



Consultation report: Draft Code of Conduct for Registered Building Inspectors

May 2023

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Introduction

The Building Safety Regulator (BSR) has been operating as part of the Health and Safety Executive (HSE) since April 2023. This report summarises the outcome of HSE's public consultation on the introduction of proposed Code of Conduct we are developing for Registered Building Inspectors (RBIs). The Code of Conduct will apply to professional conduct for all building inspectors in England from spring 2024. The development of the Code of Conduct is an iterative process. We will use the consultation responses to shape and refine our proposals. We will publish the revised Code of Conduct in June 2023.

Background

Section 42 of the Building Safety Act 2022 requires the Building Safety Regulator to prepare and publish a Code of Conduct for registered building inspectors setting out standards of professional conduct and practice expected of registered building inspectors.

In May 2022, we published an initial draft of the proposed Code of Conduct. Over summer, 2022 we met representative groups for building control to discuss and further develop the draft. A revised version was then published for public consultation in January 2023.

This report summarises the outcome of the public consultation on the proposed Code of Conduct, which will apply to all building inspectors applying for registration with BSR from October 2023.

The public consultation ran from 9 January until 20 February 2023. The consultation was published online and promoted via HSE's building safety e-bulletin and through representative groups. There were 2,610 page views of the consultation on the citizen space website. Prior to consultation, HSE engaged with representative groups for building control on earlier drafts of the Code of Conduct. A total of 45 responses were received.

Respondents were encouraged to reply using the online questionnaire, and 3 responses were received separately by email. These responses were also included in our analysis as follows:

- Emails referring to specific questions were included in the online response analysis framework
- Emails providing general narrative were analysed by theme, i.e., Code of Conduct standards

Not all online respondents answered every question, and not all gave comments to support their response. A proportion of the consultation was left unanswered by some respondents.

This report includes a summary of responses to the multiple-choice questions and free text fields, which were analysed to find common themes. The summary reflects the views

offered, but it is not possible to describe all responses in detail: care has to been taken to respect the wishes of respondents who did not want their details to be made public. The results of this analysis represent the views of respondents and cannot be generalised across the broader building control profession. However, the large number of hits the consultation received provides a level of reassurance that people were reasonably content with what was published, as only a very small number felt the need to respond. Every response has been read and considered as we further develop the Code of Conduct. Thank you to all respondents for taking the time and effort to provide this valuable feedback.

Summary of responses

A mix of people provided responses either as an individual or a representative of an organisation:

- 18 people responded on behalf of an organisation
 - 6 on behalf of a private building control organisation
 - 8 on behalf of Local Authority organisations
 - 1 on behalf of a membership body
 - 3 on behalf of an organisation (unspecified other)
- 27 responded as an individual
 - 2 individual respondents represented consultancy
 - 20 individual respondent represented private sector building control
 - 2 individuals worked in Local Authority Building Control
 - 3 individuals were classified as 'other'

Findings overview

Quantitative and qualitative analysis of the consultation responses show overall, broad support for BSR's proposals, with some useful issues brought to our attention for consideration as well. In particular, the need to clearly articulate delineation between organisations' and registered building inspectors' responsibilities and to whom the Professional Conduct Rules and the Code of Conduct respectively apply. Responses to the individual questions and themes from the comments are summarised in more detail in this report.

Breakdown of responses

Standard 1

Q1-S1: Considering standard 1: Complying with your legal, regulatory, and professional obligations, is the wording of the standard clear?

Of the 43 responses received for this question, 29 respondents agreed that the wording of standard 1 is clear. Fourteen respondents felt that standard 1 was not worded clearly and provided comments which related to the following headline themes:

- The need for clarifications and removal of ambiguity
- Impartiality and independence as a Registered Building Control Approver (RBCA) employee/Registered Building Inspector (RBI)

Summary of detailed comments on Q1-S1:

- clearer definition and delineation of RBI vs. RBCA responsibilities
- clarification of terminology, for example, definitions for competence and best practice
- the need for general supplementary guidance
- clarification of aspects of the standard that touch on individuals' contracts with employers; independence and an individual's ability to work on other aspects, for example, design advice if not the RBI; the scope of conduct outside of work, including whether it is appropriate for minor convictions to affect an RBI's work

Q2-S1: Are there any issues you feel are missing or not covered in complying with your legal, regulatory, and professional obligations?

Of the 43 responses received for this question, 30 felt that standard 1 had covered the issues relevant to complying with their legal, regulatory, and professional obligations. Thirteen respondents believed that some issue, or issues, had been omitted and provided further comments which included queries or suggestions on:

- further clarification, including sharing advice and best practice
- the opportunity to reference BSI Flex 8670 Annex A
- direct references to regulations, and to industry standards
- risk of expertise and maintenance of professional competence, and mentoring others
- mention of the limits to regulatory 'powers'
- where the role of vicarious responsibilities lays

Q3-S1: Are there any behaviours within standard 1 that you would find it difficult to comply with?

Of the 41 responses to this question, 23 respondents stated that there were no behaviours outlined in standard 1 that they would have difficulty complying with. Sixteen respondents

commented on behaviour requirements which they would find it difficult to fulfil. Issues raised included:

- the standard being overly general
- the need for clarification of rules on giving advice, and difficulties with compliance to the prohibition on building inspectors giving advice.
- the need for clarity regarding specific behaviours within the standard, including, section 1.3; cooperation with the fire and rescue service
- subjectivity of equality and inclusion elements
- issues of professional competence with signposting to the Cross-Safety website

Q4-S1: What aspects of complying with your legal, regulatory, and professional obligations would benefit from further guidance? Please explain

Of the 42 responses to this question, 33 provided comments with 24 of them requesting further clarification and guidance on aspects of standard 1 which relate to:

- the scope of services the Code of Conduct covers with a comment on it being more applicable to larger buildings
- accountabilities and how to achieve compliance
- definition of 'competence' and 'industry standards'
- regulatory powers
- design advice, and restrictions on job types
- ensuring the profession is ready for the enforcement in April 2024

Other comments related to:

- a need for the standard to be flexible
- alignment to other professional membership codes, including RICS and CABE
- the standard not requiring any further guidance

Standard 2

Q1-S2: Is the wording of the standard clear?

Of the 43 responses received for this question, 27 respondents agreed that the wording of standard 2 is clear. Sixteen respondents felt the standard was not worded clearly and provided comments which related to the following headline themes:

- The need for guidance, clarifications, additions, and removal of ambiguity
- Responsibilities beyond individuals' control.
- Duplication of aspects in the Operational Standards Rules

Summary of detailed comments on Q1-S2:

- requests for clarification included more information on the relevance of some aspects to individuals vs. aspects which might appear to be applicable to RBCAs

- aspects relating to business practices as an employer which are included in the OSRs do not appear to be relevant to individuals, no realistic expectations if beyond individuals' control
- circumstances in which insurances will be needed, and the level/type of insurance needed, including consideration for individuals operating as a RBCA
- statutory guidance required as the Code of Conduct is too open to interpretation and is considered too broad in some responses
- omission of the requirement to comply with CPD

Q2-S2: Are there any issues and risks you feel are missing or not covered in complying with relevant business requirements?

Of the 44 responses to this question, 24 respondents felt that there were no issues or risks missing or not covered by compliance with this aspect of standard 2. Fifteen respondents commented on issues and risks that they felt are missing or not covered, including:

- the need for clarity and guidance more generally to enable a more informed assessment of what may or may not be missing, and regarding specific aspects of the standard, including:
 - the responsibilities of building inspectors
 - matters relating to consumer protection
 - insurance
 - RBI health and safety, notably, when inspecting different sites
 - ensuring the Code of Conduct fully aligns with the OSRs

Omission of:

- requirements for meeting building control performance standards
- RBIs being clear on the exact services provided
- approved Inspector regulations relating to minor works
- suggested rethink of aspects relating to the management of personal finances

Q3-S2: Are there any behaviours within the standard that you would find it difficult to comply with

Of the 45 responses to this question, 25 respondents stated that there were no behaviours outlined in standard 2 that they would have difficulty complying with. Fourteen respondents commented on behaviour requirements which they would find it difficult to fulfil. Issues raised included:

- being unsure due to the need for further guidance and clarity on the standard
- conflicts of interest related to commercial matters
- matters of insurance which require further clarity
- aspects of responsibilities which relate to organisational policy that are out of individuals' control; and require further clarification, including whistleblowing records keeping and suggestions of escalation
- matters influenced by a need for training or a lack of awareness of labour practices

Q4-S2: Are there any scenarios where you would believe it would appropriate to manage conflict of interests?

Of the 44 responses to this question, 23 respondents stated that there were scenarios in which it would be appropriate to manage conflicts of interest. Seventeen respondents did not think that there were any such scenarios. Detailed comments included the following issues:

- the prevention or management of conflicts of interest mostly through good practice or exercising impartiality
- the inevitability of some conflicts of interest due to the nature of the market and the building of business and community relationships
- the commercial environment generating conflicts of interest by the fact that clients choose their Approved Inspectors, as well as these inspectors often being employed by multidisciplinary agencies or organisations

Q5-S2: What aspects of complying with relevant business requirements would benefit from further guidance? Please explain

Twenty-nine comments were provided in response to this question with the following aspects being highlighted:

- some stating that no guidance is needed or that they are already compliant
- others requested guidance, clarifications and tightening up of language more generally
- guidance requested on responsibilities generally, and in law
- the requirement for clarity on anti-competitive practices, franchising, insurance, and financial propriety
- guidance to address the matter of career pathways, and to explain 'up-to-date training'
- guidance and clarity on matters of conflicts of interest, including services provision and banning decision making interference
- promotion of consistent culture across public and private building control.
- guidance on the relevance and importance of unconscious bias and financial crime prevention

Standard 3

Q1-S3: Is the wording of the standard clear?

Of the 42 responses received for this question, 33 respondents agreed that the wording of standard 3 is clear. Nine respondents felt the standard was not worded clearly and provided comments which related to the following headline themes:

- The need for clarity and definition of competence and responsibilities.
- The breadth of the standard.

The breadth of the standard felt ambiguous and lacking detail for some more generally, and on specific aspects mentioned above.

Q2-S3: Are there any issues and risks you feel are missing or not covered in complying with relevant business requirements?

Of the 43 responses to this question, 31 respondents felt that there were no issues or risks missing or not covered by compliance with this aspect of standard 3. Twelve respondents commented on issues and risks that they felt are missing or not covered, including:

- the requirement for further clarity and definition of what constitutes competence
- omissions in relation to definitive frameworks for supervision and competence, development of competence through practice, and annual development requirements
- reference to previous answer

Q3-S3: Are there any behaviours within the standard that you would find it difficult to comply with

Of the 44 responses to this question, 36 respondents stated that there were no behaviours outlined in standard 3 that they would have difficulty complying with. Seven respondents commented on behaviour requirements which they would find it difficult to fulfil. Issues raised included:

- the need for clarity in the behaviours required by standard 3
- the need for a definition of competence

Q4-S3: What aspects of the maintaining professional competence and continuing professional development would benefit from further guidance?

Thirty comments were provided in response to this question with the following aspects being highlighted:

- maintaining and achieving competence and CPD, including online CPD sessions provided by legislators
- the balance of the importance of CPD in the face of costly of training and relatively low availability of provision for advanced CPD
- definition of competence and clarification around the competence framework and registration
- design and construction safety which is currently unclear
- coordination with, and clarity around links to professional organisation standards
- clarification of responsibilities
- guidance with examples and templates requested
- some commented that no further guidance is needed

Standard 4

Q1-S4: Is the wording of the standard clear?

Of the 43 responses received for this question, 36 respondents agreed that the wording of standard 4 is clear. Seven respondents felt the standard was not worded clearly and provided comments which related to the following headline themes:

- clarity and guidance needed on specific aspects of the standard
- request for changes relating to specific wording, and to business conduct requirements

Guidance and clarity were requested in relation to business conduct requirements and resource management; engagement with quality assurance; and employment status.

Q2-S4: Are there any issues and risks you feel are missing or not covered in standard of service?

Of the 43 responses to this question, 39 respondents felt that there were no issues or risks missing or not covered by compliance with this aspect of standard 4. Four respondents commented on issues and risks that they felt are missing or not covered, including:

- Omissions of the issues of failure to employ a structural engineer, quality-assuring the work undertaken by inspectors under supervision, and taking account of employment status (i.e., self-employed)

Q3-S4: Are there any behaviours within the standard that you would find it difficult to comply with

Of the 43 responses to this question, 34 respondents stated that there were no behaviours outlined in standard 4 that they would have difficulty complying with. Nine respondents commented on behaviour requirements which they would find it difficult to fulfil. Issues raised included:

- pressure on their resources
- a need for clarity and definition of responsibilities
- the need to address the broad nature of the standard and ensure scope of applicability is clear

Q4-S4: What aspects of standard of service would benefit from further guidance?

Sixteen comments were provided in response to this question with the following aspects being highlighted:

- clarity needed on Building inspector accountability
- application of the standard in practice
- anything that is beyond what is covered in guidance by CICAIR
- referrals to previous answers
- stating that no further guidance is needed

Standard 5

Q1-S5: Is the wording of the standard clear?

Of the 41 responses received for this question, 26 respondents agreed that the wording of standard 5 is clear. Fifteen respondents felt the standard was not worded clearly and provided comments which related to the following headline themes:

- the standard being broad and requiring clarifications and guidance
- wording change requests

Matters requiring further clarity included the standard more generally where it was seen to be too broad; delineation of employer and registered building inspector responsibilities; and application of the standard in practice. Wording change requests included building control as a legal requirement, and information retention.

Q2-S5: Are there any issues and risks you feel are missing or not covered in engaging with clients?

Of the 40 responses to this question, 27 respondents felt that there were no issues or risks missing or not covered by compliance with this aspect of standard 5. Thirteen respondents felt there were with some commenting on issues and risks that they felt are missing or not covered, including:

- the need for clarity and definition of information handling
- more emphasis on building control as a legal requirement, rather than a service
- clarification needed on the minimum standards and services which should be provided by registered building inspectors

Q3-S5: Are there any behaviours within the standard that you would find it difficult to comply with

Of the 41 responses to this question, 25 respondents stated that there were no behaviours outlined in standard 5 that they would have difficulty complying with. Sixteen respondents commented on behaviour requirements which they would find it difficult to fulfil. Issues raised included:

- compliance with information handling requirements
- aspects of client engagement being beyond building inspectors' control
- building control as legal requirement not service
- the need for clear delineation of where an RBI's responsibilities started and ended regarding client engagement
- alignment to the OSRs

Q4-S5: What aspects of the engaging with clients would benefit from further guidance?

22 comments were provided in response to this question with the following aspects being highlighted:

- clarity and guidance needed on:
 - accessible services
 - client engagement and relationship changes pre and post transition
 - information handling and disclosure
 - both RBI and dutyholder responsibilities
 - staff movement/transfers to other RBCAs
- checking Code of Conduct requirements align with insurance requirements and that current practice of publishing insurance on CICAIR's website could continue vs. providing to potential employees
- omission of issues relating to minimum services provision of Registered Building Inspector
- the fitness for purpose of the standard and building control as a statutory requirement

General questions

1. Do you think that the principles and standards set an appropriate level of professional ethical practice?

Of the 43 responses to this question, 31 felt that the standards set an appropriate level of ethical and professional practice. Twelve respondents disagreed and provided detailed comments which included the following issues:

- the standards requiring greater clarity on topics such as competence and ethical practices
- the standards themselves being too ambiguous, broad, or ambiguous which brings about a need for specific guidance

2. Do you think this Code of Conduct is going to disproportionately affect anyone with protected characteristics? Yes/No If you selected yes, then please explain which group of people is likely to be affected and how

Of the 43 responses to this question, 41 respondents thought that the Code of Conduct proposed in the standards would not adversely impact upon anyone with protected characteristics. Two respondents thought there could be and commented on the following:

- one respondent thought the Code of Conduct would affect older people but didn't specify how
- one respondent expressed concerns that the inclusion of standards not directly related to ethical practice may affect some people but didn't say whom

**3. Are there any other standards that should be included in the Code of Conduct?
Yes/No If you selected yes, then please specify the standards that should be included**

Of the 44 responses to this question, 38 respondents felt no other standards should be included. Comments made by respondents included suggestions for additions as well as calls for alignment to existing standards and codes, and supplementary guidance. The suggestions covered by those who felt additions should be made included:

- promoting health and safety through education, training and sharing best practice
- a code for interviewing and moving between RBCAs
- limitations around RBIs using their skills to do drawings or other additional paid work; and preventing an RBI from recommending contractors where they have produced the drawings

**4. Is there anything in the Code of Conduct that is a deterrent to you registering?
Yes/ No if you selected yes, please specify the deterrent to**

Of the 43 responses to this question, 25 respondents felt this was either not applicable or they did not identify any aspect of the Code of Conduct which would deter them from registering. Eighteen people felt that there is something in the Code of Conduct which is a deterrent to registering. Comments covered issues including:

- the standard being broad and needing supplementary clarifications and guidance, including definition of competence and more clarity on powers, responsibilities, and supervision
- appetite for linking to other professional bodies and recognising other registration.
- issues around insurance and liabilities
- restrictions in providing pragmatic solutions and a perceived risk of failure to address breaches

5. Is there anything further you would like to add?

29 responses were provided in response to this question with the following aspects being highlighted:

- perceptions that the code is inadequate, too broad or requires clarifications and amendments to wording, including definition of competence
- specific guidance requests included:
 - registration guidance
 - guidance for self-employed sole practitioners
- clarifications requested on:
 - consistent powers across the board for all Registered Building Inspectors
 - wording could be clearer that the building control function is regulated as well as RBI being a 'protected title'
 - the discipline process and other procedures

- responsibilities, including to what extent individual Registered Building Inspectors will have the power or authority to comply with certain requirements of the Code where those requirements are managed by their employer – only matters within the control of the RBI should be included in the Code of Conduct
- suggestions for inclusion and/or consideration:
 - promotion of the purpose of building control
 - acceptance/recognition of existing registrations with professional membership bodies
 - a published process or procedure for investigating and enforcing against breach of the Code of Conduct – this too would inform assessment of whether the Code of Conduct adequate and if registration with the Regulator is feasible
- concerns:
 - that senior building control professionals will leave the industry
 - double jeopardy in the application of the PCRs and Code of Conduct on breaches
 - reporting criminal offences against fellow colleagues and the risk of civil litigation if offences are unfounded

Health and Safety Executive response

The Health and Safety Executive has considered the views of the respondents. We respond to those views by making the following observations on the draft Code of Conduct. We will take all matters into consideration as we continue to develop the Code of Conduct and associated guidance. We continue to engage with the building control profession and have made great progress in developing the Code of Conduct and shaping ideas for supporting guidance.

Table 1 – Summarises response themes identified in the consultation and the Health and Safety Executive’s response

Code of Conduct theme	Theme summary	HSE response
Clarity on design advice	<ul style="list-style-type: none"> • Design advice vs. advice 	<ul style="list-style-type: none"> • Since the Code of Conduct was shared “design advice” has been under review. Comments have been noted. Details will be updated in secondary legislation
Clarity of boundaries of responsibilities	<ul style="list-style-type: none"> • Clarity on Registered Building Inspector’s role and responsibilities • Where the role of vicarious responsibility lays • To what extent individual Registered Building Inspectors will have the power or authority to comply with certain requirements of the Code where those requirements are managed by their employer – only matters within the control of the RBI should be included in the Code of Conduct • Guidance for sole practitioners 	<ul style="list-style-type: none"> • The redrafted Code of Conduct will ensure that there is clear delineation between the accountability lines, data handling requirements, legal responsibilities between building inspectors and self-employed practitioners

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	<ul style="list-style-type: none"> • Scope required on data handling retention requirements of the individual RBI versus their employer 	
Personal conduct outside of work	<ul style="list-style-type: none"> • The scope of conduct outside of work, including whether it is appropriate for minor convictions to affect an RBI's work 	<ul style="list-style-type: none"> • Guidance is being developed on the scope of offences that will affect an RBIs work
Personal conduct inside of work	<ul style="list-style-type: none"> • Concerns with regards to civil litigation in terms of reporting criminal offences against fellow colleagues • Request for guidance and procedure regarding how to do this confidentially 	<ul style="list-style-type: none"> • Guidance is being developed on whistleblowing procedure
Clarification on insurance requirement	<ul style="list-style-type: none"> • Guidance for sole practitioners • Circumstances in which insurances will be needed, and the level/type of insurance needed, including consideration for individuals operating as a RBCA 	<ul style="list-style-type: none"> • Guidance on insurance requirements is being developed for self-employed sole practitioners
Clarification of terminology	<ul style="list-style-type: none"> • Definitions for competence and best practice • The need for general supplementary guidance, as well as guidance on defining, competence • Further clarification on best practice 	<ul style="list-style-type: none"> • Guidance for good practice and competence (skills, knowledge, experience, and behaviours), and signposting to good practice standards, are being developed
Operationalisation of equality and inclusion requirements	<ul style="list-style-type: none"> • Subjectivity of equality and inclusion elements. 	<ul style="list-style-type: none"> • The redrafted Code of Conduct has taken into consideration the operationalisation of equality and diversity and guidance is being developed to accompany this
Specific guidance requests	<ul style="list-style-type: none"> • Specific guidance requests included: • Registration and registration conditions • Double jeopardy in the enforcement of the PCRs and Code of Conduct 	<ul style="list-style-type: none"> • Guidance on all of these areas is being developed and publication of the enforcement and disciplinary procedures will be published in due course

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<p>Competence assessment and verification</p>	<ul style="list-style-type: none"> • Acceptance/recognition of existing registrations with professional membership bodies 	<ul style="list-style-type: none"> • All aspects related to the competence of RBIs are being taken forward as part of the work to develop the Building inspector Competence Framework (BICoF) and the verification of competence
<p>Conflicts of interest</p>	<ul style="list-style-type: none"> • Definitions and scope of: <ul style="list-style-type: none"> • Impartiality and independence for RBIs • The role and scope of service provision of a registered building inspector • Inherent culture of conflict of interest in multi-disciplinary organisations - the requirement for clarity on anti-competitive practices, franchising • Rethink on personal finances 	<ul style="list-style-type: none"> • Guidance will be developed regarding conflict of interest for registered building inspectors
<p>Clarity on career development, pathways and CPD and recording guidelines</p>	<ul style="list-style-type: none"> • Guidance to address the matter of career pathways, and to explain 'up-to-date training' • Omission of the requirement to comply with CPD • CPD compliance hours • Definition of 'under supervision', 'competence' • The need for clarity regarding specific behaviours within the standard, including, section 1.3; and definition of 'industry standards' • Maintaining and achieving competence and CPD, including online CPD sessions provided by legislators. • The balance of the importance of CPD in the face of costly of training and relatively low availability of provision for advanced CPD. 	<ul style="list-style-type: none"> • Guidance on career development, pathways, CPD, recording requirements and supervision are all being taken forward as part of the work to develop the Building inspector Competence Framework (BICoF) and the verification of competence

	<ul style="list-style-type: none"> • Guidance for interviewing as an RBI and job transitions between RBCAs 	
Concerns about the profession	<ul style="list-style-type: none"> • Concerns: that senior building control professionals will leave the industry • A published process or procedure for investigating and enforcing against breach of the Code of Conduct – this too would inform assessment of whether the Code of Conduct adequate and if registration with the Regulator is feasible 	<ul style="list-style-type: none"> • Publication of the enforcement and disciplinary procedures against the Code of Conduct will be published in due course
Alignment with OSRs	<ul style="list-style-type: none"> • Aspects relating to business practices as an employer which are included in the OSRs do not appear to be relevant to individuals, no realistic expectations if beyond individuals' control 	<ul style="list-style-type: none"> • Work is being conducted to illustrate the interrelatedness and distinctions between Code of Conduct, PCRs and OSRs comments have been passed onto the relevant team regarding publication • Guidance will be developed to delineate between self-employed RBI responsibility and employed RBI responsibility

The way forward

The Building Safety Regulator acknowledges the support from all who contributed to this consultation. All responses have been considered within the overall analysis. The consultation findings will feed directly into the development of the Code of Conduct and supporting guidance products. Any comments in respect of related matters will be passed on to the relevant team.

The Code of Conduct will be published in June 2023 so that people have time to familiarise themselves with it before registration opens in October 2023. From April 2024, only Registered Building Inspectors will be able to undertake restricted activities and advise on restricted functions, as defined in legislation.

The introduction of the Code of Conduct is a new requirement: supporting guidance is being developed and will be published.

Once introduced, the Building Safety Regulator will periodically review the Code of Conduct where necessary and appropriate whilst considering the views of the profession.



Further information

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First published 05/22. Published by the Health and Safety Executive 05/22