



Author: David F Jones FCIOB FASI MRICS FICConstM
President, The Institute of Construction Management
Chair, UK Construction Industry Task Force

This paper examines how PAS 9980 Fire Risk Appraisals of External Walls (FRAEWs) are being used to badge clearly combustible, Regulation 7(2)–non-compliant construction as “tolerable,” and argues that this practice is not a technical nuance but a betrayal of residents whose lives depend on the integrity and performance of those walls.

1. Regulatory baseline: Regulation 7(2) and Requirement B4(1)

- Regulation 7(2) sets a clear, measurable technical expectation: in relevant buildings, materials forming part of the external wall should achieve Class A2-s1,d0 or better, subject only to specified exclusions in Regulation 7(3) which can be openly debated and, over time, refined.
- Requirement B4(1) is intentionally framed: the external walls of the building “shall adequately resist the spread of fire” so far as is reasonably practicable over the walls and from one building to another. It articulates legislative intent and outcome, while Regulation 7(2) supplies a concrete technical yardstick for achieving that intent.
- Taken together, B4(1) and Regulation 7(2) establish a high, objective benchmark for life safety in external walls. PAS 9980 itself recognises that it is a framework that is used to justify the retention of combustible construction sub-standard to any legislation. The authors of PAS 9980 point out that the alternative to risk-based subjectivity is legislation of a technical standard.

2. How PAS 9980 is being weaponised

- PAS 9980 FRAEWs were conceived as a way of appraising façade fire risk in existing stock. In practice, they have become a weapon to avoid remediation works: “medium / tolerable” risk ratings are advanced to argue that combustible, Regulation 7(2)–non-compliant walls may remain, on the strength of an assessor’s opinion formed on limited sampling and documentation.
- Recent First-tier Tribunal (FTT) material shows parties arguing that a “medium: tolerable” PAS 9980 outcome means that there is no building safety risk within the meaning of the Building Safety Act – a position the Tribunal has had to reject, emphasising that any risk above “low” may constitute a building safety risk.
- In addition to “medium risk” being labelled “tolerable” FRAEWs are being written to represent false-low conclusions. In the unsubstantiated low or the subjective “tolerable” treatment of a “medium risk” that according to others would be an intolerable “high risk”, the aim is to resist the cost of remediation. This is to the detriment of residents.



3. What the PAS 9980 authors themselves have admitted

- The principal authors of PAS 9980 have twice written in RICS journals about widespread misinterpretation and misuse of PAS 9980 FRAEWs, highlighting poor reports, inadequate investigation and over-reliance on judgement.

2023.10-09 David Crowder, et al - RICS Journal - **Why is PAS 9980 being misinterpreted** - 10 October 2023 - <https://ww3.rics.org/uk/en/journals/built-environment-journal/pas-9980-misinterpretation.html>

David Crowder, et al - RICS Journal - **Identifying common problems with FRAEW reports** - 23 October 2023 - <https://ww3.rics.org/uk/en/journals/built-environment-journal/fire-risk-appraisals-of-external-walls-reports.html>

- Their thesis is that PAS 9980 is capable of being abused, and that better fire engineers plus robust peer review could correct those abuses. Yet peer review is not mandated, and the very need for it arises from the breadth for subjective opinion built into the methodology.
- That analysis also overlooks a hard reality: a fire engineer can be technically competent yet unprofessional enough to deliver a “no remedial work required” or “tolerable” conclusion that aligns with a property-owning client’s commercial interest. A peer review may be equally susceptible if the reviewing party operates in the same commercial ecosystem and shares the same incentives. The result is an emerging business in selling “tolerability”, at arm’s length from Regulation 7(2) and the original purpose of B4(1).

4. Mercenary and unprofessional practice

- Where an assessor, commissioned and paid by parties with a financial interest in avoiding remediation, relies on limited visual sampling, minimal opening up, generic modelling and optimistic assumptions to declare wholesale combustible construction “tolerable,” the exercise ceases to be impartial risk control and becomes an instrument of liability management.
- That practice converts the aim of Requirement B4(1), which for new “relevant buildings” as Regulation 7(4) would mean the technical standard of Regulation 7(2) into matters of subjective tolerance, transferring the burden of unresolved external wall combustibility onto leaseholders who neither designed nor profited from the construction.
- In strict legal terms, when an expert purports to give assurance of safety on a foundation of limited, non-representative investigation, and without correlation to large-scale test data for the actual system present, that evidence approaches misdescription: the appearance of reassurance without the substance needed to justify it.



5. Treasury, policy compromise and the system effect

- PAS 9980 also functions as a Treasury device: by legitimising retention of some combustible systems as “tolerable” following a FRAEW, it helps constrain the call on public funding beyond the headline £5 billion envelope for remediation.

The public contribution is £5.1 billion according to the National Audit Office report - <https://www.nao.org.uk/wp-content/uploads/2024/10/dangerous-cladding-the-governments-remediation-portfolio.pdf>

- It was recognised, by the former Secretary of State Michael Gove, that PAS 9980 formed part of the compromise necessary to secure signatories to the Developer Remediation Contract. As he said in the House of Lords on 27 October 2025:

Lord Gove >

(Con)

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My Lords, I am hugely in sympathy with the noble Baroness in her aim but, as the author when I was in ministerial office of the responsible actors scheme, which was stoutly resisted by housing developers, I had to strike a balance between putting the squeeze on them—by making it clear that unless they acted to remediate, they would receive no planning permission whatever—and making sure that they could continue to build the houses we need. Have the noble Baroness and the supporters of this amendment looked at what the impact on the balance sheets of individual housebuilders might be, and what impact that would have on our current rate of buildout? Also, is it not the case that many of those who do not qualify at the moment for support for remediation—the so-called non-qualifying leaseholders—are people with extensive property portfolios? A line has to be drawn somewhere to ensure that those with significant wealth do not benefit, while those who do need support receive it.

- At operational level, PAS 9980 risk ratings have also been used to blunt the effect of NFCC guidance on simultaneous evacuation: “tolerable” but sub-standard combustible external walls are retained while Stay Put remains in place, leaving residents in a position Parliament cannot have intended.

NFCC guidance is here - <https://nfcc.org.uk/our-services/building-safety/protection-building-safety/stay-put/simultaneous-evacuation-high-rise/>

6. Opinion without science is no shield

- Many FRAEWs rely on limited openings, incomplete records and untested assumptions about cavity barriers, fire-stopping and system behaviour under realistic exposure, without full-scale or system-specific test evidence.
- To a legally trained and learned person, this would not constitute robust expert evidence. It is conjecture presented as conclusion. When such conjecture is used to justify retaining combustible fabric in relevant buildings, the exercise moves beyond



professional judgement towards recklessness, because the inference of safety is unsupported by adequate factual investigation.

7. Quasi-statutory elevation: towards bad law

- The government's *Remediation Acceleration Plan update, July 2025* contains the statement that, “when parliamentary time allows, **we will legally require FRAEWs to follow the PAS 9980 framework**,” with associated competency and audit provisions.

<https://www.gov.uk/government/publications/remediation-acceleration-plan-update-july-2025/remediation-acceleration-plan-update-july-2025>

- BS 0, by contrast, expects standards and codes of practice to embody the consolidated results of science, technology and experience for the benefit of the community. The persistent criticism of PAS 9980 is that, in any iteration, it falls short of that test: it codifies a limited-inspection, opinion-heavy approach that cannot, by design, prove whole-building fire performance.
- To legislate that FRAEWs “must” follow PAS 9980 would be to hard-wire this evidential weakness into the statutory apparatus. It would enable combustible, Regulation 7(2)–non-compliant construction to be retained and labelled “tolerable” not because it has been proven safe, but because a process – one explicitly designed around constrained investigation – has been followed.
- For the residents of affected buildings, the effect would be harsh: once Parliament has endorsed PAS 9980 as the compulsory framework, their ability to challenge such assessments or insist on remediation, rather than rationalised risk, will be significantly reduced.

8. Conclusion

The Building Safety Act regime exists to protect people from the risks of fire spread and structural failure, not to preserve balance sheets at the expense of life.

Using PAS 9980 FRAEWs to maintain combustible, sub-standard external walls, under the banner of “medium / tolerable” risk, is a profound breach of the duty owed to residents. It displaces the clear, intentional combination of Requirement B4(1) and Regulation 7(2) with a mechanism in which subjective opinion, commercial pressure and limited inspection can eclipse both science and statutory purpose.

In every meaningful sense, that is a betrayal – and the proposal to give PAS 9980 legal force would not repair that breach; it would entrench it

23rd December 2025

Version 01 - corrections or clarifications invited