



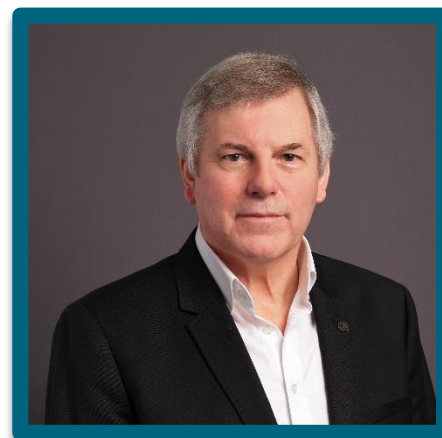
Construction
Leadership
Council

An industry response to the Independent Review of the
Construction Products Testing Regime
Testing for a Safer Future

CLC Standards and Regulatory Alignment Group

FOREWORD

I have chaired the Construction Leadership Council's (CLC) Standards and Regulatory Alignment Group since 2020, and in that time we have considered a number of significant issues affecting products within the construction sector. There have been several significant topics including CA marking, REACH and fire standards, most of which have remained unresolved. The sector continues to suffer from significant headwinds generated by these issues.



The group's ambition is to look in depth at these issues and provide guidance, clarity and if possible practical resolutions that can work for industry.

It was therefore with a degree of anticipation that the group greeted the news of the Independent Review of the Construction Products Testing Regime led by Paul Morrell OBE and Anneliese Day QC. Following its publication, the CLC Standards and Regulatory Alignment Group determined that there should be an industry response. This report is that initial response.

The Standards and Regulatory Alignment Group has been looking at the changing area of construction products especially since the UK's departure from the EU and considering the implications for industry across a wide range of areas and key topics.

Certification and testing of construction products in the UK have been a considerable issue for the sector, made further so since the Grenfell Tower tragedy. The Grenfell tragedy and other significant failures in the construction industry have given rise to significant concern over the development, marketing, testing and application of construction products and in particular those with a direct effect on life safety.

The independent review is an extremely thorough piece of work examining and explaining the many aspects of this area, including the complex, intertwining of regulations, standards formal and otherwise, customs, practices and commercial realities. All have a bearing on the industry operating in the UK today.

It is understood while industry's response was in preparation, the previous government was preparing its own response to the review and intended to reference a number of other related topics around the building safety certification and testing area, together with various reforms that have been discussed for some time involving products in the built environment.

While that work from the new government is eagerly awaited, we believe that through this response the industry is lending its voice to what needs to be done, and demonstrating how it can help.

It is hoped this will be helpful to industry and government alike. We will continue to look at the industry feedback in the group and develop a follow-up where appropriate or use this body of work to develop practical answers.

Peter L Caplehorn RIBA

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Chair – CLC Standards and Regulatory Alignment Group

Products Lead – CLC Building Safety Strategic Priority

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Introduction

1.1. The construction products industry has an annual turnover of £63 billion, comprising more than a third of overall construction turnover and representing one of the largest UK manufacturing sectors. The industry employs 383,000 people in 24,000 companies, mostly across the Midlands and North¹. Around 75% of products used in the UK are manufactured here, and the supply chain is supported by an extensive and widespread component supply network across Europe and beyond².

1.2. For these reasons, any issues affecting the product sector will have a significant impact on construction and the wider economy.

1.3. This industry is as complex as it is diverse. It has many sub sectors and specialist areas supporting activity in all aspects of construction and the built environment.

1.4. Estimates suggest that the number of broad product ranges available in the UK number between 20,000 and 30,000; these reflect an essential core of products covered by current standards. Formally there are around 2,500 specific standards for construction products with around half of those in constant use. Some 400 are harmonised, and are now designated standards in the UK. These harmonised standards support that essential core of products but there are many other products in fact not covered by such standards.

1.5. There are several formal routes to ensure a product's performance is verified, most common of which is the Assessment and Verification of Constancy of Performance (AVCP) system derived from a European approach.

1.6. The Independent Review of the Construction Products Testing Regime³ by Paul Morrell and Anneliese Day spelt out in clear detail the complexity and the challenges that have developed in the products sector. The Review is comprehensive, focused, analytical and above all points clearly to the challenges that lay ahead for government and industry alike. Paul and Anneliese have done industry a great favour in producing a body of work that can be seen as a watershed moment for the future of the construction products sector.

1.7. The following is a response to the review's findings, and highlights the reflections, issues raised and recommendations for action, from the Construction Leadership Council (CLC) Standards and Regulatory Alignment Group.

Annex A outlines membership of this industry group.

Annex B outlines methodology for this report.

¹ [Annual business survey](#)

² [Construction Products Association](#)

³ [Testing for a Safer Future – Paul Morrell / Anneliese Day – April 2023](#)

Industry response and recommended actions

| No. | Response and recommended action | Who |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| 1 | <p>Resolve the CE / CA mark issue, which is currently affecting investment, costs, jobs, productivity and the health of the product sector.</p> <p>This issue obviously links to many other factors such as testing capacity, clarity of purpose and market conditions. Recommended action is to indefinitely postpone.</p> | Government |
| 2 | <p>Coordinate and organise the testing certification oversight sector: i.e., TABS, CABS and UKAS. Construction is only one of many customers they have.</p> <p>Government to provide coherence as an overseeing organising authority modelled on EOTA.</p> | Relevant Bodies with Government support |
| 3 | <p>The Building Safety Act 2022 determines that the Secretary of State will control designation of standards but at this time no new designated standards have been forthcoming.</p> <p>Government to clarify the process and publish a programme of forthcoming standards essential to the foundation for increased product safety and performance.</p> | Government and BSI |
| 4 | <p>The secondary legislation regarding products is urgently needed. At a minimum, a timetable / plan for the roll out would at least allow industry to plan, as the many subsequent actions will take years.</p> <p>Government to publish the plan and consult as soon as possible.</p> | Government |

| No. | Response and recommended action | Who |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| 5 | <p>Define and provide a vision for the 'general safety requirement' and the 'safety critical requirement', with specific clarity around the duties inferred by these principles, enabling industry to progress with some confidence.</p> <p>Industry and Government to work together on the definition. Industry to progress the production of guidance potentially as a PAS standard.</p> | Government, Industry and BSI |
| 6 | <p>Clearer and better-defined regulation to provide clarity and push back on complexity. The publication of the product secondary legislation and other supporting information needs to be clear and well structured.</p> <p>Jointly sponsored industry and Government guidance would help.</p> | Government with industry support |
| 7 | <p>Address the lack of capacity for testing and certification in the UK - this could be by increasing UK provision or by allowing overseas facilities to be accepted.</p> <p>Commence discussion urgently involving industry and government to identify the current capacity and capability of the UK testing and certification sector, and develop a plan to address the current UK shortfall. Need to focus on capability and capacity of the sector including UKAS.</p> | Government, Industry and UKAS |
| 8 | <p>Over time a mutual recognition between testing facilities in the UK and those overseas especially in Europe is a commercial and practical necessity. Industry cannot work with divergence. A long-term resolution to this issue is needed.</p> <p>Should be led by industry and standards organisations.</p> | Government, Industry and Standards Organisations |

| No. | Response and recommended action | Who |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 9 | <p>Ensure there is a clear landscape of product regulations to cover all necessary products encompassing EU ISO, BS and PAS standards. Further standards are needed to support reform.</p> <p>Develop a plan for the many new standards that are required to cover the marketplace gaps and support the new provisions created by the BSA.</p> | Industry, Government and BSI |
| 10 | <p>A concerted effort to collate data around the product sector enabling tracking recalls and fault analysis, together with digital techniques. Use digitalisation to collect and collate data to enable efficient market and performance analysis across all relevant bodies and companies.</p> <p>Efficient tracking of products and product performance. Develop AI tools for product testing and performance modelling.</p> | Government and Industry |
| 11 | <p>Consider the impact of the new EU Construction Products Regulation (CPR) on UK manufacturing and plan to support the marketplace. Industry has already started on this analysis.</p> <p>Wider consideration must be given to alignment or divergence; industry cannot cope with divergence without significant negative consequences.</p> | Industry and Government |
| 12 | <p>Ensure wider adoption and use of the Code for Construction Product Information (CCPI)⁴ in raising the standard of product information.</p> | Industry |

⁴ [Code for Construction Product Information](#)

Detailed considerations and priorities

The product landscape

2.1. For several years now the direction of travel has been to improve the performance of buildings, and by implication, improve the selection, installation and use of products. To do that we need to understand how products have come to market, how have they been tested and to what standard. In short, the product journey.

- Are those formal standards in themselves fit for purpose?
- Does the product information give a reliable and trustworthy description?
- Where testing is not directly available, what other methods and systems are available?
- Most crucially where are the deficiencies gaps and loopholes that allow sub-standard products on to the market or more worryingly into buildings and structures?

2.2. The Paul Morrell / Anneliese Day review highlights the number of challenges that currently exist and what corrections may be needed.

2.3. From an industry perspective, the formal systems have been in place for many years and have required decades of investment, training and refinement. Any changes can seriously disrupt the supply chain so need to be carefully considered and rolled out through a mutually agreed plan. Above all, at a pace that industry can plan for and cope with.

2.4. Most products feed into very specific niche market areas and are sourced from a supply chain that is often pan European if not global. The UK is one part of this enormous ecosystem. Many of the deep routes, processes and procedures are part of the EU system that incidentally the UK played a significant part in creating prior to the UK's departure from the EU. In developing a new approach that will correct some of the deficiencies, account needs to be taken of the status quo. While it is large and complex and has its flaws, it is also easily broken.

2.5. Consider the formal entities and processes. Core to this, are the 400 or so designated standards. These come from the EU CEN standards process under the CPR. Initially conceived to remove cross-border friction in Europe, they establish the basis for product standards. Within them is set out the journey through AVCP for a product to be developed and placed on the market.

2.6. Currently there are some 200 further standards or updates held in an EU administrative queue that need to be added to the UK system so that the products affected can be certified and tested to the latest standard.

2.7. Beyond that, products can be independently tested and certified where a standard does not exist or where a manufacturer feels that would give a better approach. This EU based process is not currently available in the UK.

2.8. The vast majority of products are however outside all of this and very much subject to simple common law appraisal. Fortunately, many products (where the performance is critical to the building) are covered by standards.

2.9. Throughout, a great deal of onus is placed on those overseeing the product design, manufacture, testing and then incorporation into a building. Countering this responsibility is the pressure on cost, availability and speed that has consistently been at the root of many building issues over the last few decades.

Existing construction product regulatory landscape

2.10. The current arrangements have developed over decades and are deeply engrained in the sector. Many of industry's interactions and operations are as a result of this history.

2.11. Until recently much of this relied on a pan European approach. At the heart of the formal standards approach is that there will be one single standard for one topic or product area. The supply chain needs this to continue. Developing separate standards and approaches for different countries is not practical.

2.12. Nothing of course stands still. Research and development, better approaches and innovation need to be supported. The deployment of two systems with the spectre of double testing is not something the marketplace will readily accept. Evidence has already emerged that manufacturers here and abroad have withdrawn or delayed products from the UK market due to current uncertainty.

2.13. Currently a new EU Construction Products Regulation (CPR) is emerging and from an initial analysis it addresses some of the criticisms. Any development of the UK systems must take account of this or face market failure.

2.14. The fundamental standards that testing certification bodies use are global, and the confidence that such universal approaches provide is significant. Ensuring that this consistency of approach is maintained is critical to the productivity and performance of the sector and the quality of the end product.

2.15. Testing for conformity is crucial. To enable this, the testing and processes applied also need to be consistent. This all needs to be supported by legislation – the ultimate control of product quality and acceptability for intended use. Such consistency has its challenges currently. The situation with Northern Ireland is problematic and needs a solution where the same standards and product legislation are applied.

2.16. The review references existing consumer protection in the shape of a general safety requirement. This is clearly part of current product production. Further development of this principle – if clearly defined and structured – would be welcomed by industry.

2.17. Equally, the concept of ‘safety critical’ as a specific tier of consideration in construction products has value but desperately needs a clear definition. As the performance for many products not only hinges on the product itself but also on the other products it is combined with, as well as on the adherence to appropriate workmanship, finding a path for safety critical products is not straightforward.

2.18. Any duty focusing on products in a safety critical setting needs to be clearly laid out. This is not impossible, and the review gives a clearer starting point for this process. From this, creation of supporting standards can be developed.

2.19. The framework of coordinating approved bodies via the establishment of a UK version of the European Organisation for Technical Assessment (EOTA) would be a good model.

Current understanding and guidance

2.20. Before the emergence of the Building Safety Act 2022⁵, current guidance and understanding were patchy and inconsistent. The emergence of the drawn-out process to launch the CA mark for construction products has not helped.

2.21. Much of industry follows a custom and practice model developed over years and it is rarely questioned. There now needs to be a re-assessment to ensure all of the intended measures are deployed and there is clear understanding of the requirements. The emergence of competence standards for many key roles in the wider industry is helpful, and in time, this should be pursued. Equally there is significant support for the Code for Construction Products Information⁶ driving clear guidance around product information.

2.22. Uncertainty will remain while there is still a gap from the pending product secondary legislation. It is very much hoped that answers will resolve the future for CA marking.

2.23. It is crucial for industry that as the regulations emerge, clear guidance is produced to ensure adoption of one approach and one set of anticipated outcomes. This also needs to address the many products that are not supported by any standards or only in part, thereby risking the creation of areas for commercial and market pressure to creep in and lower standards.

⁵ [The Building Safety Act 2022](#)

⁶ Code for Construction Product Information

2.24. Misinterpretation is always present; the use of the term 'conformity assessment' gives the impression that the resulting evaluation confirms a satisfactory status. In fact in most cases it does not. Designing a new, clear approach focusing on process, record and outcomes is fundamental, though part of this clarity has to take account of existing well-developed understanding.

Testing methodologies and standards

2.25. Many well-rehearsed methodologies and standards exist; however, many do not fulfil the needs of the modern marketplace. Many are lacking and many are not well matched to the needs of the product manufacturers or end users.

2.26. There is therefore much that can be and needs to be done in this space. Elsewhere we comment on the lack of a joined-up approach in overseeing how tests are applied. Many individual test houses will have developed their own approaches despite being overseen by UKAS. Experience shows this does not result in universal consistency.

2.27. A general tightening up of the applied methodologies and consistency across the sector is needed and should itself be subject to scrutiny to ensure consistency remains.

2.28. As part of the provisions of the Building Safety Act 2022, the pre-Brexit term 'harmonised standard' is now changed to a 'designated standard'. Unfortunately, there is evidence to suggest that a number of recent 'harmonised standards' from the EU have not been put forward by government for designation, which is leading to the risk of UK industry working to an outdated standard versus our EU competitors and partners.

Testing and certification providers

2.29. Before the UK left the EU UK product manufacturers had access to more than 700 testing and certification bodies. This has now reduced to around 40. This makes the UK substantially under supported. If nothing else this causes significant delay and constriction in the marketplace, resulting in fewer new products, less innovation and critical pinch points for products that require periodic re-certification.

2.30. In the emerging principles around the CA marking scheme, there are indications that retesting is required to qualify. Having the same tests applied in the same way is a huge cost burden on industry merely to achieve a change in status on paper.

2.31. Significant expansion of the UK testing, and certification world is required to support a healthy and flourishing construction products sector. If this expansion is not forthcoming then some other policy solutions will be required to avoid critical product shortages and product supply issues.

2.32. Before the UK left the EU an overarching body called EOTA brought together all companies to ensure application of testing was undertaken in agreed and consistently applied processes. This is no longer the case in the UK.

2.33. It must also be recognised that while pan-European manufacturers sell into the UK, many UK manufacturers export into Europe and the same is true of Northern Ireland (most recent figures show such UK exports amounted to nearly £9Bn pa). Those UK manufacturers have previously relied on a universal system, so complying with a new system in their home market while simultaneously having to use the existing overseas system can only serve as an additional, unnecessary cost and drag on growth.

2.34. Third party assessments are an important part of this marketplace, used widely to supplement gaps in testing standards or capacity in the testing bodies. It has come under scrutiny for fire assessments but using correct guidance and competent professionals can help ensure consistency and quality.

Can technology help?

2.35. At the heart of many of the systems, standards and processes there is information, data and analysis. Emerging technologies to speed processes, consistency and efficiency can be applied across the whole product testing and certification arena.

2.36. Many companies and organisations use technology to improve their own workflow. Applying these in a much more joined-up, cross-sector approach must be a major goal. This has the ability to correct many of the issues seen today and improve the troubling areas apparent to many.

2.37. Industry would welcome a joined-up approach to apply technical solutions on a sector-wide basis, in consistent approaches, unified data and verification that is transparent.

Annex A

Acknowledgements

The Construction Leadership Council wishes to thank and acknowledge the 100+ members of the Standards and Regulatory Alignment Group for their time and contribution to this report and the Group's wider work.

In addition, the Council acknowledges the chairs of the five task-and-finish groups that led the industry's analysis and recommendations:

- **Testing and Certification Providers:**
Kealie Franklin – Association for Road Traffic Safety and Management
- **Test Methodologies and Standards:**
Ian Richardson – BSI
- **Current Understanding and Guidance:**
Nick Mead – Laing Group
Mathew Sexton – BMI Group
Chris Smith Wong – BSI
- **Existing Construction Products Regulatory Landscape:**
Justin Furness - Council for Aluminium in Building
- **Can Technology Help?:**
Douglas Masterson – Guild of Architectural Ironmongers

Annex B

Methodology

The wider CLC Standards and Regulatory Alignment Group studied the Paul Morrell / Anneliese Day review, bearing in mind its depth with more than 20 recommendations that each have several further sub level recommendations. A response in detail to each and every one in all respects is not practical. It was agreed to set up several task and finish groups picking up on a number of themes.

These were:

- Existing construction products regulatory landscape;
- Current understanding and guidance;
- Testing methodologies and standards;
- Testing and certification providers;
- Can technology help?

Volunteers and chairs were then formed for each of the groups. They would determine their own terms of reference with the following guidance. They should look at the review's recommendations in their topic area from the construction products perspective and attempt to frame their responses around three principles:

- What can industry do to take this forward?;
- What can industry do working with other organisations?; and
- What does the Government need to consider and take forward?

This document brings together that work as it has been written by each group under a very straight-forward structure.

It is hoped this will be helpful to industry and government alike. We will continue to look at the industry feedback in the group and develop a follow-up where appropriate or use this body of work to develop practical answers.



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