



Department for
Business & Trade



Office for Product
Safety & Standards

Smarter Regulation: Consultation on the new approach to the fire safety of domestic upholstered furniture

Closing date: 24 October 2023

August 2023



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Any enquiries regarding this publication should be sent to us at: furniturefire.safety@beis.gov.uk

Ministerial Foreword

The UK takes consumer safety very seriously. Our product safety framework is underpinned by legislation that regulates how safe products are manufactured and supplied, by placing legal obligations on those in the supply chain. The Government is currently reviewing this framework, with a view to modernising it, preparing it for the challenges of the digital age and ensuring that we regulate only where it is necessary. While we take this review forward, we believe it is necessary in the case of the fire safety of domestic upholstered furniture to make changes now, to reflect the changing risks to consumers. It serves as an early opportunity to signal our new, proportionate approach to product safety regulation, in line with the principles of our Product Safety Review.

The Government is clear that upholstered furniture placed on the market in the UK must be fire safe to protect consumers in their homes. The Furniture and Furnishings (Fire) (Safety) Regulations 1988 have reduced deaths by fire and are recognised and recommended internationally as a gold standard for furniture fire safety to this day. However, a new approach is needed to ensure that domestic upholstered furniture continues to be fire safe and to ensure high levels of consumer protection in the modern home. It will be more proportionate and better reflect the risk to consumers of harm from fire and from exposure to potentially harmful chemicals. The new approach will also deal with the challenges of modern sources of ignition and is designed to keep pace with changes in manufacturing practices and consumer behaviour.

Announced by the Government in July 2019, the new approach was recommended by an expert Advisory Panel, following consultation with fire chiefs, the public, industry and is supported by advice from Chief Scientific Advisors from across Government. While maintaining fire safety, the new approach will reflect the range of challenges of this complex policy. It will help unleash innovation, be flexible and agile to respond to new and emerging risks and opportunities, while also reducing the use of chemical flame retardants as the primary means by which manufacturers meet fire safety requirements. The new approach is based on safety outcomes, underpinned by a new set of voluntary standards developed by the UK national standards body, the British Standards Institution.

This new approach, that will apply across the UK, will improve consumer outcomes and support all businesses and supply-chain operators, including trade associations and test houses, to facilitate safe products being brought to market.

Better outcomes for consumers and a fair and level playing field for business depend upon effective enforcement. The new approach will therefore provide clarity of scope and improve traceability to support effective enforcement by the Office for Product Safety and Standards, as the national regulator, and by local authority trading standards.

The scope of the new approach reflects the Government's desire to regulate in a proportionate and evidence-based way. I look forward to hearing your views as we progress with this important issue.

Kevin Hollinrake MP
Minister for Enterprise, Markets and Small Business

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General information

Why we are Consulting

The purpose of this consultation is to seek views from a wide range of stakeholders on the new approach to domestic upholstered furniture fire safety. We have set out, and are interested in views on, the detail of these proposals and the impact assessment.

We are particularly seeking feedback on the following proposals:

- the scope of the regulations
- the essential safety requirements
- the conformity assessment procedure
- the labelling requirements
- traceability and enforcement
- the proposed timescales for the implementation of and transition to the new regulations

In addition, we are seeking input on the impacts of these regulations to ensure our impact assessment accurately reflects the stated costs and benefits.

Consultation details

Issued: 2 August 2023

Respond by: 24 October 2023

Enquiries to:

Email: furniturefire.safety@beis.gov.uk

Tel: 020 7215 0121

Office for Product Safety and Standards
Department for Business and Trade
4th Floor
Cannon House
18 The Priory Queensway
Birmingham
B4 6BS

Consultation reference: Consultation on the new approach to the fire safety of domestic upholstered furniture

Audiences:

We expect this consultation to be of particular interest to:

Manufacturers, importers, distributors and retailers of products regulated by the Furniture and Furnishings (Fire) (Safety) Regulations 1988 and these proposals,

The re-upholstery industry,

The chemical industry (including chemical producers and the fabric treatment industry),

Test houses and laboratories,

The insurance industry,

Fire and Rescue services,

Local authority Trading Standards,

Consumer groups,

Traders of second-hand goods,

Persons who hire out furniture,

Those (landlords and letting agents) who are acting in the course of a business in letting a property within which furniture occurs.

Territorial extent:

United Kingdom

How to respond

Respond online at: https://ditresearch.eu.qualtrics.com/jfe/form/SV_8vuoekhxeOKf04C

Email to: furniturefire.safety@beis.gov.uk

or

Write to:

New approach to furniture fire safety consultation
Office for Product Safety and Standards
Department for Business and Trade
4th Floor
Cannon House
18 The Priory Queensway
Birmingham
B4 6BS

A response form is available on the gov.uk consultation page:

<https://www.gov.uk/government/consultations/smarter-regulation-fire-safety-of-domestic-upholstered-furniture>

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable data protection laws. See our [privacy policy](#). In addition, please be aware that OPSS uses Qualtrics survey software to process online responses. This involves personal data being sent outside the European Economic Area (EEA). Any processing outside of the EEA will be subject to the safeguards specified within the UK General Data Protection Regulation (UK GDPR), and the Data Protection Act 2018.

We will summarise all responses and publish this summary on gov.uk. The summary will include a list of names or organisations that responded, but not people's personal names, addresses or other contact details.

Quality assurance

This consultation has been carried out in accordance with the Government's [consultation principles](#).

Any enquiries regarding this publication should be sent to us at enquiries@trade.gov.uk.

Introduction

The Government is committed to ensuring that only safe consumer products can be placed on the market now and in the future. Effective product safety regulation is essential for public protection, ensuring fair competition and consumer confidence, and supporting innovative products to reach the market safely.

This consultation forms part of the Smarter Regulation programme of regulatory reform announcements, that began in May with publication of [Smarter Regulation to Grow the Economy](#). Smarter regulation is about improving regulation across the board, ensuring it is as clear as possible and only used where necessary and proportionate. Through this consultation and further regulatory reform updates, the Government will take action to reduce the burdens on business; reduce the cost of living; deliver choice to consumers; turbocharge science and innovation and drive infrastructure development.

From online marketplaces to connected devices, the way we buy products and the products themselves have gone through huge changes in recent years and the pace of change is accelerating. The Government is undertaking a fundamental review of the product safety framework to ensure consumers remain protected from unsafe products whilst enabling businesses to innovate and grow.

The Product Safety Review consultation builds on what we have heard following the initial Call for Evidence and sets out an ambitious vision for change. It sets out a new and more proportionate approach that is directly focused on risks, potential hazards, and harm, while ensuring accountability throughout the supply chain. It sets out practical proposals to make better use of data and a simpler, more effective enforcement regime that allows market surveillance authorities to take the right action, quickly and effectively. It will support business to innovate and grow in a smartly regulated framework whilst continuing to keep consumers safe and ensure they enjoy the enhanced choice they have come to expect.

In keeping with the vision of the Product Safety Review, the new approach to furniture fire safety represents tailored intervention reflecting the hazard types and potential harms presented in this specific sector. The measures proposed are outcome-focused and proportionate and are a priority that should not wait for the establishment of any potential new framework.

The Furniture and Furnishings (Fire) (Safety) Regulations 1988 (the FFRs) set fire safety requirements for domestic upholstered furniture sold in the UK by stipulating fire resistance standards in relation to accidental ignition from sources such as a match or cigarette.

In July 2019 the Government announced it would develop a new approach to domestic upholstered furniture fire safety. This new approach will maintain fire safety for consumers by ensuring that there is no increase in the fire risk posed by upholstered furniture, enable further innovation, reflect the technological advances in furniture manufacturing practices and facilitate a reduction in the use of chemical flame retardants.

The new approach is based on safety outcomes that will be underpinned by a set of essential safety requirements which all domestic upholstered furniture in scope of the regulations, must meet in order to be placed on the market. Unlike the current FFRs, where the tests are set out in Schedules, the new approach will be supported by voluntary British Standards which will be developed by the British Standards Institution.

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It was identified through the Government's Call for Evidence for the UK Product Safety Review that stakeholders felt the outcomes-based framework, supported by voluntary standards can work well. This approach can support innovation and act nimbly to facilitate the timely supply of new technologies to consumers.¹ Businesses and conformity assessment bodies consider voluntary product standards a vital tool in their testing procedures, as it benchmarks compliance processes and provides support for responsible economic operators to comply with safety regulations. Respondents to the Call for Evidence agreed that technical standards should remain voluntary, sitting alongside outcome-based requirements in law.

In this consultation we are seeking your views on the policy proposals outlined below, and the impact brought about by the proposed changes, to ensure that our Impact Assessment correctly reflects the likely costs and benefits. Alongside the consultation document and Impact Assessment we have included a set of the draft regulations. The draft regulations represent the policy as proposed at consultation and are provided to give stakeholders an overview of how the new legislation could look. The policy remains subject to review and may change as a result of the evidence and views provided by stakeholders in response to this consultation.

¹ Department for Business, Energy and Industrial Strategy, 'UK Product Safety Review Call for Evidence Response', November 2021, p.5, <https://www.gov.uk/government/consultations/uk-product-safety-review-call-for-evidence>.

Background to the Policy

The FFRs were introduced in 1988 to help reduce the risk of injury or loss of life through fires in the home, spread by upholstered furniture. In the decades leading up to 1988 there was an increase in domestic fire-related deaths in the UK. During this time, foam fillings had replaced natural, fire-resistant, materials (such as horsehair) making the furniture more affordable, but these foams were extremely flammable.

The impact of the FFRs, along with other factors such as the increased prevalence of smoke alarms in homes and changes in smoking habits, led to a significant fall in domestic fires and deaths. The impact of the FFRs in reducing fire deaths has been estimated as contributing to half of the reduction in the number of fire deaths in the time since the introduction of the regulations.²

Consumer products, including upholstered furniture and other products in scope of the FFRs (e.g. sofas, beds and cushions), and those out of scope (e.g. white goods, luminaries, electrical and electronic devices), are the main cause of residential fires.³

International Context

Internationally, the UK is recognised as having the strongest regulatory regime in the world for upholstered furniture fire safety. Other countries are now starting to increase upholstered furniture fire safety requirements. In 2019 the Government of New Zealand issued a 'Foam-Filled Furniture Product Safety Policy Statement'.⁴ The statement advises manufacturers to consider the UK FFRs as one of the sources of information which can be used to achieve desired safety outcomes. Additionally, in 2019 the US Consumer Product Safety Commission were directed by Congress to adopt Technical Bulletin 117 (TB 117:2013) as a national flammability standard. This came into effect in June 2021. TB117:2013 had previously only been adopted in the state of California and represents the first nationally applicable mandatory standard for furniture fire safety in the US.

In the European Union, upholstered furniture fire safety falls under the General Product Safety Directive 2001. A report commissioned by the Federation of the European Union Fire Officer Associations recommends placing emphasis on avoiding or prolonging the period leading up to the ignition of upholstery items to reduce fires and save lives. The report explicitly advises the adoption of cigarette and open-flame testing methodologies as part of a package of measures to increase survivability and aid escape from dwelling fires.⁵

² Arcadis, 'Identification and evaluation of data on flame retardants in consumer products', 2011, pp. 309 – 310.

³ Arcadis, 'Identification and evaluation', p. 39.

⁴ New Zealand Ministry of Business, Innovation & Employment, 'Product Safety Policy Statement Foam-filled furniture: Reducing the risk of fire-related harm from household furniture', July 17, 2019, <https://productsafety.tradingstandards.govt.nz/for-business/regulated-products/foam-filled-furniture-product-safety-policy-statement/>.

⁵ Federation of European fire officers, "Fire Safety of Upholstered Furniture and Mattresses in the Domestic Area: European fire services recommendations on test methods", May, 2017, pp. 50 – 51.

Chemical flame retardants

Chemical flame retardants have traditionally been used as the main means by which products are made to meet fire resistance tests. A number of chemical flame retardants, particularly brominated flame retardants, have been associated with environmental and health effects and as such have been banned under the Stockholm Convention on Persistent Organic Pollutants or restricted under EU Regulation No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), now UK REACH following the UK's exit from the European Union.

Even beyond those chemicals that have been banned and restricted already, there is an increasing body of evidence to support action to reduce the volume of chemicals used to ensure the fire safety of products currently in scope of the FFRs.

In 2019, the House of Commons Environmental Audit Committee published their report following an inquiry into *Toxic Chemicals in Everyday Life*.⁶ The report spoke of the ubiquity of toxic chemicals and called on the Government to enact a clear plan to address the impact of these chemicals on humans and the environment, and to ensure that the public has greater access to information about chemicals in products. It also specifically addressed the FFRs, calling for the removal from scope of baby products, because of the increased chemical exposure risk faced by young children, and replace the current flammability testing regime.

Manufacturers are already increasingly finding innovative ways to meet fire safety requirements. This includes developing new chemical flame retardants solutions which are mineral, phosphorous and nitrogen-based that, as yet, have no known hazards, as well as exploring non-flammable materials and using barrier materials to prevent or delay ignition.⁷

Development of the new approach

Following the Government's response to the 2016 Consultation, the Office for Product Safety and Standards has worked to build the evidence-base while engaging extensively with stakeholders to develop the new approach.

Research was commissioned in a number of areas to support the development of the new approach. The Office for Product Safety and Standards utilised surveys to better understand about how certain upholstered products are used and stored and what consumers need and want from labelling. A specific project was also undertaken to support scope proposals and assessed the fire risks associated with different upholstered products. This built on crosscutting research undertaken by BRE Group on the characteristics of modern domestic fires.

⁶ House of Commons Environmental Audit Committee, 'Toxic Chemicals in Everyday Life: Twentieth Report of Session 2017-19', July 16, 2019, pp. 3-4, 35:

<https://publications.parliament.uk/pa/cm201719/cmselect/cmenvaud/1805/180502.htm>

⁷ Written Evidence for the EAC Inquiry into Toxic chemicals in everyday life submitted by the National Fire Chiefs Council.

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Officials have met with stakeholders from a full range of interest groups, including manufacturers and retailers, trade associations, re-upholsterers, test houses, environmental campaigners and charities to discuss concerns with the current regulations and future proposals. This engagement included a series of detailed workshops in February 2020, which shared the key policy aims and invited discussion by participants of the proposed new approach.

The Office for Product Safety and Standards has also been working closely with British Standards Institution Committee FW/6 who have been tasked with developing standards to support compliance with the new approach. This relationship has enabled the Office for Product Safety and Standards to involve committee members in the development of the new approach, while ensuring the standards making process did not have to wait until the finalisation of the policy.

The Proposals

Geographical Scope of the Regulations

Proposal

The new approach will apply across the whole of the United Kingdom.

The FFRs are currently applicable across the whole of the United Kingdom and this approach will be retained. The FFRs are domestic rather than EU-derived legislation and they fall within the area of “non-harmonised” goods, and UK law will apply across the UK Internal Market.

Articles 34 and 36 of Treaty on the Functioning of the European Union mean that the UK cannot prevent the import of EU furniture products by requiring them to comply with restrictions that do not apply EU wide. However, as with the existing FFRs, we consider that the new approach can be justified under Article 36 of the Treaty for reasons of the health and safety of consumers, and therefore the new approach will also apply to EU imports into Northern Ireland.

When will the new approach apply?

Proposal

We propose that the new approach will take effect on 1 October 2024.

There will then be a transitional period of 18 months to 1 April 2026 where manufacturers will still be able to place products on the market that are compliant with the 1988 Regulations.

This proposal aims to ensure businesses have a period to familiarise themselves with requirements of the new approach, and to allow for the development of British Standards that manufacturers may wish to use to demonstrate compliance with the essential safety requirements, before the regulations take effect.

This will be followed by a transitional period designed to mitigate disruption to supply chains, that will allow businesses to use up existing stock and to ensure manufacturers can continue to produce and supply products compliant with the current FFRs, ahead of amending processes to comply with the new approach. The intention is for businesses to move to complying with the requirements of the new approach as soon as it is feasible to do.

The Government will provide supplementary guidance to support interpretation of the policy, including the transitional arrangements.

Question

- 1. Does your organisation require a transitional period, and do you have any comments on the period proposed?**

Who will the new approach apply to?

Proposal

The new approach will apply to the following supply-chain actors:

- (a) Manufacturers
- (b) Importers
- (c) Further Suppliers:
 - i. Distributors of new upholstered furniture
 - ii. Second-hand furniture dealers (including auctioneers and businesses operating via online marketplaces).
 - iii. Charity shops that sell upholstered furniture to raise funds for charitable purposes.
 - iv. Landlords and letting agents who let out furnished accommodation. This includes holiday homes (Airbnb or similar).
 - v. Those who hire out furniture in the course of a business.
 - vi. Local authorities (and others) who supply furniture as part of a statutory function to provide accommodation for vulnerable persons, including the aged and infirm, or accommodation for homeless persons.
- (d) Re-upholsterers

The new approach will continue to focus on upholstered furniture and furnishings designed for the domestic market, but obligations will now be structured more clearly around economic operators and they will be assigned appropriate responsibilities. This approach is consistent with current UK product safety sector legislation for products such as toys and electrical equipment.

Obligations will sit with manufacturers, importers and further suppliers. Those operating further down the supply chain will be required to be appropriately diligent that they are supplying safe and compliant products, whether in a retail setting or as part of the rental of property.

The Proposed duties are set out as follows:

Manufacturers

A manufacturer must have:

Ensured products meet the essential safety requirements

Carried out appropriate conformity assessment and testing of the product and drawn up the technical documentation and declaration of conformity

Applied the flame retardant technology hierarchy

Affixed the permanent label

Importers

An importer must have:

Ensured that the manufacturer has complied with their obligations, in particular that the product meets the essential safety requirements

Obtained a copy of the technical documentation

Ensured the permanent label has been affixed

Marked the product with the following information:

- (a) the name of the importer,
- (b) the registered trade name or registered trademark of the importer (if any),
- (c) the contact details of the importer including a postal address, an email address and a telephone number, and
- (d) the date on which the imported product was placed on the market

Ensured the storage/ transportation of the product does not affect its conformity with the essential safety requirements

Further Suppliers

Further Suppliers must have:

Acted with due care to ensure that products meet the essential safety requirements and that the manufacturer and any importer has complied with their obligations

Ensured the permanent label has been affixed

Ensured that any imported product has the importer's details affixed or included

Ensured the storage/ transportation of the product does not affect its conformity with the essential safety requirements

Manufacturers

Manufacturers of domestic upholstered furniture will ultimately be most responsible for ensuring that products are safe and compliant. Importers and further suppliers also have proportionate responsibilities to ensure that consumers and users of those products are protected from harm.

Importers

As the first UK-based operator to interact with products, an importer will need to verify with the manufacturer that it has met its responsibilities as described above. Importers will also be required to provide contact and identifying information with the product to ensure increased traceability.

An importer will become a manufacturer and need to comply with the requirements of a manufacturer if they place furniture on the market under their name or trademark or modify furniture already placed on the market in such a way that conformity with the essential safety requirements may be affected.

Further suppliers

Any other business involved in the supply of domestic upholstered furniture, not captured by the manufacturer or importer definitions, will be considered 'further suppliers'. Landlords and letting agents, including those letting holiday homes and those letting properties via Airbnb or similar, who are acting in the course of a business in letting a property within which furniture is included, will be treated as such.

There are specific requirements set out in this consultation document that address the supply of second-hand upholstered furniture and the responsibilities of re-upholsterers that supply components as part of their re-upholstery or repair of a product that is in scope of the new approach. Upholstered furniture purchased by landlords and letting agents before the implementation of the new approach, which complies with the current FFRs, will continue to be compliant if they bear the original permanent labelling and meet the requirements as set out under the second-hand proposals below.

There are now responsibilities on persons that recondition a product before supplying or re-supplying it. This includes the application of stain guards or anything else with the potential to impact the conformity of the product. If a consumer agrees to, or asks for, the application of a stain guard at the point of sale and before they receive the goods, then the product must be assessed as conforming with the requirements of regulations in the condition supplied, taking account of the stain guard added. This particularly reflects evidence that indicates silicon-based sprays designed to create a water-resistant finish can have a significant impact on the flammability of materials to which they are applied.⁸

Question

- 2. Do you have any comments on the Economic Operators included as having obligations? Are the associated obligations appropriate? Are there any economic operators that we have not considered?**

⁸ Department for Business, Innovation and Skills, 'Technical Paper: Systematic rationale for modification of Schedules 4&5', October 2014, p. 14.

Which products will the approach apply to?

Proposal

The new approach will apply to:

- (a) the supply of new or second-hand upholstered products, and
- (b) the supply, by re-upholsterers, of upholstery added by them to upholstered products, where those upholstered products are ordinarily intended for use indoors or outdoors at domestic premises.

“upholstered” means something which is

- (a) wholly or partly composed of a fabric, leather or other cover material and a material used for filling, bulking out or stuffing covered components, or
- (b) wholly or partly composed of foam.

“Upholstered product” means:

any furniture or furnishing (whether for use by a person or a pet) which is upholstered and not explicitly listed as not being in scope.

The scope of the new approach will be defined by a high-level but comprehensive description of what is in scope and a list of exclusions. The new approach will apply to domestic upholstered furniture and furnishings and will give greater clarity about the products that need to meet the requirements of the regulations.

As well as benefitting from providing a list of clear and explicit exclusions, the new regulations will be future proofed for new and novel products coming to market, by automatically incorporating them in scope where they meet the definition as set out above.

The definition clearly incorporates items like sofas, armchairs and divan bed bases, and also newly incorporates items like mattresses. Previously it was just mattress filling material considered to be in scope of the FFRs and their broader safety was addressed by British Standard BS 7177 which reproduces test methods that are also set in the FFRs.⁹ As we are moving to an outcome-based approach, it is necessary to bring mattresses into scope.

⁹ <https://knowledge.bsigroup.com/products/specification-for-resistance-to-ignition-of-mattresses-mattress-pads-divans-and-bed-bases/standard>

A list of items meeting the above definition will be explicitly **excluded** from scope:

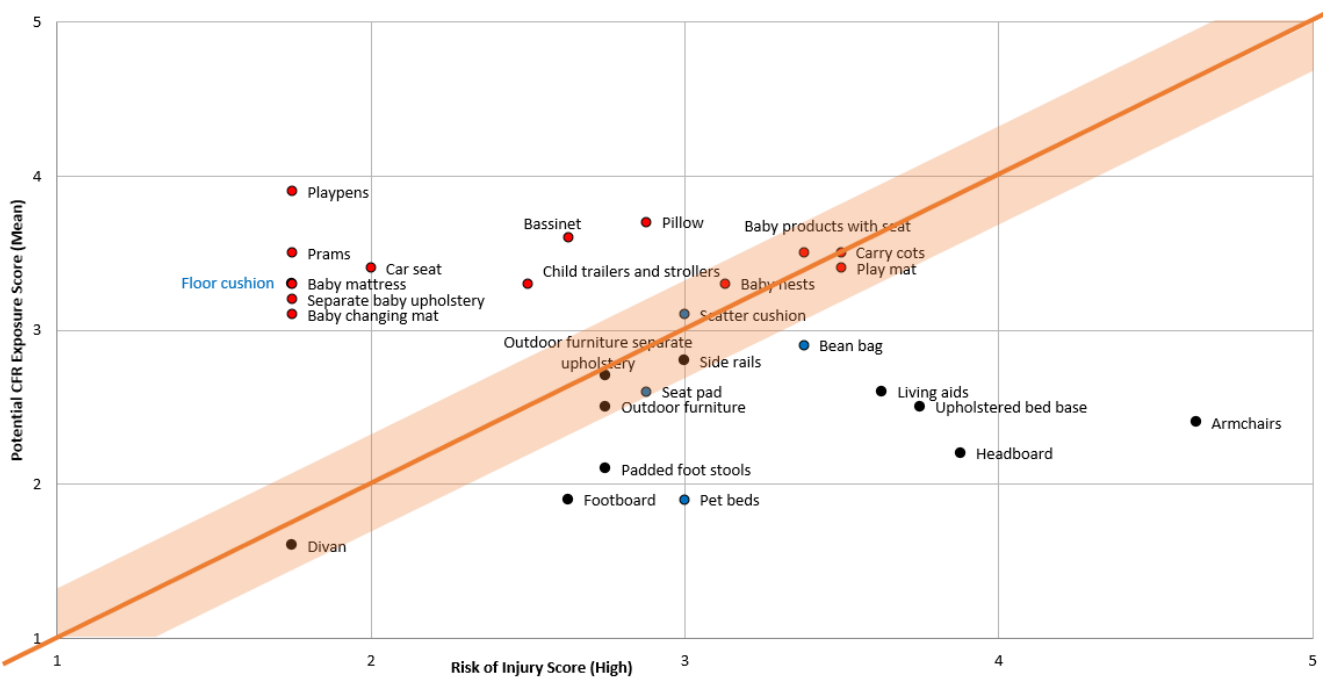
- (a) Bean bags with a surface area less than 10,800 cm²,
- (b) Floor cushions with a surface area less than 10,800 cm²,
- (c) Scatter cushions with:
 - (i) width and height less than 45cm x 45cm, and
 - (ii) with a surface area less than 4,050 cm²,
- (d) Seat pads with:
 - (i) width and height less than 45cm x 45cm, and
 - (ii) with a surface area less than 4,050 cm²,
- (e) Mattresses with width and height less than 75 cm x 190 cm,
- (f) Pet furniture with a surface area less than 10,800 cm²,
- (g) bedding, for example any pillow, duvet, quilt, weighted or other blanket, sleeping bag or mattress protector,
- (h) Floor coverings, for example carpets and mats,
- (i) Curtains,
- (j) Upholstered bed side barrier intended to be used to prevent a child falling out of bed,
- (k) upholstery intended to be used with baby furniture,
- (l) Moses baskets,
- (m) Bassinets,
- (n) Baby changing mats,
- (o) Carry cots,
- (p) Play pens,
- (q) Play mats,
- (r) Cot bumpers,
- (s) Baby nests, or
- (t) Baby rockers and bouncers.

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The development of the proposed scope has been supported by research commissioned by the Office for Product Safety and Standards and carried out by research consortia consisting of UCLan, Birmingham University, Oakdene Hollins, and WhaleyResearch. The peer-reviewed Fire Risks of Upholstered Products research and subsequent discussions with the representatives of the London Fire Brigade and National Fire Chiefs Council have considered the extent of the fire safety risk posed by products while also reflecting their foreseeable use and the potential exposure of users to chemical flame retardants.¹⁰

As reflected in Fig X, we have considered the relationship between the fire and chemical exposure risks, attempting to assess the point at which products should be excluded or included in scope of the new approach. Rather than simply drawing one hard line to support decision making, this interpretation considers that many of the research conclusions are based on qualitative data and that the scores formulated are relative rather than absolute. This builds in a margin of uncertainty and for products within it we have drawn more closely on other sources of information to support proposals.

Fig X: Scatter chart depicting the injury risk from a fire caused by selected upholstered products, plotted against the potential chemical exposure risk



This scope reflects the stated aim of maintaining fire safety by continuing to regulate products that pose the most significant fire risk to consumers. The proposed exclusion list will see a reduction to the number of products in scope which need to meet the new essential safety requirements, with a consequent reduction in the amount of chemical flame retardants in the home.

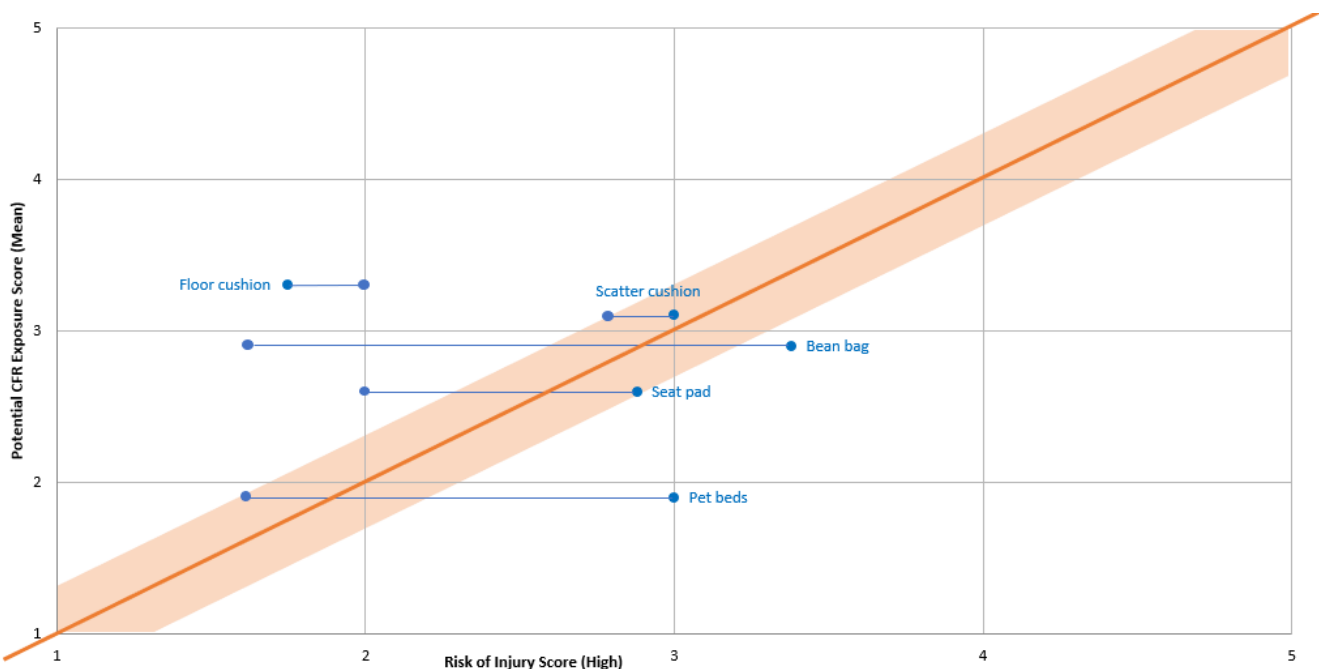
¹⁰ <https://www.gov.uk/government/publications/fire-risks-of-upholstered-products>.

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The proposals do not draw solely from the conclusions of the research. For example, loose and stretch covers were considered a significant fire risk by the research but this is because their risk was assessed in terms of the ornateness and size of the product they are designed to be used in conjunction with and not as a standalone item. They will not be in scope of the regulations, but the armchairs and sofas they are intended to cover will still have had to meet the safety requirements of the regulations to be placed on the market.

A number of products have size requirements placed on them, with smaller items excluded from scope. These products include scatter cushions, seat pads, floor cushions, pet furniture and bean bags. Research has indicated that where products meeting these descriptions can be diverse, it is not practical to simply treat them as being all in scope or all out of scope. Fig Y shows the risk range of these products, as identified in the Fire Risks of Upholstered Products research.¹¹

Fig Y: Fire risk range of selected upholstered products



On a risk basis we have again set a bar, related to product size, for each of those products. This means that larger products that have a higher fuel load, and ornate products with many crevices and cavities, which represent a greater fire risk are within scope, while smaller and less ornate products will not be required to comply with the new approach. Fig Y indicates how these selected products can pose a diverse fire risk and why we have not chosen to treat each product meeting that description exactly the same. A broad range of floor cushions not identified in the Fire Risks of Upholstered Products research were found to be on the market, the largest of which have a significant fuel load and have properties similar to that of an armchair or sofa.

¹¹ <https://www.gov.uk/government/publications/fire-risks-of-upholstered-products>.

As such the following list of items are considered to be **in scope**:

- (a) Sofas
- (b) Armchairs
- (c) Sofa beds
- (d) Futons
- (e) Pouffes / Padded foot stools
- (f) Bean bags with a surface area 10,800 cm² or greater,
- (g) Floor cushions with a surface area 10,800 cm² or greater,
- (h) Scatter cushions with:
 - (i) width and height 45cm x 45cm or greater, or
 - (ii) with a surface area 4,050 cm² or greater,
- (i) Seat pads with:
 - (i) width and height 45cm x 45cm or greater, or
 - (ii) with a surface area 4,050 cm² or greater,
- (j) Mattresses with width and height 75 cm x 90 cm or greater,
- (k) Pet beds with a surface area 10,800 cm² or greater,
- (l) Divans / Upholstered bed bases
- (m) Upholstered Bedsteads
- (n) Headboards and footboards
- (o) Mattress toppers
- (p) Outdoor furniture (unless labelled as not to be used/ stored inside)

Please note that this list is **not** exhaustive and any product that meets the definition of an upholstered product, and is not listed as excluded from scope, will be judged to be **in scope**.

Baby products

As set out in the background, the House of Commons Environmental Audit committee made recommendations following their inquiry *Toxic Chemicals in Everyday Life* to remove baby and children's products from the scope of the furniture fire safety regime, and the Government committed to review their status.¹²

The Fire Risks of Upholstered Products research supports the removal from scope of the baby and children's products identified and assessed. This is particularly the case when considering the potential risk of exposure to chemical flame retardants to children and the research findings that the risk of harm from a fire is lower than the risk of exposure to potentially harmful chemicals.

A number of those products have been removed from scope because in normal use they do not pose the same risks as domestic upholstered furniture. These products, including car seats, prams and pushchairs, that were in scope of the FFRs but will not be in scope of the new approach, are not explicitly listed as being excluded in the draft regulations because they do not meet the definition of upholstered furniture ordinarily intended for use indoors or outdoors at domestic premises.

The fire risk of other baby products on the proposed exclusion list is much reduced compared to larger items of furniture. They are not exposed to the same risks of accidental ignition, for example from smoking materials or similar ignition sources, as the items of furniture that will remain in scope. Secondly, even if ignited, the products contain a much lower fuel load than other upholstered items, and therefore any fire would be less likely to spread.

The products on the exclusion list, and all those being removed from scope will still need to meet the requirements of the General Product Safety Regulations 2005 (GPSRs) which ensure that all products intended for or likely to be used by consumers under normal or reasonably foreseeable conditions are safe.

Questions

- 3. Do you agree with proposals for which products should fall within scope of the new approach? Please provide as much evidence as possible to support suggestions.**
- 4. Are any of the product types referred to as being in or out of scope ambiguous, and would they benefit from further definition?**

¹² Government Response to the Committee's Report on Toxic Chemicals in Everyday life:
<https://publications.parliament.uk/pa/cm201920/cmselect/cmenvaud/160/16002.htm>

Outdoor Upholstered Furniture

Proposal

It is proposed that outdoor upholstered furniture remains in scope except where manufacturers affix an **Outdoor upholstered product warning label**.

Such outdoor upholstered products are not in scope if labelled in a clearly visible, legible and indelible way with the following:

CARELESSNESS CAUSES FIRE

DO NOT REMOVE THIS LABEL – this label is required for the product to be resold on the second-hand market, and to ensure the product is disposed of appropriately.

DO NOT USE OR STORE THIS PRODUCT INSIDE DUE TO RISK OF FIRE. It has not been assessed for compliance with The Furniture and Furnishings (Fire) (Safety) Regulations 20XX

We propose that all outdoor upholstered furniture is in scope, unless they bear an outdoor upholstered product warning label, with appropriate warnings and context for consumers. The current FFRs apply to outdoor upholstered furniture which is suitable for use in dwellings, but do not apply to garden furniture if it is not suitable for use in dwellings (e.g. if it could not physically be brought indoors), is non-upholstered, or consists only of cover fabric.

As a result of the ambiguous nature of suitability for use in dwellings, the treatment of outdoor upholstered furniture varies geographically and between manufacturers. This has led to inconsistency and confusion in interpreting the current FFRs.

Outdoor upholstered furniture is often used in the home as furniture, such as in conservatories, and the upholstered cushions are often brought in the home for storage. The Office for Product Safety and Standards commissioned research through YouGov to understand consumer behaviour and found that 34% of people surveyed bring upholstered cushions into the home or an attached garage to store, and 14% of people surveyed use outdoor upholstered furniture inside the home.¹³ This represents more than 1/3rd of people surveyed who own or use outdoor upholstered furniture, at some point, bring it into the home for either storage or use. To that end, given the high numbers of people who bring outdoor upholstered furniture into the home, it would be inappropriate to remove the products from scope completely.

However, given that the majority of outdoor upholstered furniture is used outdoors we propose including an option to label the product as for outdoor use only. Should manufacturers take this option they will not be required to meet the essential safety requirements or test outdoor upholstered products against them. This will bring greater clarity by making manufacturers give a clear indication on the suitability for use indoors, while stating the impact on the fire safety profile of those products.

Products that are used and kept outdoors do not pose as significant a fire risk as indoor domestic products and any chemical flame retardants applied are subjected to potential degradation from the elements that could render the treatment ineffective over time. This policy

¹³ <https://www.gov.uk/government/publications/upholstered-garden-furniture-and-baby-travel-products>.

balances the chance of consumers taking outdoor products inside against the proportionality of setting the same requirements for outdoor products as for indoor products.

Businesses that choose to take this option will of course have to continue ensuring that their outdoor upholstered products meet the requirements of the GPSRs.

Question

- 5. Do you agree that outdoor upholstered furniture should remain subject to all the obligations in the regulations, unless an Outdoor upholstered product warning label is affixed?**

Upholstered Products manufactured prior to 1st January 1950

It is proposed that the supply of upholstered products manufactured prior to 1st January 1950 should continue to be excluded from the regulations. This is because their manufacture predates the introduction of more flammable materials like polyurethane foam, and they pose a significantly reduced fire risk as a result. Additionally, there is no evidence to suggest that these products pose a risk requiring a new intervention.

These products are also more likely to be re-upholstered or repaired using traditional methods and inherently flame-retardant materials.

Question

- 6. Do you agree with the proposal to retain the policy of exempting all products manufactured prior to 1st January 1950 from the regulations?**

Essential Safety Requirements – New Upholstered Products

Proposal

New upholstered products in scope of the new approach will be required to meet the following essential safety requirements.

An upholstered product in its final form, when it is used as intended or in a foreseeable way:

- (a) must not readily ignite if it comes into contact with a flaming or non-flaming ignition source, and
- (b) must, if ignited, self-extinguish or burn slowly.

Any foam used in the upholstered product:

- (a) must not readily ignite if it comes into contact with a flaming or non-flaming ignition source, and
- (b) must, if ignited, self-extinguish or burn slowly.

An upholstered product must not, in respect of any chemical flame retardants it contains, jeopardise the safety of any consumer or other person, taking into account the foreseeable behaviour of that consumer or other person.

The new approach is focused on high-level safety outcomes in the form of a set of essential safety requirements, which all upholstered furniture in scope of the regulations must meet to be placed on the market. This high-level approach follows the example of other sector-specific product safety legislation such as those regulating toys and electrical devices. Keeping the requirements clear, simple and high-level enables the legislation to remain agile and future-proofed to change, supports businesses to find innovative approaches to compliance and allows detail to be set out in consensus-driven voluntary standards, which have the flexibility to be quickly updated should the need arise.

The essential safety requirements are focused on the final product, shifting away from the component safety regime of the current FFRs, to consider the fully manufactured upholstered product. This move towards a more realistic and holistic approach to product assessment will be more representative of the risks posed as the item appears in the home.

The essential safety requirements aim to stop or delay ignition to aid escape. This focus, rather than specific consideration of fire behaviour after ignition, has been agreed as most appropriate with stakeholders, including representatives of the National Fire Chief's Council.

Ignition

The first essential safety requirement is focused on preventing ignition and limiting the spread of flame where ignition does occur. We propose to retain the requirement for products to be assessed against risks posed by flaming and non-flaming ignition sources. We have considered the action taken in the United States where California Technical Bulletin 117 (TB117:2013) has been legally mandated nationwide. TB117:2013 no longer has an open

flame testing requirement, reflecting concerns about the previous iteration of the standard and the volume of chemical flame retardants that were required to pass tests.

We also considered the wide range of possible ignition sources and the modern risk profile in the home. Flaming ignition sources including candles and matches and other naked flames still represent the ignition source for 30% of domestic fires where furniture is the first item ignited and 9% of all domestic fires.¹⁴

Smouldering or non-flaming sources have developed over time, so while cigarettes remain a significant risk, the ubiquitous nature of chargeable electronic devices means that overheating lithium-ion batteries are also a hazard of concern. Ensuring both flaming and non-flaming sources are considered is important because it cannot be assumed that if an article is resistant to one type it will automatically be resistant to another.

Foam

While the new regulations are designed to ensure the safety of the final item, rather than separate components, the risk posed by polyurethane foam presents a specific challenge. Most modern furniture includes polyurethane foam which is highly flammable and ignites very quickly.

The second essential safety requirement is designed to ensure that unmodified foam does not come back into use. It is conceivable that a product meets the first essential safety requirement due to the fire-retardant properties of the cover material and any barrier materials or interliners used. However, should a fire breach the cover and barrier materials or webbing used underneath the product, any unmodified foam would represent a potential lethal fuel source and pose risk to safety following ignition. As such we propose that foam should have specific flammability requirements, alongside the obligations to ensure the full item is fire safe.

Chemical Flame Retardants

The final essential safety requirement applies where manufacturers choose to use chemical flame retardants in order to meet flammability requirements and comply with the other essential safety requirements.

This sets the clear expectation that where chemical flame retardants are used, this must be in a way that does not jeopardise the safety of consumers and end users. In practice this means ensuring that the chemicals are compliant with all relevant UK chemicals regulations and that evidence available at the time of design and manufacture of the upholstered product does not indicate that using that chemical would pose risks to consumers.

Question

7. Do you agree with the proposed essential safety requirements? If not, please provide evidence to support your assertions.

¹⁴ Fire Safety Group and the Fire Investigation Group: BRE Global, 'Characteristics of Modern Domestic Fires and the implications for product performance testing', June, 2021, p. 48, 57.

Flame Retardant Technology Hierarchy

Proposal

To enable a reduction in the use of potentially harmful chemical flame retardants, we propose that there should be a duty on manufacturers to apply the **Flame Retardant Technology Hierarchy**:

Before using chemical flame retardants, manufacturers must first consider making the product fire safe by:

- (a) using inherently flame-retardant materials, and
- (b) adapting the design of the product

Manufacturers will be required to provide evidence in the technical file that they have followed this process in the form of supporting information, for example costings, product designs and evidence of the application of a process map.

In setting essential safety requirements that require a certain level of fire safety to be achieved, it is understood that manufacturers will consider a full range of means to achieve requirements. Like the current FFRs, there is no requirement to use chemical flame retardants, but we understand that this has become a recognised way of achieving fire safety in upholstered furniture.

We are not proposing to place specific restrictions on the types or amount of chemicals used, beyond existing obligations in UK REACH and other applicable UK chemicals regulations. In line with best practice identified by a research report commissioned by the Department for Environment Food and Rural Affairs, we are proposing that manufacturers go through a hierarchy process to determine if they could make their upholstered furniture flame-retardant in ways which do not require the use of chemical flame retardants. The study concluded that there is significant scope to move towards design-based approaches which can avoid the use of chemical flame retardants and support a reduction in their impact on humans and the environment.¹⁵

The Flame Retardant Technology Hierarchy is designed to promote a reduction in chemical flame retardant use to respond to health and environmental concerns associated with their use and to support the circular economy. It will ask manufacturers to consider using inherently flame-retardant materials and/ or adapting the design of the product so that it is inherently flame-retardant, instead of using chemical flame retardants. The new approach will not stipulate specific factors manufacturers take into account when assessing the feasibility of using non-chemical means of achieving fire safety. However, the vulnerability of the target users and cost to both businesses and consumers of employing inherently flame-retardant materials and designs are likely factors in determining the appropriate approach.

Any substances added to the product with the purpose of assisting in meeting the essential fire safety requirements, must then meet the third essential safety requirement to not jeopardise

¹⁵ GnoSys UK, Oakdene Hollins Ltd and the University of Bolton, 'Fire Retardant Technologies: safe products with optimised environmental hazard and risk performance', November 2010, p. 31 – 34, 63, http://randd.defra.gov.uk/Document.aspx?Document=EV0432_9849_FRA.pdf.

the safety or health of users or third parties when they are used as intended or in a foreseeable way.

The Flame Retardant Technology Hierarchy does not distinguish between different types of chemical flame retardant. Existing UK chemicals regulations, including UK REACH, remain the vehicles and mechanisms to assess and manage chemicals, and the use of chemicals in upholstered furniture. Government is aware that, in addition to regulatory compliance, industry is increasingly moving towards voluntary third-party accreditation of the environmental or safety credentials of chemicals used in consumer products.¹⁶ As such, there is no clear reason for further intervention in this space, particularly in respect of upholstered furniture, where the market is driving change.

Manufacturers will be expected to demonstrate through documentation in the technical file that they have complied with the obligation to apply the hierarchy when designing new products. There is some anecdotal evidence that many businesses already consider alternatives to chemical flame retardants in response to the growing appetite among furniture retailers and consumers for products that are chemical flame retardant-free.

Question

8. Do you agree with approach proposed by the hierarchy?

Conformity Assessment and Testing

Proposal

It is the responsibility of the manufacturer to carry out a conformity assessment and appropriate testing to assess the compliance of the product before placing those products on the market.

The manufacturer must, during the design and manufacture of an upholstered product:

(a) identify the applicable essential safety requirements and assess whether the product is in conformity with them,

(b) identify designated or other standards against which detailed tests of the upholstered product in its final form will be carried out.

The tests carried out must be of the upholstered product in its final form, or a representative sample of that product.

These proposals set obligations to carry out conformity assessment and testing of upholstered products against the essential safety requirements. This contrasts significantly with the current FFRs which sets out component-based testing requirements.

The requirement will be to test the final item of furniture, or a composite or representative sample. This is designed to ensure that what is assessed is representative of the final item in consumers' homes, and to assess real risk in a more effective way than separate component-based testing.

¹⁶ <https://www.oeko-tex.com/en/>, <https://www.roadmaptozero.com/?locale=en>.

Final-item testing is also likely to support and facilitate innovative means of achieving compliance and in many cases, may facilitate a reduction in the level of chemical flame retardants required. For example, cover materials will no longer be required to be tested over unmodified foam that cannot be included in the final item of furniture.

Testing will be required to be carried out by a laboratory which is accredited by the United Kingdom Accreditation Service or an equivalent internationally recognised accreditation body against standard EN ISO/IEC 17025: 2017, which addresses general requirements for the competence of testing and calibration laboratories.

Standards

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.

Standards will be expected to support the policy outcome of maintaining and improving fire safety, including through reflecting modern and contemporary ignition sources and risks.

Question

- 9. Do you agree testing a composite or representative sample of the final item is the correct approach to assess the safety of upholstered products?**

Labelling – New Upholstered Products

Proposal

Manufacturers will be required to ensure each new product carries a permanent label to indicate compliance with the requirements. The label must include:

- (a) the following words: “**CARELESSNESS CAUSES FIRE DO NOT REMOVE THIS LABEL** – this label is required for the product to be resold on the second-hand market, and to ensure the product is disposed of appropriately. This product complies with The Furniture and Furnishings (Fire) (Safety) Regulations 20XX”
- (b) the name and address of the manufacturer,
- (c) the batch number or identification number (if any),
- (d) the date on which the product was manufactured,
- (e) if the product contains chemical flame retardants, the words “This product contains chemical flame retardants to meet the requirements of The Furniture and Furnishings (Fire) (Safety) Regulations 20XX”, and
- (f) if the product contains chemical flame retardants, a list of those chemical flame retardants.

We are proposing simplifying labelling requirements by replacing the dual-labelling regime of the current FFRs with one simple permanent label. This new label will have the effect of improving information for consumers, enforcement authorities and waste disposal operators and better support a functioning and safe second-hand market.

The existing labelling policy is unnecessarily complicated and seemingly stifles the second-hand market. By removing the option of using longer or shorter form variations of the permanent label we are ensuring that full traceability will be available for every upholstered product in scope. Equally, by removing display-label requirements, and concentrating all information on a permanent label, this should save businesses money in the manufacturing process and support the second-hand market for upholstered products. Consumers often discard the display label after purchase and while this does not currently preclude resale, we are aware of businesses requiring their retention.

The new labelling will provide clear supply chain information and traceability to better enable enforcement officers to trace a product back to its place of manufacture, via importers, distributors and further suppliers.

One of the most significant labelling changes is the intended approach to address the use of chemical flame retardants. In 2019, the Environmental Audit Committee recommended that ‘*labels should clearly state if an upholstered furniture product has been treated with chemical flame retardants*’, and that ‘*consumers have the right to know what chemicals are used in the products they purchase.*’

Additionally, the first wave of the Office for Product Safety and Standards' *Product Safety and Consumers* research shows that about half the population are interested in knowing whether upholstered furniture does or does not contain chemical flame retardants.¹⁷ The research report identified that just under 64% of the UK Public think that the use of chemical flame retardants ensure that upholstered furniture meets fire safety requirements, and only a very small percentage of the UK public seek out alternatives (7% for baby products, 8% for beds).

We have previously seen in other sectors, the impact that simple mandatory labelling can have on consumer choice, which then impacts the wider market. Mandatory egg labelling, that requires a clear indication if eggs have been produced at battery farms, has seen the proportion of free-range eggs bought by UK consumers rise to 64%, from 32% in 2004.¹⁸ The Department for Environment, Food and Rural Affairs assess that the simplicity of the labelling scheme has been one of the biggest factors in its success.

Crucially, only 2% of consumers surveyed as part of the Office for Product Safety and Standards' consumer research were not interested in information about chemical flame retardants. As such, our proposal to include a clear indication of chemical flame retardant use, and details of those chemical flame retardants will provide the type of clarity on how the product meets fire safety requirements that the public have indicated they want. While some consumers do not understand, and will not engage with this information, it will be available for those who wish to consider that ahead of making purchasing decisions.

The labelling requirements were also informed by research commissioned by the Office for Product Safety and Standards to identify *Consumer Attitudes to Fire Safety Information on Furniture*.¹⁹ This research revealed that participants felt that information should be displayed as simply and concisely as possible and a majority of those surveyed indicated that they would not seek further information from other sources.

It is important that this information is visible to consumers, waste disposal operators and enforcement officers, and the benefits of displaying this information, such as consumer knowledge and facilitation of appropriate disposal, far outweigh the risks which may be a temporary concern by consumers.

We already know that there are important waste disposal and recycling implications for upholstered domestic furniture. Having information on the chemical flame retardants used contained within a product will support its safe disposal at the end of its life and makes recycling and reuse possible.²⁰

We are also working across Government to consider how policy objectives and responsibilities interact. The Department for Environment, Food and Rural Affairs hold responsibility for broader Government chemical policy and are currently leading a series of research projects on tracking information in products, focused on user needs. We will continue to consider how furniture fire safety policy can support wider chemical policy aims as they develop their evidence base around what information about products would be useful to users (suppliers, consumers, waste operators, authorities) through the supply-waste chain, and how that information can be communicated to maximise its utility.

¹⁷ <https://www.gov.uk/government/publications/opss-product-safety-and-consumers-wave-1>

¹⁸ <https://quota.media/experts-mandatory-labelling-can-drive-sustainability/>

¹⁹ <https://www.gov.uk/government/publications/consumer-attitudes-to-fire-safety-information-on-furniture>

²⁰ <https://scienceresearch.defra.gov.uk/ProjectDetails?ProjectId=20943>

The *Product Safety and Consumers* research also found that upholstered furniture and furnishings are among the items most likely to be purchased second-hand, particularly by households on low incomes. This makes it important to list the chemical flame retardants used to ensure that any that are used, which are later restricted or banned, are made known to consumers before an item is bought second-hand.

Concerns have been expressed by stakeholders that listing the chemical flame retardants may compromise trade secrets or intellectual property, but other businesses have expressed a willingness to share this information and it should be noted that proportions or methods applied are not being requested. It is also standard labelling practice to list chemicals or ingredients for cosmetic and food legislation.

Question

- 10. Do you agree with the labelling proposals, including the requirement to list chemical flame retardants on the label? If not, please explain and provide any evidence.**

Traceability – Technical File

Proposal

Manufacturers are required to draw up technical documentation and retain this for 10 years, dating from when the product is placed on the market.

Importers are required to obtain a copy of the technical documentation and retain this for 10 years, dating from when the product is placed on the market.

The Technical File must include:

- a) The name, address and contact details of the manufacturer,
- b) The addresses of the places of manufacture and storage of the upholstered product,
- c) The date on which the product was constituted in its final form,
- d) The name, address and contact details of any person supplying materials used in the upholstery of the product and a list of those materials including batch or other identifying numbers,
- e) Identification of the relevant essential safety requirements and details of the processes, checks and controls in place to ensure products comply with them,
- f) Identification of the standards and detailed tests that were carried out to ensure the product is compliant,
- g) In the case of series production, the frequency of periodic detailed tests,
- h) Demonstration that an accredited laboratory carried out initial and any periodic detailed testing, including the name, address and contact details of the laboratory and the results of those tests,
- i) Pictures of the product at the time of testing,
- j) In the case of products subject to redesign or reassessment, the technical file must reflect all versions of the product,
- k) In the case of products containing chemical flame retardants, a list of those retardants and their associated safety data sheets and evidence that they are only included in compliance with the Flame Retardant Technology Hierarchy. This should include supporting information and process mapping,
- l) The declaration of conformity.

Re-upholsterers must ensure they have documentation demonstrating that components supplied comply with the essential safety requirements, and retain this for 10 years, dating from when the added upholstery is supplied.

This technical information must be made available to an enforcement authority on request.

Smarter Regulation: Consultation on the new approach to the fire safety of domestic upholstered furniture

A technical file is used to facilitate compliance and enforcement and show how the product meets the requirements of Regulations. While there are specific information retention obligations in the current FFRs and suppliers must make this available to enforcement authorities, the new technical file obligations should lead to greater levels of compliance and brings the regulation of domestic upholstered furniture fire safety in line with modern product safety regulatory practices.

We are proposing that manufacturers and importers keep the technical files for 10 years. This is in line with other products safety legislation, and this better reflects the expected lifespan of large domestic upholstered furniture such as sofas, chairs and mattresses, than the existing 5-year retention requirement in the current FFRs.

Our understanding is that the majority of the technical information required is already available to manufacturers but organising it in this type of technical file will ensure a consistent approach is taken, which will further aid enforcement.

As we move away from assessing component safety to considering the final product, responsibility shifts to the manufacturer of the final upholstered product. In order to place products on the market that they know to be safe and compliant, manufacturers must know what is in those products, and be able to share this information along the supply chain, and with enforcement authorities. As such we propose the technical documentation contains a list of the chemical flame retardants used to meet fire safety requirements. This will future-proof the products to support safe and environmentally friendly disposal at end of life.

We have taken the decision not to require re-upholsterers to put together a technical file in relation to re-upholstery and repair work because this would be a disproportionate burden for businesses that offer bespoke services. However, as set out below, they will be expected to obtain and retain evidence that indicates the upholstery they supply has been tested and is in conformity with the regulations, for a period of 10 years.

Question

11. Do you agree with the suggested contents of the technical file? Please include evidence to support the inclusion of further elements or removal of elements included in proposals.

Re-upholstery

Proposal

Upholstered components supplied during the course of reupholstery, or repair of upholstered products must meet the **essential safety requirements** for added upholstery.

The added upholstery, when it is used as intended or in a foreseeable way:

- (a) will not readily ignite when it comes into contact with a flaming or non-flaming ignition source, and
- (b) if ignited, it will either self-extinguish or burn slowly.

Foam used in added upholstery, must:

- (a) not readily ignite when it comes into contact with a flaming or non-flaming ignition source, and
- (b) if ignited, it will either self-extinguish or burn slowly.

The added upholstery, when it is used as intended or in a foreseeable way, in respect of any chemical flame retardants it contains, jeopardise the safety of any consumer or other person, taking into account the foreseeable behaviour of that consumer or other person.

The supplier of added upholstery must also carry out a **conformity assessment** and ensure they have documentation demonstrating that the components have **passed relevant tests** against designated or other standards at an accredited laboratory.

Suppliers of added upholstery must then attach a **permanent label** to the upholstered product to indicate the added upholstery's compliance with the requirements of the regulations. The label must include:

- a) the following words: "**CARELESSNESS CAUSES FIRE DO NOT REMOVE THIS LABEL** – this label is required for the product to be resold on the second-hand market, and to ensure the product is disposed of appropriately. This product has been re-upholstered/repared and the materials supplied as part of the re-upholstery/repair comply with the Furniture and Furnishings (Fire) (Safety) Regulations 20XX"
- (b) the name and address of the re-upholsterer,
- (c) a description of the added upholstery,
- (d) the date on which the re-upholstery was completed, and
- (e) if the added upholstery contains chemical flame retardants, the words "This product contains chemical flame retardants to meet the requirements of The Furniture and Furnishings (Fire) (Safety) Regulations 20XX".

The supplier of added upholstery must also reattach the **original permanent label** if it is removed in the course of the re-upholstery or repair work.

Smarter Regulation: Consultation on the new approach to the fire safety of domestic upholstered furniture

These proposals reflect the aim of ensuring the upholstered products remain fire safe following reupholstery and repair, while balancing the need to place proportionate obligations on industry and address ambiguity in the current FFRs.

It is not plausible to carry out testing to assess the fire safety of the final upholstered product after repair as testing is destructive in nature and the products are unique. As such this element of the proposals reverts to component testing to ensure safety. The new approach only addresses upholstery components supplied by the re-upholsterer and not to any elements of the original product that are retained. This means that the re-upholsterer is responsible for ensuring that cover and filling material that they supply meets the re-upholstery essential safety requirements.

Like the essential safety requirements for new upholstered products, the goal is to prevent ignition or for components to burn no more than slowly. Special mention is given to foam fillings to reflect the particular flammability risk posed by that type of component.

Alongside new upholstered products, there is value in good traceability and compliance information being produced by re-upholsterers. There will be a requirement to carry out a conformity assessment to ensure that upholstery supplied meets the essential safety requirements having been tested by an accredited laboratory. This obligation will apply whether the re-upholsterer is utilising traditional inherently flame-retardant materials or synthetic materials that require chemical flame retardants treatment to meet flammability requirements. This should not force re-upholsterers to apply chemicals to natural materials where that is not appropriate, and as such, it is vital that supporting standards identify appropriate testing methods to suit all component types.

Following the conformity assessment process, re-upholsterers will be required to affix a permanent label to the product that gives details of the work carried out and confirms which components are supplied and that they meet legal requirements. The label will also include a statement to confirm the use of chemical flame retardants where they have been used to meet flammability requirements. However, we have not proposed a requirement to list those chemical flame retardants used. While this would remain useful information for consumers, potential second-hand suppliers and waste disposal operators, it is clear that re-upholsterer supply chains do not operate in a way that this obligation could be implemented without significant and disproportionately negative consequences.

Alongside the requirement to affix a new re-upholstery permanent label, we propose that the original permanent label must be re-affixed if removed during the re-upholstery process. This represents a shift from current FFRs and is designed to ensure that vital, compliance traceability and disposal information stays with the product for its full lifecycle.

We are proposing that the re-upholstery of upholstered furniture made before 1st January 1950 remains out of scope of the regulations. This reflects the likelihood of these products being re-upholstered or repaired using traditional methods and inherently flame-retardant materials.

Question

12. Do you agree with the proposals for a re-upholstery permanent label? Please provide evidence to support any suggested changes.

Second-Hand Upholstered Products

Proposal

In order to be supplied, second-hand upholstered products manufactured after 1st January 1950 must bear the original permanent label.

This can mean any one of:

- a) A permanent label as required by the new approach,
- b) A permanent label as required by the Furniture and Furnishings (Fire) (Safety) Regulations 1988, or
- c) A permanent label as required by the Upholstered Furniture Safety Regulations 1980.

Second-hand products must not be supplied if there is reason to believe that the product would no longer be in conformity with the relevant regulations.

Suppliers must also consider **whether upholstery has been added** in the course of re-upholstery or repair **after the introduction of the new approach**. If there is reasonable cause to believe this is the case, the product must also have a permanent re-upholstery label in order that it can be supplied.

These proposals aim to simplify the requirements for businesses and ensure that there is a consistent approach taken to placing second-hand upholstered products on the market. Any supplier offering second-hand furniture for sale must ensure that the original permanent label, as required by the Upholstered Furniture Safety Regulations 1980, the 1988 Regulations or the new regulations, and any permanent label relating to reupholstery are present. This policy will be supported by the requirement to include a reference on the permanent label to why it is important that consumers do not remove that label after purchase.

The first wave of the Office for Product Safety and Standards' *Product Safety and Consumers* research found that upholstered furniture and furnishings are among the items most likely to be purchased second-hand. Furthermore, respondents with a household income of less than £25k are more likely to purchase at least one product second-hand (69%), as are those who have at least one child (70%).²¹ This makes it vital that second-hand upholstered furniture continues to be available and safe.

Second-hand upholstered furniture produced after 1st January 1950 is currently within scope of the FFRs and is subject to the same requirements as new upholstered furniture. An interpretation of this would be that all second-hand furniture should be subject to the same testing requirements as new products. However, given that furniture fire safety testing is destructive, in practical terms this is not possible. The requirements are generally enforced by ensuring that upholstered furniture offered for sale as second-hand, or second-hand upholstered furniture donated to charity, bears the original permanent label. This means that the new policy may appear to soften the position from the 1988 regulations, but it represents a continuation of that policy in practical terms and will mean the legislative requirements are clear.

²¹ <https://www.gov.uk/government/publications/opss-product-safety-and-consumers-wave-1>

Given that it is not feasible to re-test upholstered furniture before resupply, and it is not desirable to send products to landfill unnecessarily, this policy strikes a balance. As well as ensuring that the permanent label remains attached, suppliers of second-hand upholstered products will be asked to inspect the product and ensure they do not have any reason to believe it would no longer be in conformity.

Additionally, the new approach requires suppliers to act with due care to ascertain whether there is evidence of re-upholstery or repair having been carried out. If the re-upholstery or repair work has been carried out subsequently to these new regulations taking effect, there should be a re-upholstery permanent label with compliance and traceability information affixed to the upholstered product, alongside the original permanent label. If that label is not present, the product must not be resupplied. If the re-upholstery or repair was carried out prior to the new regulations taking effect, there will be no re-upholstery permanent label. In this scenario suppliers just have to consider whether there is evidence to suggest the product may no longer be in compliance with the essential safety requirements or the requirements of the relevant regulations.

Question

- 13. Do these proposals strike the right balance in facilitating the second-hand market and ensuring that only safe products are supplied?**

Online Marketing

Proposal

Anyone supplying an upholstered product online must ensure that the following information is displayed prominently on the web page in question:

- (a) the information set out on the permanent label of the upholstered product,
- (b) the information set out on any permanent label affixed to the upholstered product in relation to re-upholstery

With consumers increasingly purchasing all types of consumer products online, it is proposed that there are mandatory information provision requirements for anyone offering or exposing for supply online, in the form of the information included on the permanent label.

The permanent label, as described above, is designed to provide important information to consumers, in particular identifying the manufacturer and information about chemical flame retardants in the product. Where products have been re-upholstered or repaired and a re-upholstery permanent label has been affixed to the product, the information on that label must also be made available.

This proposal seeks to ensure that where consumers purchase upholstered products online, they have access to the same information that would be available to them if they were considering a purchase in a bricks and mortar store.

Question

14. Do you agree with the proposal to require product labelling information to be included in online product listings?

Enforcement

Proposal

Enforcement provisions, including powers and penalties are set out in the **Consumer Protection Act 1987** and **Part 3 of the General Product Safety Regulations 2005**.

Enforcement will be carried out by Local Authority Trading Standards in England, Scotland and Wales and District Council Environmental Health officers in Northern Ireland. The Office for Product Safety and Standards is the national regulator.

Enforcement authorities will have a period of **12 months** from an offence taking place to institute proceedings.

The new approach, like the current FFRs, will be made under The Consumer Protection Act 1987. The current FFRs benefit from the provisions in relation to offences and penalties set out in the Consumer Protection Act. These are supplemented by the enforcement provisions at Part 3 of the GPSRs. The new approach will maintain this position. As such, provisions in respect of enforcement, including offences and penalties, will not need to be written into the new approach Regulations and are not subject to this consultation.

The Consumer Protection Act contains powers to institute legal proceedings within 12 months from the commission of an offence. We are proposing to extend the time for enforcement authorities to institute legal proceedings under these regulations, from 6 months – the current period under the Magistrates' Courts Act 1980 – to 12 months.

We are not proposing any further amendments to the enforcement regime, but the Office for Product Safety and Standards are currently undertaking a full review of the product safety framework. This review is considering the wider enforcement regime and the tools at enforcement authorities' disposal.

Question

- 15. Do you agree the proposal to extend the period for instituting legal proceedings should be extended from six to 12 months?**

Review

Proposal

We propose that the new approach include a 5-year review clause.

In line with existing product safety legislation and in keeping with Government Better Regulation best-practice, a provision will stipulate the requirement to review the regulations every five years. This will instigate an evaluation process to review the success of this intervention. This will also ensure the legislation keeps pace with emerging trends, new evidence and technological development and ensure the regulations remain fit for purpose.

This will also allow us to consider the new essential safety requirements alongside the new UK product safety framework being developed. While we do not anticipate the policy changing with regards to furniture fire safety (subject to evidence showing it to be unsuccessful in delivering desired outcomes), ultimately, we would want all product safety regulation to work together in a way that supports business compliance and innovation, whilst protecting consumers.

Question

16. Do you have any comments on the proposal for a 5-year review clause?

Impact Assessment and Draft Regulations

We have published a full impact assessment of the proposals and a set of draft regulations based on the proposals set out in this consultation document. The impact assessment sets out a detailed review of the proposals and the costs calculated as being associated with implementing the proposed changes. We have used a range of sources to develop these figures including our call for evidence on costs in autumn 2021, but welcome further feedback, particularly where the sample size was limited.

We are seeking further evidence from stakeholders across all existing cost estimates to improve the sample size on which figures are based. Specifically, we welcome evidence that helps to assess the impact the policy will have on the risk of injury from fire relating to domestic upholstered furniture and evidence that evaluates the proposals' impact on human health and the environment, in relation to chemical flame retardants. We are also interested in sector-specific evidence and particularly encourage stakeholders to share data that considers the impact of the proposed policy on re-upholsterers and on enforcement authorities. Reflections on the impact of a shift to final item assessment with representative sample testing will also be valuable.

Example draft regulations based on the current proposals are included to give stakeholders a clear picture of what the new regime could look like in practice. They indicate the breadth and scale of the work that has been undertaken to devise the new approach but do not represent finalised policy. This consultation is an opportunity for all stakeholders to provide views, evidence and challenge that will be then evaluated in light of the current proposals

Question

17. Do you have any comments on the detail of the impact assessment? Please provide any evidence or data that should be considered alongside the figures outlined.

Definitions

In the context of this consultation and in relation to the new approach to domestic furniture fire safety, we are proposing that the following definitions apply:

Accredited Laboratory

A laboratory which is accredited against standard EN ISO/IEC 17025: 2017 by:

- (a) the United Kingdom Accreditation Service, or
- (b) an internationally recognised accreditation body which is a signatory to the EA/ILAC multilateral agreements.

Added Upholstery

Upholstery supplied and added to an upholstered product in the course of the re-upholstery or repair of that product.

Chemical flame retardant

A substance added, or a treatment applied, to a material in order to suppress or delay ignition or reduce the rate of burning.

Conformity Assessment

The process to identify applicable essential safety requirements and ensuring that appropriate testing is carried out to demonstrate that the product or component meets those essential safety requirements.

Designated Standard

A technical specification which is adopted by the British Standards Institution (“BSI”) or an international standards body, for repeated or continuous application, with which compliance is not compulsory, that has been designated by the Secretary of State as providing a presumption of conformity with the essential safety requirements.

Domestic Premises

Premises occupied as a private dwelling including any garden, yard, garage, outhouse or other appurtenance of the premises which is not used in common by the occupants of more than one dwelling of that kind, including:

- a) Private and social rented accommodation
- b) Houses in multiple occupancy (HMOs)
- c) Private quarters within supported and sheltered accommodation
- d) Temporary accommodation provided by local authorities
- e) Park homes and caravans
- f) Holiday and short-term lets (including Air BnB)

Not including:

- a) Lodging and boarding arrangements
- b) Motor caravans or other motor vehicles
- c) Houseboats
- d) Hotels and Bed and Breakfasts
- e) Residential Care Homes and Children's Homes

Enforcement authority

Local authority Trading Standards in Great Britain, District Councils in Northern Ireland and in some cases the Secretary of State.

Essential safety requirements

The results to be attained, and hazards that must be considered, by manufacturers when producing upholstered products in scope of the new approach.

Flaming ignition source

Source of energy which is used to ignite materials or products with the emission of light and heat, with the presence of a flame.

Foam

Polyurethane in slab or crumb form or latex foam.

Further Supplier

Any person in the supply chain for a new product, other than the manufacturer or importer.

Importer

In relation to a product from outside the United Kingdom, a person who is established in the United Kingdom and places the product on the market.

Inherently Flame-retardant material

A material which offers a level of flame resistance without the use of additional chemical additives or treatments.

Manufacturer

The person who manufactures the product or has it designed or manufactured, and markets it under their name or trademark.

Non-flaming ignition source

Source of energy which is used to ignite materials or products with or without the emission of light and generally evidenced by smoke and an increase in temperature, but without the presence of a flame.

Place on the Market

Supply in the UK for the first time.

Supply

Supply on the market of the United Kingdom, including:

- a) Offering to supply
- b) Agreeing to supply
- c) Exposing for supply and
- d) Possessing for supply

See also, section 46 of the Consumer Protection Act 1987.

Upholstery

Any one or more of the following components of a product (whether fixed or removable):

- a) any fabric, leather or other cover material,
- b) any material used for filling, bulking out or stuffing covered components;

Questions

18. Do you have any feedback on the list of locations that are included and excluded from the definition of private dwelling that sets the scope of the regulations?

19. Do you have any further comments on the definitions?

Consultation questions

1. Does your organisation require a transitional period, and do you have any comments on the period proposed?

Economic Operators

2. Do you have any comments on the Economic Operators included as having obligations? Are the associated obligations appropriate? Are there any economic operators that we have not considered?

Product Scope

3. Do you agree with proposals for which products should fall within scope of the new approach? Please provide as much evidence as possible to support suggestions.
4. Are any of the product types referred to as being in or out of scope ambiguous, and would they benefit from further definition?

Outdoor Upholstered Products

5. Do you agree that outdoor upholstered furniture should remain in scope of the regulations, unless an Outdoor upholstered product warning label is affixed?

Upholstered Products manufactured prior to 1st January 1950

6. Do you agree with the proposal to retain the policy of exempting all products manufactured prior to 1st January 1950 from the regulations?

Essential Safety Requirements – New Upholstered Products

7. Do you agree with the proposed essential safety requirements? If not, please provide evidence to support your assertions.

Flame Retardant Technology Hierarchy

8. Do you agree with approach proposed by the hierarchy?

Conformity Assessment and Testing

9. Do you agree testing a composite or representative sample of the final item is the correct approach to assess the safety of upholstered products?

Labelling

10. Do you agree with the labelling proposals, including the requirement to list chemical flame retardants on the label? If not, please explain and provide any evidence.

Traceability – Technical File

11. Do you agree with the suggested contents of the technical file? Please include evidence to support the inclusion of further elements or removal of elements included in proposals.

Re-Upholstery

12. Do you agree with the proposals for a re-upholstery permanent label? Please provide evidence to support any suggested changes.

Second-hand Upholstered Products

13. Do these proposals strike the right balance in facilitating the second-hand market and ensuring that only safe products are supplied?

Online Marketing

14. Do you agree with the proposal to require product labelling information to be included in online product listings?

Enforcement

15. Do you agree the proposal to extend the period for instituting legal proceedings should be extended from six to 12 months?

Review of the Regulations

16. Do you have any comments on the proposal for a 5-year review clause?

Impact Assessment

17. Do you have any comments on the detail of the impact assessment? Please provide any evidence or data that should be considered alongside the figures outlined.

Definitions

18. Do you have any feedback on the list of locations that are included and excluded from the definition of private dwelling that sets the scope of the regulations?
19. Do you have any further comments on the definitions?

Next steps

This consultation signifies the Government's intention to update the fire safety requirements for domestic upholstered furniture and replace the current FFRs. We will consider all responses and evidence in finalising the new approach. Once the consultation is closed, a Government response will be published on gov.uk along with a summary of the responses to the consultation. If you do not wish to be listed as a respondent, please make this clear.

Paper copies of the summary of responses are made available on request.

This consultation is available from: <https://www.gov.uk/government/consultations/smarter-regulation-fire-safety-of-domestic-upholstered-furniture>

If you need a version of this document in a more accessible format, please email alt.formats@beis.gov.uk. Please tell us what format you need. It will help us if you say what assistive technology you use.