

The Rt Hon Michael Gove MP
Secretary of State
Department for Levelling Up, Housing, Communities & Local Government
2 Marsham Street
London, SW1P 4DF

The Rt Hon Kwasi Kwarteng
Secretary of State
Department for Business, Energy & Industrial Strategy
1 Victoria Street
London, SW1H 0ET

Dear Secretaries of State,

16.11.21 **UK CONSTRUCTION PRODUCTS REGULATIONS**

The Construction Leadership Council would like to draw your attention to urgent industry concern in connection with the introduction of the UK CA Mark. We have been working on these issues with your departments' teams for some time and welcome the recent extension to the transition period to 1st January 2023. Despite excellent cooperation by industry and Government, serious issues remain that have the ability to cause considerable disruption to the construction sector and the levelling-up agenda.

We refer specifically to the adoption of the UK Construction Products Regulations and in particular the transition from the use of the CE Mark to the CA Mark, and the underlying requirements emanating from this policy.

The UK's adoption of processes modelled on tried and tested EU regulations for a UK-only system should minimise the disruption associated with changeover. Working over the past 18 months with Government and colleagues from other sectors to implement the processes for a UK-only system, we have identified the many complex and inter-connected issues involved in this transition. As our understanding of the challenge has grown, it is clear that decisive action is needed to make the UK Regulations work.

Many construction products can be brought to market with a 'self-declaration' of conformity to demonstrate compliance with the regulations. However, numerous other products that previously had to be independently tested for the CE mark must now be independently tested again in order to receive the CA mark. This can only be undertaken now by a UK body authorised by UKAS, the National Accreditation Body for the United Kingdom.

CE testing is currently undertaken across Europe through a European-wide network of testing and certification bodies. Under the new system, the UK does not recognise such certificates. This necessitates the re-working of all the tests and re-issuing of all the documentation for products manufactured in the UK and in Europe.

The Government has recently revised the deadline for this transition as the 1st January 2023, approximately 14 months from now.

Our main cause of concern is that for a significant range of construction products there is limited or no capacity for these tests to be carried out in line with the UK Construction Product Regulations. There must be a significant expansion of facilities with the incumbent recruiting and training of staff, who must all then receive authorisation by UKAS, before more products can be put through the new process. Unfortunately, this expansion of capacity is not happening quickly enough.

A number of market failures have contributed to this situation including the relatively small scale of the UK construction products testing market, disruption to the UK construction products sector following Covid-19 and a very short transition period that does not permit time for investment in new facilities ahead of the end of the transition.

With the realisation that the process of testing and certification for a single product can take up to a year (and in some cases longer), it becomes evident that unless the Government considers viable, practical alternatives, the clearing of the existing testing backlog and the management of future demand for testing and certification will not be possible before January 2023.

This year we have been collecting tangible evidence from construction product manufacturers about the lack of testing capacity and have shared it with the teams at DLUHC and BEIS. The evidence makes clear that numerous common and essential products such as radiators, glass, passive fire protection, glues and sealants will be adversely affected by a lack of UK testing capability.

If the current situation prevails, these products will not be available on the UK market after the January 2023 deadline. The inability to certify radiators in the UK, for instance, could delay the construction of over 150,000 homes in a single year and will also delay the switch to low carbon heating.

The consequences are clearly damaging not only to the UK construction sector but also to the Government's ambitions around housebuilding, infrastructure, building safety and net zero in the built environment.

We wish to continue working with Government to create a smooth transition, fully implementing the UK Construction Products Regulations. We have identified possible solutions to this situation, and strongly urge consideration be given to the following suggestions:

- Verify the current capability of the certification and testing sector in the UK as a first priority step;
- Establish the commercial viability for investment in increased capability, with support if necessary for niche but essential areas;
- Work with UKAS to find faster ways to bring new certification bodies on-stream;
- Allow subcontracting of testing and certification, if necessary, using overseas bodies;
- Allow the use of existing certifications on a temporary basis to allow time to gain UK-based approvals;
- Allow more flexibility on the current regulations if only on a transitional basis.

There is a further opportunity for Government to support the transition to the UKCA Mark. For the UK to progress testing and certification smoothly – saving significant time, money and resources for businesses – it needs to use existing guidance developed by the European Organisation for Technical Assessment (EOTA) network. Consent to this has been granted by EOTA; however, consent from the European Commission is required and is currently outstanding. We would appreciate the high-level advocacy of BEIS and DLUHC in calling for a prioritisation of a UK request for consent by the Commission when negotiations permit.

In conclusion, continuing risks associated with the implementation of the UKCA Mark on the UK supply chain – already disrupted by the pandemic, product and raw material shortages, increased energy costs and skills shortages – are of great concern to the Construction Leadership Council and our numerous industry partners.

There are steps that can be taken to mitigate these risks, but action is needed now. The extension of the deadline to January 2023 is not sufficient to prevent significant disruption. However, there are actions that can be taken to mitigate these effects. We hope you will see fit to rapidly meet with us to discuss this matter, as there is much that industry and Government must do together in a short amount of time. Thank you for your consideration.

Sincerely yours,



Andy Mitchell
Co-Chair
Construction Leadership Council