

Annex B

RESPONSE FORM

The Future of Building Control : Consultation

Respondent Details:

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Please return by: **10 June 2008**

to:

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Is your response confidential? If so please explain why. (See disclaimer on page 9)

Yes **No**

Comments:

Provision is made throughout this questionnaire for you to provide additional comments. If, however you wish to provide more detailed comments on any aspect of the consultation then please feel free to append additional materials and supplementary documents, clearly marked and cross referenced to the relevant questions, as necessary.

The Department of Communities and Local Government wishes to engage better with its stakeholders by automatically notifying you of changes to the regulations and approved documents and of consultations on building regulations issues. Because of the UK Data Protection Act 1998 we need your consent before we can do this. Please indicate your consent by ticking the consent box below.

I/We hereby consent to the recording, storage and processing of my/our personal information by the Department of Communities and Local Government, and any data processor you may use, for the purpose of enabling stakeholder engagement

Organisation type (tick one box only)

House or property developer	<input type="checkbox"/>	Approved Inspector Corporate Individual	<input type="checkbox"/> <input type="checkbox"/>
Commercial Developers	<input type="checkbox"/>	Local authority – other (please specify)	<input type="checkbox"/>
Housing Association (Registered Social Landlords)	<input type="checkbox"/>	Fire & Rescue Authority	<input type="checkbox"/>
Property Management	<input type="checkbox"/>	Other non-governmental organisation	<input type="checkbox"/>
Builder – Main Contractor (commercial/volume housebuilder)	<input type="checkbox"/>	Householder	<input type="checkbox"/>
Builder – Small Builders (repairs/maintenance/extensions)	<input type="checkbox"/>	Trade body or association	<input type="checkbox"/>
Builder – Specialist Sub Contractor	<input type="checkbox"/>	Research/academic organisation	<input type="checkbox"/>
Manufacturer	<input type="checkbox"/>	Professional body or institution	<input checked="" type="checkbox"/>
Architects	<input type="checkbox"/>	Testing bodies	<input type="checkbox"/>
Civil/Structural Engineer	<input type="checkbox"/>	Specific interest or lobby group	<input type="checkbox"/>
Consultancy	<input type="checkbox"/>	Journalist/media	<input type="checkbox"/>
Individual in practice, trade or profession	<input type="checkbox"/>	Insurer	<input type="checkbox"/>
Local authority – Building Control	<input type="checkbox"/>	Other (please specify):	<input type="checkbox"/>
			<input type="checkbox"/>
	<input type="checkbox"/>		<input type="checkbox"/>

Geographical Location

England	<input type="checkbox"/>	Wales	<input type="checkbox"/>
England and Wales	<input type="checkbox"/>	Other (International)	<input checked="" type="checkbox"/>

Questions

Chapter 1: A Vision for Building Control

Proposal 1.1: Develop a shared vision for the future of Building Control

Q1. Do you agree that a vision for building control based on the boxed text in chapter 1 would be useful?

Yes No

Q2. Are the areas covered in the boxed text generally the right ones?

Yes No

Q3. Are there other areas a vision statement should cover?

Yes No

Q4. Is what we say about quality generally correct?

Yes No

Q5. Are there other issues under quality which we need to cover?

Yes No Don't Know

Comments:

Needs clear explanation of what the regulatory system is, what it is for and who does what within it, including the split between regulation and guidance. Currently it is too vague and home owners, construction professionals, building control officers and Approved Inspectors all have different 'takes'. This would be avoided if clear and agreed information was available and made high profile.

An example of an issue that must be resolved before this can be achieved is the need to sort out the conflicts and newly created overlaps between planning requirements and building regulations (e.g. renewables as a principle condition to be detailed under building regulations)

Proposal 1.1: Further comments:

Proposal 1.2: A 'Procedural Guide' to explain what Building Control is for

Q6. Do you agree that a procedural guide which sets out the purpose of building control, the processes, role and responsibilities and a brief explanation of the regulations would be helpful?

Yes No

Q7. An on-line only version of the procedural guide which could be downloaded by users would be easier to keep up-dated. Would you support this approach?

Yes No

Q8. Do you agree more needs to be done to communicate the benefits of using building control and that raising awareness particularly amongst those that pay the fees should be an explicit part of a building control service responsibility?

Yes No

Q9. Do you have any good examples of which we should be aware or organisations that should be engaged to lead in co-ordinating this work?

Yes No

Comments:

The RIBA does not have particular examples, but would be pleased to be involved in the work.

Proposal 1.2: Further comments:

Procedural guidance must be prepared by a respected and recognised body (preferably one that is already familiar in the industry) with the competence and scope to embrace all of the issues from planning aspirations (to later be implemented in technical parameters) through technical procedures (with tools) to detailed solutions such as the original 'deemed to satisfy' provisions.

Proposal 1.3: To create a seamless planning and building control service

Q10. Do you think we should do more to require planning and building control services to operate as a single function to ensure better joining up for the customer?
Yes **No**

Having Planning and Building Control 'joined up' and seamless would be preferable, particularly administratively, so as to make it easier to relate to a department. The functionality of the parameters of what lay within each and the level of detail required by submissions must remain clearly separable/identifiable however and a logical progression of development exploration by clients and their professionals must be available.

Q11. Do you have examples of successful close working relationships in your LA which we could disseminate?

Yes **No**

Comments:

But we could prepare a model if asked.

Proposal 1.3 - additional comments:

Whilst having Planning and Building Control operating as a single function, or at least formally collaborating, ought to be a positive move and is generally seen as such, concerns are expressed at how this would work with – particularly with private AI's. Also there would be an impact on fee structures particularly where only planning matters are sought to be resolved well in advance of commissioning more detailed technical work. However well coordinated in LA's the activities are essentially sequential with only a small degree of iteration (paragraph 58 of consultation document).

Proposal 1.4: Other tools for a seamless service

Q12. Do you agree with our aim to further e-enable the building control system and its processes?

Yes **No**

Q13. What are the other barriers to more e-enabling that we need to address?

Comments:

The use of third party sources. For basic compliance, the process must be a one-stop shop with no external references that are not seamlessly built-in.

Proposal 1.4: Further comments:

Demonstration of basic compliance for conventional construction must be a one-stop shop inclusive in the fee. A debate must be had about the terms 'basic' and 'conventional construction' but we are sure this can be agreed.

Chapter 2: A Better Approach to Delivering Regulations and Guidance

Proposal 2.1: Introduce a Periodic System of Review

Q14. Do you support the introduction of a 3 yearly review of the regulations, whereby no one issue/subject will be reviewed more than once every 2 cycles, unless necessary through exceptional circumstances?

Yes No

Q15. Do you agree with our analysis of why a shorter or longer time frame does not work?

Yes No

Q16. Do you agree that we should start the first cycle of review in line with commitments to review Part L (i.e. starting in 2010)?

Yes No

Proposal 2.1: Comments:

All reviews must be based on proper objective building science and not any kind of aspiration or expediency that is not supported by the science. All possible contradictions or compromises to other extant regulations or standards (including those under the control of others such as the Health and Safety Executive as just one example) must be comprehensively dealt with and proven prior to any publication. Also government must resist timescale pressures from, for example the EU in considering and resolving all these points. See also concluding comments about the inclusion of an extra consultation element in the diagram at paragraph 87.

Proposal 2.2: Introduce a standstill period between reviews

Q17. Do you support the introduction of a 6 month standstill period?

Yes No

Proposal 2.2: Comments:

Proposal 2.3: Rename, revise and reduce Approved Documents

Q18. Do you agree that Approved Documents should be renamed? If yes, any suggestions?

Yes No “Approved Guidance”

Q19. Do you think our approach to merging and reducing the number of Approved Documents over time is the right one?

Yes No See Q 13 - need a one-stop shop

Q20. Do you: *NB answers on behalf of our members:*

- Use the Approved Documents on-line?

Yes No

- Or did you purchase a Part?

Yes No especially small practices

- Or a full bound set?

Yes No especially large practices

Q21. Do you have other suggestions to improve the presentation and usability of these documents?

- Hard copies

Yes No

- Electronic copies

Yes No

Comment:

Make them fully cross-referenced, remove conflicts, remove ambiguities, make diagrams much clearer, use photographs, use diagrams, remove/reduce reference to third party documents. E.g. the definitions for stairs in M is for external stairs to be interpreted for internal stairs. This is a tedious page flicking exercise carefully checking sub clause inclusions, exclusions. It would be better to just print the whole section for both internal and external, in this case more would be more.

Proposal 2.3: Further comments:

Proposal 2.4: Project guides

Q22. Do you support the development of project guidance for domestic extensions and loft conversions?

Yes No Don't Know

As long as clear and within one-stop shop

Q23. What in your view are the other areas where compliance is thought to be low and a project guide might be of help?

Comment:

There are many customer/consumer procured areas (such as damp-proofing for example) where greater use of 3rd party product and installer certification schemes could be of benefit – linking these more formally to regulatory issues could provide a way forward.

Proposal 2.4: Further comments:

Proposal 2.5: Establish criteria for references to third party documents

Q24. Do you find references in the Approved Documents helpful?

Yes **No**

Q25. Do you think our proposal to assess third party guidance against a set of criteria (clear and accurate, freely available on the Internet, not commercially biased) is correct?

Yes No

Comment:

Also seek tight QA and collaborate with third party product/service certifiers.

Q26. What other criteria need to be applied?

Comment:

Collaborate with third party product/service certifiers.

Q27. Are there other problems with third party documents which we need to address?

Comment:

Yes, any significant reliance on them for basic compliance is wrong – currently they are poor quality, not very readily available, often not relevant and/or difficult to find relevant section and often do not answer the question. Regulatory requirements citing third party information must only do so to free information – balance the economics by including in the regulatory compliance charge necessary.

Proposal 2.5: Further comments:

Proposal 2.6: Make best use of the Planning Portal

Q28. Do you agree the Planning Portal needs to be re-branded to reflect its role in hosting building control content?

Yes No

Q29. Do you use the planning portal?

Yes (our members) No

Q30. If yes, do you find it useful?

Comment:

Proposal 2.6: Further comments:

Could be much better but start by changing the name.

Chapter 3: Modernising Inspection and Enforcement

Proposal 3.1: Provide specific guidance on risk assessing projects

Q31. Do you agree specific guidance on risk assessing projects would help?

Yes No

Q32. For what particular projects would you most welcome guidance in the first instance?

Comment:

All as models/examples to demonstrate principles (but note the proviso above).

Q33. (BCBs only) What guides do you currently use to help you risk-assess applications and draw up an inspection notification framework?

Comment:

Proposal 3.1: Further comments:

Proposal 3.2: Remove Statutory Notification Stages for Local Authorities and replace with a risk based approach to inspection (a Service Plan)

Q34. Do you agree we should remove statutory notification stages?

Yes **No** **Don't Know**

Q35. Do you agree we should replace it with a requirement to issue a Service Plan?

Yes **No** **Don't Know**

Proposal 3.2: Further comments:

Need to inspect would be best based on the merit/risk in individual cases.

Proposal 3.3: Make Issuing of Completion Certificates by Local Authorities Mandatory

Q36. Do you agree with making the issuing of completion certificates for all works mandatory, whether submitted using a Building Notice or Full Plans?

Yes **No**

Comment:

Q37. Do you agree that we should introduce one mandatory inspection as part of the service plan and to support the issuing of the completion certificate?

Yes **No**

Q38. What might the practical implications and problems of making at least one inspection mandatory be?

Comment:

This poses a complex resource/cost issue. In principle it seems desirable but if implemented it must not be at the cost of delays or inefficiencies.

Proposal 3.3: Further comments:

Proposal 3.4: Limit Building Notices to minor works

Q39. Are we right to want to limit Building Notices?

Yes **No**

Q40. Are the areas we propose to require Full Plans the right ones (i.e. loft, cellar and garage conversions, erection of new buildings and extensions)?

Yes **No**

Q41. What might the unintended consequences be?

Comment:

*Delays cost increases – must be balanced view.
Seems that it may require further consultation with relevant cost etc models.*

Q42. Are there any areas we have not covered which in your view need to be considered?

Comment:

Using a Building Notice with full plans to follow in a prescribed or negotiated period as a way of getting work legitimately started but limiting the risk rather more than at present.

Proposal 3.4: Further comments:

Retain Building Notices for certain circumstances and only for where work has professional involvement.

Proposal 3.5: Allow Local Authorities to issue Stop Notices

Q43. Do you agree stop notices would be of benefit to local authorities in enforcing the building regulations?

Yes No Don't Know

Q44. In what circumstance might they most usefully be applied and what are the perceived difficulties?

Comment:

*Small projects – to protect clients/customers from loss
Large projects – probably in the area of H&S*

Proposal 3.5: Further comments:

Proposal 3.6: Allow Local Authorities to issue fixed monetary penalties

Q45. Do you agree the threat of a Fixed Monetary Penalty could act as a useful deterrent to breaches of the regulations?

Yes No *Mostly small projects however*

Q46. If the power to issue fines existed how might local authorities most appropriately apply them? What criteria should we consider using?

Comment:

Mainly a deterrent - see Q45

Proposal 3.6: Further comments:

Proposal 3.7: Extending time for prosecution

Q47. Do you agree that it would be useful to set the enforcement action time limits for all forms of formal enforcement at two years?

Yes No

Comment:

Chapter 4: Alternative Routes to Compliance

Proposal 4.1: Improvements to the Competent Persons Schemes

Q48. Are we right to continue with our current approach to encourage more schemes in existing areas and to continue not to approve Competent Persons schemes in the areas of structure, fire and underground drainage as built?

Yes No

Q49. Do we need to do more to improve existing systems than our current proposals (i.e. to require UKAS accreditation, encourage publication of leaflets, resolving data transfers and addressing difficulties)?

Yes No

Comment:

See comments in various other sections relating to, effectively, next tier 3rd party certification of products and services. We feel the potential of this has not been fully explored (by anyone) – the development of systems such as BRE certification's BPS 2020 may represent a way forward that minimises risks but not at the cost of innovation.

Proposal 4.1: Further comments:

Proposal 4.2: Investigate the case for other forms of Certification

Q50. Do you see any merit in whole building certification?

Yes No **Maybe** *See comment above about BPS 2020. Such a system could be viable but not enough consideration for this consultation – maybe for the future.*

Probably at present a 'no' for conventional construction.

Q51. Do you think it is appropriate to develop third party certification (certification of parts of a project) but only within the Competent Person Scheme framework?

Yes No

Comment:

Potentially but would need a lot of work (see previous comments).

Q52. If yes, in what areas?

Comment:

Where quality is a critical factor and to help balance the risk/innovation equation.

Proposal 4.2: Further comments:

Proposal 4.3: Further encourage the Appointed Person role

Q53. Do you think we should regulate for the Appointed Persons role or simply promote the adoption of this role as good practice?

- Regulate?

Yes No

- Promote Good Practice?

Yes No

Comment:

RIBA would be pleased to develop further with Government the provision of Good Practice within schemes for Appointed Persons.

Proposal 4.4: Extension of the Pattern Book approach

Q54. Should the pattern book approach be extended?

Yes No See 'basic compliance' comments made previously.

Q55. What areas do you think the pattern book approach could cover?

Comment:

The original (1986) 'deemed to satisfy' provisions set a very good model – adopt and improve/update.

Q56. Do you agree that a pattern book scheme could be developed to cover air-tightness testing and accredited details for Part L in dwellings?

Yes No Don't Know

Comment:

For simple buildings/construction.

Would require a thorough programme of research and testing.

Further, the need for site testing should be eliminated for all but large, sophisticated or very unconventional buildings/constructions.

Proposal 4.5: A Fast Track Dispute Resolution Service and Modernised System of Appeal

Q57. Do you agree a voluntary industry led dispute resolution scheme, with independent panel members, would be beneficial to users of the building control system?

Yes No

Q58. Have you had a technical dispute in the last year which you would have taken to this scheme had it existed?

Yes No

Q59. What would deter you from using such a scheme?

Comment:

Our members would be dissuaded if it was not a quick process – look at statutory adjudication for construction contracts as a model.

Q60. Do you agree that the current statutory determination and appeal procedures are in need of reform?

Yes No

Q61. (LAs only) How many formal relaxation or dispensation applications have you received in the last three years and how many of these have you consented to?

Comment:

Q62. Would repealing the right to appeal to the Secretary of State against a LA's refusal to relax or dispense with a requirement of the building regulations cause you any difficulties?

Yes No Don't Know

Q63. Do you consider that continued recourse to the Secretary of State to resolve disputes where necessary is beneficial?

Yes No Don't Know

Q64. Would you support a provision giving a new right of appeal to the Secretary of State along the lines outlined in proposal 4.5, or would you support the other options suggested?

- Secretary of State?

Yes No

- Other options?

Yes No

Q65. If you support the other options, do you have a preference as to which option you support, and why?

Comment:

Whilst we support either option, an industry-led tribunal with the building science and a thorough risk analysis process properly represented may be worth considering.

Q66. Do you have any other proposals on how best to resolve building control disputes?

Yes No

Comment:

Minimise the need in the first place by making all the improvements from this consultation to improve the regulations.

Proposal 4.5: Further comments:

Include RIBA and other institutions (e.g. CIAT) - currently only ABE, RICS and CIOB listed.

Chapter 5: Improved Performance and Capacity

Proposal 5.1: Embed and Develop the Building Control Performance Indicators

Q67. Do you agree that we should further develop the Building Control Performance Indicators?

Yes No

Q68. Do you have any further suggestions on how to improve the monitoring and performance of Building Control?

Comment:

Possibly a 'mystery shopper' technique for monitoring.

Proposal 5.2: Strengthen the overarching Performance Management System

Q69. Do you agree some form of peer review/audit for the reasons described here would be helpful?

Yes No

Comment:

Provided by neutral assessors.

Proposal 5.3: Continue to promote industry standards in a competitive market place

Q70. Do you think these complaints procedures are fit for purpose?

Yes No

Q71. How might they be improved?

Comment:

Proposal 5.4: Promote Shared Approaches to Working

Q72. Are there other examples of positive working relationships of which you are aware and which we might disseminate as examples of co-operation and good practice in providing a modern building control service?

Yes No

Comment:

CDM 2007 might provide a good model of Government, independent consultants and the industry working together and constructively.

Proposal 5.5: Enabling a “level playing field”

Q73. Do you welcome the move to review the AI Regulations in the following way:

- Remove the need for a signature of the person doing the work on an initial notice

Yes No

- Remove the need for a signature on the insurance certificate

Yes No

- Simplify the approvals process by establishing a single class of approved inspector

Yes No

- Clarification of the regulation 10 requirement

Yes No

- Removal of some stages of statutory approvals

Yes No

Q74. Are there other areas covered by the AI Regulations which you think should be covered by the above review?

Yes No

Comment:

Proposal 5.6: Review of the local authority Building Control Charges Regime

Q75. Do you agree that the current local authority building control regime is inflexible and restrictive and is in need of review, particularly with regard to competition with approved inspectors?

Yes No (*too many concepts for a yes/no answer; yes for the underlined*)

Q76. Is there evidence that surpluses derived from local authority building control charges income is being used to fund other services within LAs?

Yes No

Comment:

Q77. Do you believe that the proposals identified in paragraphs 271 and 272 will provide the flexibility and transparency sought?

Yes No

Comment:

Please make any further additional comments here, ensuring that you clearly refer to any relevant questions or responses submitted above.

Any other comments:

It seems that Government has taken on many of the recommendations that the RIBA made in our document "Improving the Building Regulations" dated 11 September 2006 and other consultation responses and recommendations in the intervening period. We are delighted about that.

We would particularly wish to refer to the diagram and schedule at paragraph 87 of your consultation paper and propose the inclusion of a further item which comprehensively covers the impact of proposed changes on other Regulations. We are aware that other sector institutions have similar concerns about the impact of this and the issue of resisting pressures from within EU systems on timescales (ref paragraph 83).