

# FIRE AND RESCUE SERVICE MATTERS

A PARLIAMENTARY BULLETIN FOR MPS FROM THE FIRE BRIGADES UNION | NOVEMBER 2023

## OPPOSE DEREGULATION OF FURNITURE SAFETY LAWS



The Fire Brigades Union (FBU) is sounding the alarm over ministers' proposals to deregulate the furniture regulations, revoking longstanding mandatory tests to be replaced by so far unseen voluntary guidance.

The Department for Business and Trade (DBT) has just finished a consultation, Smarter Regulation: Fire safety of domestic upholstered furniture. The proposals would scrap the Furniture and Furnishings (Fire) (Safety) Regulations 1988 and replace them with a far looser regime. The FBU opposes this watering down of legislation, which puts lives and safety at risk.

### THE FURNITURE REGULATIONS

The existing domestic furniture safety regulations include mandatory cigarette, match and crib tests. These have been in place since 1988. They were introduced after serious fires involving furniture. The FBU campaigned for these regulations for decades.

The benefits of the Furniture and Furnishings Regulations have been evaluated for central government departments on several occasions. A University of Surrey evaluation, published in 2000, concluded that 710 lives saved could be attributed to the regulations over the period 1988 to 1997. This rate of around 70 per year was about half of the fall in UK dwelling fire deaths over the same period.

A Greenstreet Berman study in 2009 found that the furniture regulations saved 54 lives a year, 780 fewer casualties a year and 1,065 fewer fires a year during the period 2002-07.

### RISKS

DBT's own evidence suggests that the risks from upholstered furniture remain. In the Impact Assessment, it states that "over the last 10 years there have been around 300 deaths relating to fire from domestic upholstered furniture". Recent research, Fire Risks of Upholstered Products Research Report (April 2023) examined the last decade of fire statistics. Researchers concluded:

*"England's fire statistics show that upholstered items (beds, mattresses and furniture) were the material or item first ignited in 12% of domestic fire incidents, but were responsible for 29% of fatalities, and the main material responsible for fire development in 16% of fires but 43% of fatalities."*

Ministers say there are new risks, such as lithium-ion batteries used in laptops, mobile phones, e-cigarettes and similar devices, which are not captured by these tests. The simplest answer is to retain existing tests and to develop new tests capable of assessing newly-emerging risks before products are placed on the market and sold to consumers. Yet the DBT make no proposals for such tests. Instead, they simply denounce the old cigarette and match tests as "outdated" and then propose to scrap them in favour of voluntary guidance.

### MINISTERS' PROPOSALS

The government's preferred choice (Option 1), as spelt out in the consultation documents, is to "revoke and replace" the Furniture and Furnishings (Fire) (Safety) Regulations 1988. The proposals would repeal the existing regulations and their mandatory requirements for testing and other provisions. The Impact Assessment makes the deregulatory motivation plain (our emphases):

145. Some stakeholders may interpret that the new approach will lower fire safety levels of domestic upholstered furniture, because of the proposal to remove a number of items from the scope of the regulations and the proposal to remove mandatory testing standards and replacing them with essential safety requirements. It is important to emphasise that proposals to amend the scope are evidence-based and reflect a better management of the safety risks. With regard to the proposal to replace mandatory standards with voluntary standards, the intention is to make compliance with the new approach more flexible to encourage innovation and to enable businesses to employ a number of approaches to support a reduction in chemical flame retardant use. Furthermore, products will have to meet essential safety requirements rather than prescribed tests, and this ensures delivery of desired safety outcomes.

The proposals replace safety tests mandated by law with “essential safety requirements”. Although the latter would be set in statute, the testing arrangements are not laid down in law. Instead, tests would be voluntary under non-statutory British Standards Institution (BSI) guidance, at the whim of manufacturers.

The “flexibility” removes current requirements on the furniture industry to meet legal test standards and allows the industry to supervise itself. The failure of self-regulation has been exposed through the Grenfell Tower Inquiry; it should not be extended into furniture regulations.

## WHAT STANDARDS?

Although the consultation document talks about standards, it makes plain that these are not yet in place and in any case will be voluntary. It states:

**“We anticipate that the regulations will be supported by voluntary British Standards.** *The development of the British Standards will be coordinated and facilitated by the British Standards Institution, by engaging with a wide range of stakeholders, including those in industry, fire safety experts and consumer representatives. It is the responsibility of the British Standards Institution committee FW/6 addressing flammability performance and fire tests for furniture, to identify appropriate test methods as part of the standards making process. The Office for Product Safety and Standards has engaged with the committee during the development of the new approach.*

**“The Secretary of State will have the opportunity to designate the standards as providing a presumption of conformity with the legal requirements,** *if it is judged to be appropriate to do so. This policy, and the approach of high-level safety outcomes supported by voluntary standards, aims to encourage genuine innovation. As such, manufacturers will also be able to identify and utilise other test methodologies to demonstrate compliance with the essential safety requirements, should they choose to.”*

This would mean a weaker fire safety regime than the status quo. To “anticipate” BSI standards means that they have not yet been approved. Any draft BSI standards on these matters have not been shared with the FBU, nor any evaluation sought. The (business) minister has the “opportunity” to designate the standards, which indicates that they have not yet done so. There are no guarantees that ministers will designate in the future. This leaves fire safety in a far more precarious position.

## RISKS

Ministers claim that a central reason for introducing their new regime is to reduce the use of chemical flame retardants used in furniture. There is longstanding evidence that flame retardants give off toxic fumes when burned, which can harm or kill residents and the firefighters sent to rescue them.

The Furniture and Furnishings (Fire) (Safety) Regulations 1988 did not stipulate the use of flame retardants. Rather, flame retardants were used by furniture manufacturers as the most cost-effective means (for them) to meet the requirements of the regulations. This point was made in previous consultations in 2014 and 2016. It was also acknowledged in the House of Commons Environmental Audit Committee’s report, *Toxic Chemicals in Everyday Life* (2019), which stated that “The Regulations do not specify the use of flame retardants, but their use is generally accepted as the most cost-effective method of achieving compliance”.

The FBU works closely with the University of Central Lancashire (UCLan) and accepts the strong evidence of smoke toxicity from certain flame retardants. The union’s DECON campaign demands measures to tackle hazardous substances.

However, the DBT proposals do not guarantee the elimination of toxic flame retardants. The proposals do not lay down a new toxicity test, which could determine whether the substances used in furniture pass or fail on this criteria. In fact, the draft regulations (Clause 14) actually licence the use of flame retardants, if the manufacturer deems it is not “practicable” to remove them.

A Defra-commissioned report, *Fire Retardant Technologies* (2010) stated that “There is significant scope to move towards design-based and inherent FR [fire retardant] material approaches which can avoid the use of chemical FR technologies”. If the Westminster government wanted to tackle flame retardants, it would prohibit their use. There are already precedents. Deca-BDE was widely used as a flame retardant in UK furniture. It was banned in March 2019.

The FBU has made a submission to the consultation, strongly rejected ministers’ proposals. Instead of learning from the failure of deregulation, ministers seem set on continuing with the same mistakes. Their proposals revoke successful regulation, which are replaced by a regime of voluntary guidance. Ministers must stop and think again.



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