materials & products sold in Northern Ireland. That said, the revised EU-CPR may offer some ready solutions to certain problems or proposals we face in the UK. For example: making manufacturers' information easily accessible to users.

### **CHAPTER 5: SCOPE AND DEFINITIONS OF REFORM**

#### **Definition of a construction product**

Para 5.10: we note that HM Government proposes a UK definition that is consistent with the definition in the revised EU-CPR. This is logical although does not fully address some issues.

### **Definition of construction works**

Para 5.13: BMF members do not themselves carry out construction works.

Para 5.14: as stated earlier, we represent companies that make and deliver materials, products & systems used in civil engineering works. We ask for some clarity in how the MHCLG intends to include them in the same reformed regulatory regime.

Question 4: do you agree that the UK should adopt a definition that is consistent with the revised EU CPR, for construction products in the UK regulatory regime? [Yes/No]. Please explain your answer.

On balance, yes, not least because it will be confusing & onerous to have different definitions. But it comes with a price-tag for manufacturers (and distributors with own-label products) to comply.

Question 5: is there a need to further clarify the regulatory approach to systems of products and or Modern Methods of Construction [Yes/ No]. Please explain your answer and propose any additional clarifications.

Yes - the term “Modern Methods of Construction” is too nebulous and ought to be defined properly. It can mean offsite manufacturing using automation for mass production in a factory. It can also mean modular or pre-fabricated homes ready to assemble onsite (esp. those using timber).

Consideration also has to be given to situations where materials, products or systems made by different manufacturers are combined - and therefore interoperability is critical.

### **Definition of a safe product under the general safety requirement**

Para 5.18: we note that the Building Safety Act 2022 defines a “safe product”. We further note that the revised EU-CPR includes an expanded definition of a product that may present a risk. But what does the MHCLG mean by “safe”. Is it not better to say “resilient” ?

### **Definition of who should be responsible for safety**

Para 5.21: it is logical to stipulate the entities described here which (in the BMF’s case) means manufacturers, distributors & importers. Furthermore, we regard it as essential that online sellers & marketplaces are included as being responsible for safety.

### **Installing Products**

Para 5.26: BMF members do not carry out construction works or install materials & products.

Question 6: does the proposed definition of ‘economic operator’ capture all of those who are responsible for ensuring that products are safe when they are placed on the market? [Yes/No]. Please explain your answer.

On balance, yes.

## **CHAPTER 6: PRODUCT REQUIREMENTS - A REGULATORY APPROACH BASED ON SAFETY RISK**

### **A: Products not covered by a designated standard**

Para 6.5: it is crucial that online sellers are included - as should second-hand markets like car boot sales and other informal places where materials, products, machinery & components can be found.

Question 7: would the approach detailed above enable a proportionate approach to regulating the safety of products not covered by a designated standard or subject to a technical assessment ? [Yes/No]. What other approaches could be taken, drawing on evidence from EU Member States where relevant.

On balance, yes, but proper & timely guidance from the National Regulator of Construction Products (or whomsoever) will be required. Subsequent inspection, enforcement and prosecution must concentrate on where the risks are greatest.

Other respondents will doubtless say that this ought to go further - especially proposed requirements for labelling and the need for standardised digital information. The BMF is aware of industry-wide product data standardisation and identification systems & standards under development. For example: the Global Trade Item Number.

Question 8: what are the implications, if any, that could arise from introducing obligations on importers and distributors to check product information and associated responsibility for the storage and transportation of construction products under a general safety requirement ? If there are any implications how could they be mitigated and managed?

BMF merchants & distributors stock tens of thousands of materials & products. The task of individually checking the information for each will be huge - and cause a huge amount of time, effort & money to be spent. For SMEs, this burden of costs may prove to be too much for that particular company. The cumulative effect of repeating this task along our supply chain is immense and incalculable, added cost to each stage of supply. For example: not only in verifying the required information, but also for obligations on handling, storing & transporting materials & products to maintain them in a satisfactory condition to perform as manufactured.

Technology may have a role to play here - in addition to schemes like the CCPI - to authenticate the manufacturer's information once & for all to provide assurance along the entire supply chain.

## **B: Products covered by a designated standard**

### The United Kingdom government's approach to new or revised standards

Para 6.8: we note the intention to maintain consistency with new & revised European standards that come into force. If so, this reinforces the need for a UK-EU Mutual Recognition Agreement.

### Technical assessment

Paras 6.9-6.14: if materials or products are not currently covered by a designated standard - with little or no likelihood of one being developed - a technical assessment is a logical & proven way for manufacturers who want independent verification of their goods. As the consultation says (para 6.11), no new UK Approved Documents (UKADs) have been adopted since leaving the EU.

Question 9: what role should technical assessment play in a future regime ?

Technical assessments should be allowed under whatever regulatory arrangements that ministers finally decide to implement - indeed, UK Technical Assessment Bodies should be encouraged.

## **C: Strengthening obligations on products critical to safe construction, that carry greatest risk**

Para 6.15: the BMF agrees with the Morrell-Day Review that the focus should not be on "safety critical products" but rather on "products critical to safe construction."

### Classification of 'critical to safe construction'

Paras 6.16 & 6.17: we foresee difficulties here but (of course) nobody wants loopholes that could allow unsafe goods to find their way onto the market. The questions to be answered are: (a) what level of safety is desirable; (b) how do you define how materials & products are safe; and (c) which goods are deemed 'critical to safe construction' ?

Obviously, any load-bearing goods must be structurally sound and capable of supporting & distributing the weight they are intended to. Other goods must demonstrate their performance & capability towards (among others) fire resistance and electrical safety. As stated earlier, it may be better to say "resilient" rather than "safe".

### Requirements

Para 6.19: BMF members do not construct or install the materials & products they sell. It is logical to focus on how they are used and combined with others by builders, contractors, installers, etc.

Question 10: what requirements should apply to products and systems that are critical to safe construction ?

Possible requirements could be:

- third-party certification with ongoing monitoring & surveillance.
- manufacturers to stipulate the purposes for which their goods are wholly unsuitable and should not be used - because they have not been tested & certified - so there can be no doubt for people responsible for designing, specifying, selecting & installing such goods.

We note that bespoke or custom-made materials, products, assemblies or systems are not mentioned. The MHCLG will have to consider what is required (for example) with staircases.

### Strengthening obligations on how products are selected and installed for all products

Para 6.22: it is logical to consider how to strengthen requirements on those responsible for specifying, selecting & installing construction the materials & products.

The way that purchasing is carried out by builders, contractors, installers, etc, is often based on price/cost, availability, delivery times or project completion schedules. This causes temptation to cut corners and substitute the specified materials or products for others that may be of inferior quality, not tested for that purpose, or do not sit well when combined into an assembly, building or system. Regrettably, this may be a practice that is more common than those in construction, house-building or property repair & maintenance may want to admit.

Para 6.26: we note that the MHCLG is considering how to apply safety to the use of construction materials & products in civil engineering works. As stated earlier, BMF members make and deliver drainage and other such systems. We ask for some clarity when the Ministry is able to do so.

Question 11: what types of requirements could be placed on those responsible for building works to enable them to meet safety obligations in relation to the specification, selection and installation of construction products ?

Both the Construction (Design and Management) Regulations 2015 and Regulation 7 in the English Building Regulations already apply to everybody with duties & responsibilities. Other respondents will present arguments for approved installer schemes or competent person schemes.

Question 12: what, if any, significant implications are there from implementing safety requirements for specification, selection & installation of construction products and how could they be managed?

There will be obvious specification, conformity and familiarisation costs arising from whatever minister decide to do. For example, and not an exhaustive list:

- adapting materials, products or processes to new rules, regulations & requirements;

- training staff in new rules & procedures;
- upgrading computer software;
- keeping records to a required standard for many years;
- laboratory testing, licensing & certification fees;
- higher salaries for staff who take on further responsibilities or increased competencies.

Question 13: what other regulatory regimes and measures exist to support the safe installation of products in civil engineering works ? Are there any duplications or gaps ?

The Construction (Design and Management) Regulations 2015 - we do not see duplication or gaps

### **Voluntary routes for placing products on the market**

#### Voluntary standards

Para 6.30: it is logical to seek to have clear evidence behind any claim about the performance of a material or product to dispel any fears over safety or incorrect use.

#### Third-party certification schemes

Para 6.32: we note that there is currently no government or regulatory oversight of third-party certification schemes - and recognise there is scope for misuse by unscrupulous operators.

Para 6.35: it is logical to seek to have minimum requirements for third-party certification schemes.

Para 6.37: it is logical to look at the frequency of audits; sample testing and the type & age of equipment used to conduct such tests.

Question 14: do you agree that minimum requirements for third-party certification should be required ? [Yes/No]. Please explain your answer.

Yes.

Question 15: should upfront approval from the national regulator be required for third-party certification schemes ? [Yes/No]. Please explain your answer.

Yes but a delicate balance has to be struck to avoid unduly excessive specification, conformity and familiarisation costs that cause delays in establishing such schemes.

Question 16: what could help increase the take-up of these types of schemes ?

There is a case for a gold, silver and bronze level hierarchy where:

- gold = designated standards;
- silver = technical assessments;
- bronze = third-party certification.

Care is required to avoid a small or select group of manufacturers establishing third-party certification that would be self-serving to the exclusion of others.

### **Product information and labelling**

Para 6.45: it is logical to require materials & products to be accompanied by clear, unambiguous & easy-to-follow information to support safe installation, as intended, in normal conditions of use. Laws already exist about "reasonable foreseeability". Care is required on what the MHCLG means.

Para 6.48: the BMF is a supporter and trade associate of the Code for Construction Product Information - and helped to develop the CCPI Merchant & Distributor Version of the Code.

Question 17: what information would support you to choose the best product that will be safe in its intended use and its normal or reasonably foreseeable conditions of use ?

Materials and products that have:

- clear, unambiguous & easy-to-follow information about how & where it can and cannot be used - and any circumstances where its use is limited or restricted;
- expectation of its performance in normal conditions of use, as intended;
- how to handle, store, transport or install it to ensure satisfactory performance, as stated;
- clear, unambiguous & easy-to-understand test results that can be compared with other goods;
- standardised labelling that conveys information that can be compared with other goods.

The role of merchants is to break down bulk consignments from manufacturers to expertly manage the distribution of small, mixed or repeat loads and provide the 'last-mile' delivery. Consequently, labelling should stay with the good(s) until it arrives with the end-user. There are many instances where goods are labelled at pallet level - and that have large numbers of items on each pallet. Therefore, many goods are no longer labelled at the point they reach the customer.

The BMF believes that industry-wide product data standardisation and unique identification numbers are critical to achieve this - not only for safety purposes, but also stock management.

## Marketing

Para 6.53: we note the MHCLG is contemplating new legislation to require the provision of clear & accurate information for materials & products - and support 'honest' marketing techniques.

The Grenfell Tower Inquiry found that the marketing practices of named companies had exaggerated the performance & suitability of certain products - in order to sell more of their goods. Undertaking a CCPI assessment ought to give a business a more informed, educated perspective about what is (and is not) acceptable to say in its marketing about the characteristics and performance of its materials or products. The BMF encourages its members to adopt the CCPI.

Question 18: are you aware of instances where current marketing legislation has been insufficient to take action against misleading marketing practices ? [Yes/No]. If yes, please provide details.

No.

## Industry skills and competence

Para 6.56: we note the intention to give more detail about joint government & industry efforts to address skills shortages and improve competence in its forthcoming Long-Term Housing Strategy.

### Installation skills (including advice from manufacturers)

Para 6.57: BMF manufacturers already spend a lot of time, money & effort on training builders, contractors, installers and others on the correct use or installation of their materials & products.

Question 19: how is industry addressing gaps in construction product installation competence ?

The MHCLG will doubtless already be aware of several major initiatives underway to overcome deficiencies in industry competence that have been identified. The most obvious example is the Industry Competence Group that is now a formal working group of the Industry Competence Committee that is itself formally constituted under the Building Safety Regulator.

In addition, trade associations are seeking to improve their own competency. For example: the Association for Specialist Fire Protection is developing a competence framework to support people involved with passive fire protection products & systems.

Question 20: what more can be done to support the improvement of competence in the construction products industry ?

We suggest the expansion of third-party certification schemes for installers.

## CHAPTER 7: CLEAR ACCESSIBLE INFORMATION

### **Inquiry recommendations**

#### Provision of test results

Para 7.5: we note the MHCLG has accepted the Grenfell Tower Inquiry Recommendation 113.23.

As the consultation says, test reports can be lengthy, highly technical and contain full details to demonstrate that a testing standard has been followed. In many cases, not all of this information is required to select materials or products.

Question 21: what test information is necessary to facilitate appropriate selection, safe installation, and to demonstrate that claims made can be evidenced ?

An executive summary ought to be sufficient if it includes:

- a clear & detailed description of what has been tested, and how;
- what the achieved results of performance and verified characteristics are;
- any limits on the application or installation of the goods in normal conditions of use.
- any relevant information from third certification schemes.

Question 22: what, if any, significant constraints might prevent disclosure of all test data and how could they be mitigated ?

The BMF is unclear what the reasons are to require the full disclosure of all test data. As the consultation says, test reports can be lengthy, highly technical and contain complex details. Understanding and interpreting such information correctly may call for significant expertise or specialist knowledge. We suspect that disclosing all test data to the National Regulator of Construction Products will be sufficient in the overwhelming number of cases.

#### Construction library

Para 7.9: we note the MHCLG has accepted the Grenfell Tower Inquiry Recommendation 113.39

Para 7.19: the BMF is unclear who the expected users of an online library will be and for what purposes. During the consultation period, the most frequent question raised was: who will host it and be responsible for its care & maintenance to ensure it up-to-date and accessible ?

As the most up-to-date information about materials & products is held by manufacturers, there is an argument to say that the library ought to contain outline information, contact details of the manufacturer, and a link to signpost enquiries in that direction.

Question 23: what information would it be useful to include in a construction library and who would it benefit ?

Useful information could include (not an exhaustive list); intended application; declaration of performance; product data sheet; safety information; environmental product declaration; third-party certificate; unique global identification number; recycling information; and instructions on handling, storing & transporting the goods.

### **Digital solutions**

Para 7.21: we note the Morrell-Day Review recommendation about controlling the substitution of materials or products.

#### Digital labelling, including Digital Product Passports

Para 7.29: we note the intention to explore how EU Digital Product Passports could interact with whatever digital labelling system that ministers decide to adopt here in the UK.

Question 24: what benefits or challenges could digital labelling or EU Digital Product Passports bring ?

#### Benefits:

- information relating to materials or products is easy to find & obtain;
- such labelling could be used for traceability, down to batch level if necessary;
- simplifying compliance burdens, especially with record-keeping, and help to reduce costs;
- scope for streamlined interoperability between digital platforms.

#### Challenges:

- specification, conformity & familiarisation costs that will (inevitably) fall disproportionately hardest on SMEs;
- some materials & products are easier to label than others for obvious reasons;
- some materials & products are labelled at pack, or even pallet level, and (as stated earlier) labels may be become lost when breaking bulk by a merchant.

#### **Traceability**

Para 7.32: some manufacturers are laser-marking their goods at the product level to be able to trace them back to the point of manufacture (if necessary) but this would be limited to goods using highly-automated production processes. Whatever ministers decide, the burden of traceability will (inevitably) fall disproportionately hardest on SMEs.

Question 25: are the proposals we have outlined to improve access to product information enough to support traceability ? [Yes/No]. Please explain your answer.

No. Materials & products are currently labelled in various ways - some have barcodes or QR codes suitable for scanning, others do not. Some that can be scanned only link to the manufacturer's homepage - some link to the product information - others link to a product identifier like a GTIN. A systemised industry-wide method of labelling & traceability will be required to avoid a plethora of systems appearing that either include or exclude key parts or sub-sections of the supply chain.

#### **Product marking**

##### Products covered by a designated standard or subject to a technical assessment on the market

Para 7.37: the BMF welcomes HM Government's intention to continue to recognise the CE mark.

##### Products not covered by a designated standard or subject to a technical assessment

Para 7.39: we see no logical case for an additional mark(s) in this regard. That said, the sole exception could be the BSI Kitemark that is instantly-recognised and widely-respected.

Question 26: should digital labelling be available as an alternative to the UKCA mark ? [Yes/No]. Please explain your answer.

No - allowing two different labelling options will be confusing, costly and serve no real purpose.

Question 27: is there a role for government in establishing voluntary product marks, for example to demonstrate a higher standard has been met ? [Yes/No]. Please explain your answer.

No - we are unconvinced as to the purpose of a voluntary product mark(s). It will be confusing, costly and serve no purpose. The only argument to be made here is the revelation that two-thirds of materials & products are unregulated - meaning they fall outside the scope of the UKCA Mark. This can be solved if the MHCLG can find a way for such goods to gain the UKCA Mark.

### **Independent scrutiny and expertise**

Para 7.42: it is logical to want to bring in independent scrutiny & expertise. But as the consultation says, there is a limited pool of genuinely-independent expertise to select from. Other respondents will doubtless explain it is difficult to attract sufficient experts to serve on BSI committees as it is.

#### Interaction of independent expert advice and the national regulator

Para 7.46: other respondents will doubtless point to the German Institute for Building Technology.

## CHAPTER 8: ASSURANCE AND OVERSIGHT OF TESTING AND CONFORMITY ASSESSMENT

### **Conformity assessment and accreditation**

#### Undertaking conformity assessment

Para 8.3: we note the MHCLG has accepted the Grenfell Tower Inquiry Recommendation 113.22.

#### Conformity assessment bodies

Para 8.6: we note the MHCLG intention that UK Conformity Assessment Bodies will remain as private enterprises (as now) but with new obligations and closer supervision - including licencing and mandatory reporting requirements.

#### Regulatory oversight

Para 8.7: we note the duties & responsibilities described as being likely to be given to the National Regulator of Construction Products.

#### Building conformity

Para 8.9: we agree that new mandatory requirements on CABs will put greater pressure on them. The shortage of testing capability & capacity in the UK is a long-standing and well-documented problem. The BMF urges ministers to recognise that conformity assessment & certification done in Europe is acceptable, sensible and desirable to ease the situation we find ourselves in here.

Question 28: do you consider that the measures set out above would provide sufficient oversight of conformity assessment ? [Yes/No]. Please propose any further measures you consider may be necessary.

On balance, yes.

Question 29: should the government have the ability to recognise conformity assessment activity undertaken by CABs established outside of the UK ? [Yes/No]. Please explain your answer.

Yes.

Question 30: what support do UK CABs need to invest, grow and improve their skills ?

Question not answered.

### **The United Kingdom Accreditation Service**

The BMF is not qualified to respond to this section.

Question 31: what more is needed to address the issues identified with respect to UKAS and the accreditation process? How do we improve the performance and oversight of UKAS ?

Question not answered.

### **The British Standards Institution**

The BMF is not qualified to respond to this section.

Question 32: what are the strengths and weaknesses of the standards development process, and where could it improve?

Question not answered.

Question 33: what opportunities are there for government and the national regulator to work more collaboratively with the BSI ?

Question not answered.

Question 34: should mandatory standards be free to access ? [Yes/No]. If yes, please provide suggestions on how this could be achieved, including funding.

Yes - we remind the MHCLG that allowing the Building Information Modelling standards to be free-to-download encouraged & accelerated the adoption and implementation of BIM in the UK.

### **Research and development & public sector testing capacity**

The BMF is not qualified to respond to this section. But we have heard grumbles from industry colleagues about the change in status of the Building Research Establishment.

#### Expanding public sector R&D and testing capacity

Para 8.30 we agree that there is a persuasive argument to expand public testing capacity to provide access to facilities free from undue commercial influence or pressures.

Question 35: do you agree that an increase in public and private sector testing capacity is required ? [Yes/No]. Please explain your answer. If yes, please include information on the gaps this might address.

Yes.

Question 36: what should the government's role be in supporting R&D in relation to construction products and the wider built environment ?

HM Government should:

- set out its priorities on the R&D it wants to see following the regulatory reform it has begun;
- provide taxpayer-funding where testing capability & capacity is clearly in the public interest.

## **CHAPTER 9: REGULATING THE MARKET**

### **Construction product manufacturers**

Para 9.6: we note that the Procurement Act 2023 took effect on 24 February 2025 and the powers it gives ministers regarding supplier misconduct. We further note that a handful of named companies may (pending investigation) be banned from bidding for new public sector contracts.

### **Overview of the functions of the national regulator**

Paras 9.9-9.18: the proposed functions, powers & responsibilities appear logical to apply UK-wide.

Question 37: do you agree with the proposed regulator functions that we have laid out ? [Yes/No]. Please explain your answer.

Yes - but the NRCP must be properly staffed with qualified people and fully-funded if it is to succeed and command the confidence and respect of the market.

Question 38: we want to consider options for regulator cost recovery. Which of the regulator functions set out could be an opportunity for cost recovery ? Please explain your answer.

Question not answered.

### **Roles and responsibilities of the regulators**

Para 9.20: we agree that a single regulator is preferable if it is to overcome the problems identified by the Grenfell Tower Inquiry. It is sensible to take a good look at existing arrangements and the bodies named on pages 96 & 97.

Question 39: how much surveillance and enforcement of the construction products sector can and should LATS be responsible for ? Please explain your answer.

Local Authority Trading Standards ought to have little or no involvement in the market for construction materials & products.

Question 40: should National Trading Standards play a role in overseeing or supporting enforcement of the construction products regime ? [Yes/No]. Please explain your answer. If yes, please include what role you think National Trading Standards should play.

National Trading Standards ought to have little or no involvement in the market for construction materials & products.

Question 41: should the national regulator play a stronger role in enforcement of misleading marketing ? [Yes/No]. Please explain your answer.

Yes - the NRCP should have primacy regarding misleading marketing. It should not be afraid of discussing its inspections, enforcement & prosecutions in the national print, broadcast & digital media to show taxpayers that misleading marketing will not be tolerated.

Question 42: how could OPSS as the National Regulator for Construction Products, the Building Safety Regulator, Local Authority Trading Standards and building control bodies best join up their responsibilities and work together ?

Question not answered.

Question 43: which regulatory authorities should play a role in ensuring compliance with our proposed obligations around product use ? Please explain your answer.

Question not answered.

### **Surveillance throughout the whole system**

The BMF is not qualified to respond to this section.

Para 9.48: we note the MHCLG preference to allow the NRCP to host the construction library.

Question 44: do you believe the approaches to reactive and proactive surveillance as set out will be effective in monitoring the market ? [Yes/No]. Please explain your answer and note any additional approaches you think we should consider.

On balance, yes. The NRCP ought to encourage and protect whistle-blowers to report unethical practices. One aspect not properly addressed is suspension from sale for materials or products under investigation. If Company A has complained about Company B, there is a risk of a vexatious claim being made for competitive advantage. There must be safeguards against this possibility.

## **Enforcement**

### Enforcement approach

Para 9.53: we note the expectation that non-compliance will be resolved (in the first instance) by engagement to address the issues identified. Serving an improvement notice is one way to do this.

### Offences and liabilities

Para 9.55: we note that ministers are considering making certain offences a criminal offence that is punishable by an unlimited fine or imprisonment (or both).

Question 45: we are considering options to expand the scope of who can be liable for an offence, so that it could include individuals and associated companies. Do you agree with this proposal ? [Yes/No]. Please explain your answer.

Question not answered.

## **Interventions and sanctions**

The BMF is not qualified to respond to this section.

Question 46: we have set out proposed interventions and sanctions available to the national regulator. Do you think these will enable the national regulator to effectively manage non-compliance in the sector ? [Yes/No]. Please explain your answer.

Question not answered.

Question 47: we have set out our intention to explore regulatory powers to limit individuals' activities in the construction sector, in line with provisions in other regulatory regimes such as food safety. Do you agree with this proposal ? [Yes/No]. Please explain your answer.

Question not answered.

Question 48: what, if any, additional measures should we consider to strengthen the powers of regulatory authorities, beyond those we have outlined in this chapter ?

Question not answered.

## **Civil redress**

The BMF is not qualified or competent to respond to this section.

Question 49: if you have suffered a financial loss as a result of building safety defects, have you ever considered taking action to seek redress from a construction product manufacturer via sections 148 and 149 of the Building Safety Act ? [Yes/No]. If yes, did you face any difficulties ? Please explain your answer.

Question not answered.

Question 50: if you have suffered a financial loss as a result of building safety defects, have you considered making a claim against a manufacturer via any other available routes, such as contractual routes ? [Yes/No]. If yes, did you face any difficulties ? Please explain your answer.

Question not answered.

Question 51: do you think that there are improvements that could be made to the current system to ensure that claims against manufacturers can be effectively pursued ? [Yes/No]. If yes, please explain your answer.

Question not answered.

Question 52: do you think that there is anything additional that government should do to support effective redress against construction product manufacturers ? [Yes/No]. If yes, please explain your answer.

Question not answered.

## CHAPTER 10: ENVIRONMENT AND SUSTAINABILITY

### **Addressing aspects for products covered by a designated standard**

Para 10.3: we are aware the revised EU-CPR introduces new requirements on the environmental performance of materials & products covered by its standards. We note that the MHCLG intends to incorporate some of these ideas into the UK-CPR - not least, to boost the circular economy.

Question 53: should these environmental aspects, as reflected in the revised EU CPR, cover products subject to a designated standard or a technical assessment ? [Yes/No]. Please explain your answer.

On balance, yes.

### **Products to be covered by a general safety requirement**

Para 10.7: it is logical not to duplicate the good work currently being done by (among others) the UK Green Building Council. A number of BMF members are also UKGBC members - and they undertake whole life carbon assessments and produce Environmental Product Declarations.

Question 54: what, if any, approach might there be to measuring and/or mitigating the environmental impacts for products brought into the regulatory regime through a general safety requirement and should this be mandatory or voluntary ?

Environmental Product Declarations (EPDs) are becoming more commonplace but are seen as expensive for smaller manufacturers. Life Cycle Assessments are useful and generally easier for a manufacturer to produce.

### **Further actions to facilitate environmental aspects of construction products reform**

Para 10.9: BMF members are already carrying out work to improve environmental outcomes - especially on resource efficiency and the circular economy.

Question 55: do you support the proposed actions above ? [Yes/No]. Are there any other actions that could be taken and by whom (e.g. government/industry) ? Please explain your answer.

Yes.

## CHAPTER 11: FURTHER EVIDENCE REQUIREMENTS

Question 56: could you share any relevant information about the estimated size of the market as outlined in Chapter 1, and the construction products sector more broadly and its significance. If relevant to our wider reforms please refer to which part it is relevant to.

Question not answered.

Question 57: what direct or indirect costs could yourself, businesses and wider society have due to our proposed reforms ?

As stated earlier, there are obvious specification, conformity and familiarisation costs arising from whatever minister decide to do. For example, and not an exhaustive list:

- adapting materials, products or processes to new rules, regulations & requirements;
- training staff in new rules & procedures;
- upgrading computer software - data cleansing & checking product date - and extra hardware in branches
- redesign of sales & marketing literature, websites and promotional materials
- keeping records to a required standard for many years and associated storage/retrieval costs;
- laboratory testing, licensing & certification fees;
- higher salaries for staff who take on further responsibilities or increased competencies.

There will also be significant transition costs to:

- move thousands of own-brand products to comply with new labelling
- create Digital Product Passports for goods covered by designated standards
- implement the new General Safety Requirement.

Question 58: is there anything else you would like to inform us of, that you have not been able to through other questions in this publication ?

Nothing specific to add at this stage.

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