



# The Future of Building Control Consultation

## Summary of Responses



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Section A:

## **Context and Overview**

# Introduction

1. Communities and Local Government issued a consultation paper, *The Future of Building Control*<sup>1</sup>, in March 2008. Responses were invited by 10 June 2008. Respondents were encouraged to submit comments online, or to complete and return the response form included with the consultation paper.
2. This analysis of the responses received has been prepared by the In House Policy Consultancy (IHPC). IHPC is an internal consultancy based in the Department for Transport but providing a service to all of Communities and Local Government, Defra and DfT.

## The respondents

3. A total of 396 responses were received, 22 per cent of which were returned online.
4. Respondents were asked to assign themselves to one of 26 detailed organisational-type categories identified on the response form. For the purpose of analysis, these 26 categories were further grouped into six broad respondent types. The table below shows respondents by broad respondent type.

	Number	% of total
Local authority building control departments and officers	226	57
Approved Inspectors	18	5
Construction industry professional groups	80	20
Construction industry excluding professional groups	15	4
Planning/fire and rescue/other government interests	18	5
Other	39	10
Total	396	100

5. It will be seen that substantially the largest number of responses was from local authority building control interests (226), with construction industry professionals (architects, surveyors, engineers and other professional groups) forming the second largest group. Only 18 Approved Inspectors responded to the consultation, and seven of these dealt with only one issue.

<sup>1</sup> [www.communities.gov.uk/publications/planningandbuilding/futurebuildingcontrol](http://www.communities.gov.uk/publications/planningandbuilding/futurebuildingcontrol)

6. Annex A provides a full list of all respondents,<sup>2</sup> showing both the detailed and the broad categories to which they were assigned. With a small number of exceptions,<sup>3</sup> respondents were left in the detailed category to which they assigned themselves, even where their self-classification appeared questionable.

## Overview of responses

### General

7. The consultation contained 28 proposals divided into five themes/chapters. It posed a total of 77 questions.
8. The table in Annex B provides a tabular overview of the responses, showing the number of respondents dealing with each of the 28 proposals, and the percentage of respondents who supported the lead proposition under each. Percentage support from local authority building control interests and from construction industry interests are identified separately. Striking conclusions to emerge from this overview are that:
  - There was strong endorsement for the majority of the Department's proposals, with over 80 per cent of respondents supporting 17 of the 28 proposals. Twenty of the proposals received support from a majority of respondents in all sectors
  - Differences of view as between local authority building control interests and the industry were less marked than might have been expected, though there was a tendency for a larger proportion of local authority building control bodies to express the same view (so that each proposal was supported, or in some cases opposed, by a larger majority in the sector)
  - The overall numbers dealing with each of the 28 proposals was very high, with all but one of them attracting more than 300 responses.
9. A complete list of the questions posed under each of the propositions, and the number and nature of responses by the six main respondent categories, is in Annex C.
10. An overview of the views expressed on each theme/chapter follows.

<sup>2</sup> Excluding eight respondents who asked to remain anonymous.

<sup>3</sup> Some of those who categorised themselves as 'other' were reassigned where this seemed appropriate, as were those who described themselves as 'trade body or association'.

## Chapter 1: A vision for building control

11. Chapter 1 of the consultation outlines a vision for building control, and explores views on greater integration of building control and planning services.

### **A Vision for Building Control**

12. There was very general support for the vision for building control set out in the consultation, which placed sustainability and accessibility alongside health and safety in defining the purpose of building control, and included customer focus, coherence with other regulatory systems, risk-based inspection and adequate enforcement among the objectives of the service. There was also widespread – although not universal – support for the consultation view that building control has a limited role in dealing with quality issues, and no locus in resolving grievances on matters of aesthetics or the quality of finish.
13. On the other hand, in commenting on this section, respondents raised some important concerns about issues not developed in the consultation, many of which were supported in the general comments offered at the end of the questionnaire. In particular:
  - A substantial number of respondents in the local authority building control sector argued that the dual public/private system was not working, and that building control should be returned to the public sector exclusively
  - The Association of Consultant Approved Inspectors (ACAI) set out its own vision for building control, advocating *inter alia* a single regulatory and licensing body to oversee both public and private service providers. This suggestion was supported by a number of other respondents, including some from the local authority building control sector. There were also suggestions from some approved inspector respondents that the consultation proposals were unduly focused on the local authority building control sector
  - Local Authority Building Control (LABC), supported by many of its members, argued that the consultation had failed adequately to address certain issues, including aspects of enforcement, statutory time limits and exemptions
  - There were recurring concerns from the construction sector about the need to simplify the system, to improve the practical industry experience of inspectors and to deal with lack of consistency in applying the regulations.

### **A Seamless Planning and Building Control Service**

14. There was a mixed response to the consultation's discussion about creating a seamless planning and building control service, with only 51 per cent of respondents agreeing that "more should be done to require planning and building control services to operate as a single function". Construction industry respondents were more likely to agree the proposition than others, but even in this sector support was limited (73% in favour). Across all sectors, the comments made revealed that there was strong support for the principle of closer working between building control and planning departments, but concerns about the practicability and/or desirability of going so far as to integrate the services. A particular concern was about how Approved Inspectors would fit within an integrated service.

### **Other Proposals**

15. There was general support for other proposals in this chapter, namely the Department's stated intention to produce a new *procedural guide* and to *further e-enable* the building control systems and processes. On the latter, however, many made the point that e-enabling would not entirely obviate the need for paper plans, and many also underlined the need to develop compatible software systems and to secure proper electronic record keeping.

## **Chapter 2: A better approach to delivering regulations and guidance**

16. Chapter 2 deals with issues about how the Department updates and communicates the requirements of the building regulations, and the statutory guidance issued in connection with them.
17. There was support in principle from 95 per cent of respondents for the proposal to introduce a *three-year cycle for the review of regulations*, with a rule that a particular issue would not be reviewed more than once every two cycles. Concerns were, however, expressed about the implications of revising a large number of regulations at the same time in terms of training and product development. There was also some support for a five-year cycle.
18. Unsurprisingly, there was a large majority in support of the proposal to introduce a *six-month standstill period* before new regulations come into effect. Some argued for a longer period and/or for the six-month period to start to run only when associated guidance is in place.

19. Respondents were not, on the whole, in favour of *renaming Approved Documents* (ADs), the current name for the statutory guidance documents, to make their purpose and content clearer (only 33% in support). Although there was some support for the proposal to merge and reduce their number over time (68% in favour), there were also concerns that the resulting documents would be too large and complicated. Generally, there was a sense that respondents, including the construction industry, were reluctant to see too much change to a system which is well understood. There were mixed views on how the ADs should deal with guidance produced by third parties, known as *third party documents*, with some respondents supporting more cross references while others wanted to see ADs become more self-contained.
20. Ninety-three per cent of respondents welcomed the proposal to develop *project guides* to complement ADs in areas where there are large numbers of projects, and there was widespread support for the suggestion that the first of these should deal with loft conversions and domestic extensions.
21. Eighty-six per cent of those responding said that they made use of the *Planning Portal*, but the percentage was lower in the construction sector (73%). The large majority of respondents agreed that the Portal should be re-branded to reflect its role in hosting building control content.

## Chapter 3: Modernising inspection and enforcement

22. Chapter 3 considers reforms to the processes through which local authority building control bodies seek to monitor and enforce building control standards.

### **Replacing the Statutory Notification Stages with a Service Plan**

23. The chapter proposes the removal of the existing statutory notification stages which apply where a local authority is the building control body, and their replacement with a requirement that local authorities draw up a service plan for each application which details the likely stages of inspection following a risk assessment. These stages would spark a requirement for notification. It is argued that this approach will allow for a more flexible inspection regime, and will address an inconsistency in the requirements as between the public and private sectors.
24. Only around half of respondents agreed with the specific propositions put, namely that the statutory notification stages should be removed and replaced by a requirement to issue a service plan. The level of agreement was particularly low among construction industry bodies (21%). A particular concern in this sector was that variations in the notification and inspection requirements of different authorities would lead to confusion among builders and a hence a fall-off in compliance levels. The main concern in the local authority building control sector was that the proposals would undermine the enforcement process.

25. However, respondents' comments made to amplify their response reveal a greater degree of consensus around the Department's approach in this area than the yes/no answers suggest. In particular, there was wide consensus that the current statutory notification stages were out-of-date, and that the number and timing of inspections should be based on risk assessment. There was also widespread support for some continuing form of *mandatory* notification, whether in the form of updated statutory notification stages or based on an agreed service/inspection plan. Finally, many welcomed the opportunity of bringing the public and private sector regimes more closely into line.
26. Respondents were supportive of the associated proposal to introduce a *mandatory inspection requirement*, but queried the wisdom of stipulating a minimum of one inspection in case this became the accepted norm. There was a large majority in favour of *introducing mandatory completion certificates* for work dealt with by local authorities, bringing them into line with Approved Inspectors in this respect.

### **Limiting Building Notices to Minor Works**

27. Chapter 3 also proposes increasing the range of project types for which full plans rather than building notices are required; it suggests that the erection of new dwellings, the extension of buildings, and loft, cellar and garage conversions should all be subject to full plans. The consultation argues that this change will improve consumer protection, free-up local authority resources by reducing the need for inspections and on-site design, and improve compliance.
28. Respondents from across all sectors were supportive of the proposal in principle (91% in support). There were, however, some concerns that the requirement might drive more work underground, and that the resource implications for local authority building control bodies could be significant. There was a range of views about the type of projects which should be subject to the change. In particular, most respondents supported a full plan requirement for new dwellings, as did 85 per cent of the membership of the Federation of Master Builders, but large numbers queried the need for full plans for garage conversions.

### **Stop Notices, Fixed Monetary Penalties and Time Limits for Prosecution**

29. There was general support from all types of respondent for the proposal to give local authorities powers to enforce the building regulations *by using stop notices* (85% in favour), frequently on the grounds that any measures to strengthen enforcement would be welcome. Reactions to the proposal that local authorities should be given powers to impose *fixed monetary penalties* to deal with less serious offences were more mixed (only 68% in favour), with concerns from the construction sector in particular that the fines might be improperly applied and/or drive clients to the informal sector. There was more-or-less unanimous support for the proposal to extend the *time*

*limits available to local authorities to take prosecutions for breaches of the regulations (93% in favour).*

30. LABC proposed a number of additional mechanisms for improving enforcement, as detailed in Annex D.
31. There were a range of views and queries about how the proposals in this chapter might impact on *the role of Approved Inspectors*.

## Chapter 4 : Alternative routes to compliance

32. Chapter 4 of the consultation explored a number of options for securing compliance with the regulations which complement the role of building control bodies. Reactions to these were mixed.
33. There was strong support across the board (86%) for encouraging more *Competent Person Schemes* for appropriate types of work, but this was coupled with some concern from local authority building control bodies about loss of control, and some counter concern from construction industry professional groups that such schemes could be relevant in a wider range of areas than the Department appeared to envisage. An even larger majority of respondents (88%) wanted to see more done to improve existing systems, many calling for more control and/or minimum compliance inspection regimes.
34. As expected, there was very little support for *whole building self- certification* (87% against), although construction industry respondents were less likely to be against it than other groups (only 62% against). While there was a less negative reaction to the idea of allowing *third party certification* for specialist aspects of a construction project, notably from the construction industry and construction industry professional groups (50% and 52% in favour), here again the majority was not in favour. Only 23 per cent of local authority building control bodies supported the idea, many expressing concern that allowing parts of a project to be certified by third parties would undermine the building control service.
35. Nor were the majority of respondents persuaded that there was scope to extend the *pattern book approach*, under which users can register to use detailed guidance on designs which are likely to satisfy specified aspects of the regulations in return for exemption from testing or inspection by building control. Overall, only 47 per cent were in favour, though again there was significantly more support from the construction industry respondents (69% in favour). The dangers of limiting innovation, causing 'over-design' to compensate for poor workmanship, and undermining enforcement were among the concerns expressed.

36. Chapter 4 also aired the possibility of introducing a mandatory requirement for the appointment of an *Appointed Person* to manage and coordinate work on site, and act as a single point of contact for building control. This was heavily opposed as a mandatory requirement by local authority building control bodies (only 20% in favour) and by a majority in all other groups. However, respondents across all groups were supportive of the adoption of this role as a matter of good practice (83% in favour overall). Generally, the mandatory option was considered too bureaucratic and inflexible at this stage.
37. Finally, Chapter 4 explored options for improving the arrangements for *determinations and appeals*, which it noted were generally considered to be restrictive, protracted and outdated by stakeholders. Eighty-six per cent of respondents agreed that the current procedures were in need of reform. Two-thirds favoured the introduction of a new, industry-led, dispute resolution scheme, with support being particularly high among Approved Inspectors and the construction industry (91% and 85%, respectively). However, more than three-quarters also wanted to see some continued recourse to the Secretary of State on appeal. While there was some support for other options such as recourse to an independent tribunal, only Approved Inspectors strongly preferred these options to Secretary of State involvement.

## Chapter 5: Improved performance and capacity

38. Chapter 5 of the consultation deals with performance management and complaints systems applying to building control bodies; it explores views on some variances in the procedures applicable to private and public sector regulators, and their impact on performance standards; and it invites views on aspects of the charging regime for local authority building control.

### **Performance Management and Complaints**

39. There was strong support across most respondent categories for further development of the voluntary *performance indicators* produced by the Building Performance Standards Advisory Group (overall 81% in favour), although Approved Inspectors were the least enthusiastic (64% in favour). Many respondents argued that it was essential for these standards to be applied and monitored consistently across providers in both sectors, and the Association of Approved Inspectors (ACAI) was among several respondents to argue that this should be done by an independent monitoring body.

40. There was strong support also for some form of *external inspection and audit* to help drive up standards (83% in favour), but doubts were expressed by LABC and many others about whether peer review was the right way to do this. The large majority of respondents — including the ACAI, the Building Control Alliance and many of the national representative bodies — called for an independent system using neutral assessors.
41. Chapter 5 noted that different *complaints procedures* applied to the two sectors, with the Construction Industry Council (CIC) available to investigate complaints against private sector providers, and internal local authority complaints procedures and the Local Government Ombudsman available to investigate complaints against local authority building control bodies. A majority (58%) did *not* think current procedures were fit for purpose. Interestingly, the greatest concern was from the local authority building control sector (65% considering current arrangements unfit) and the least concern was from the construction industry group, where only 10 per cent considered current procedures unfit. LABC and many others from this sector took the view that local authority procedures were adequate while those employed for complaints against private sector regulators were not. In contrast, the ACAI argued that rigorous monitoring and regulation by CIC ensures appropriate action against under performance in the private sector, and that similar arrangements should be extended to the public sector. Some suggested that a single independent regulator should handle performance monitoring and complaints in both sectors.

### **Procedural differences between the public and private sectors**

42. Chapter 5 noted that there are a few variances in the procedures applying in the public and private sectors which may need to be addressed, and indicated that a review of the Approved Inspector regulations was planned. It listed specific areas where changes were under consideration, and invited views.
43. Approved Inspectors were generally in favour of all the changes proposed, while views from other sectors were more mixed. LABC identified other areas that might be covered by the review, and undertook to work with the Department and others to take the review forward.

### **Local Authority Building Control Charging Regime**

44. Chapter 5 notes that LABC regards the current regulations governing charges for local authority building control services as unduly inflexible and restrictive, and indicates that a detailed review of the regime is currently underway. It anticipates changes to allow more flexibility in charging rates for major schemes, refinements to the requirements as to what must be taken into account in setting charges, and changes to ensure that local authority income from building regulation charges is only applied to building control purposes.

45. There was strong endorsement from the local authority building control sector for the view that the current regime is unduly inflexible and restrictive (93% in agreement), but a more muted response from the AI sector, construction industry professional groups and the construction industry (64%, 63% and 60%, respectively in agreement). There were concerns from these sectors about fairness of competition under any new rules which might be applied, with the ACAI arguing that local authority building control bodies should be treated in the same way as privately trading companies.
46. Many believed that surpluses from local authority building control charges are currently being used to fund other local authority services (72% overall), and many from the building control sector wanted income from charges to effectively be ring-fenced for building control purposes. The Local Government Association challenged this proposition, however, arguing that this was contrary to the Government's declared approach to local government finance and that corporate decisions on budgets should recognise the competitive market within which building control operates, and the need for investment in the quality of service.

## Section B

# **Detailed Analysis of Responses by Proposal**

# Chapter 1

## A vision for building control

### Proposal 1.1. Develop a shared vision for building control

#### The proposal

- 1.1.1 The consultation notes that there is some misunderstanding of what building control is for, and what it can deliver.
- 1.1.2 It proposes *the development of a shared vision* in which sustainability and accessibility sit alongside health and safety in defining the purpose of building control; a statement of seven objectives for the system which cover:

- (1) customer focus
- (2) coherence with other regulatory systems
- (3) risk-based inspection
- (4) adequate enforcement powers
- (5) performance monitoring and service improvement
- (6) appropriate use of resources; *and*
- (7) effective dispute resolution.

It also proposes clarity with customers that building regulation does not (1) provide a clerk of works service; (2) deal with 'quality' issues covering finish and aesthetics; and (3) offer protection in law.

#### Overview of responses

- 1.1.3 Approaching 90 per cent of respondents dealt with this proposal in one way or another, the large majority approving the vision for building control expounded in the first chapter of the consultation, and agreeing that the areas **summarised in paragraph 1.1.2** are the right ones. The large majority of those who responded on this also ticked the box indicating agreement with what was said in the consultation paper about quality, affirming that the regulations have no locus in resolving grievances on matters of aesthetics or the quality of finish.

1.1.4 From those who offered comments on this proposal, there were a wide range of suggestions on what the vision statement should cover, and some more general reflections on the building control system. A number also commented on quality issues (see paragraphs 1.1.13 to 1.1.16). The small number (21 in total) who did not agree with the vision included several who were sceptical about the value of vision statements *per se* (“Save time and paper and concentrate on the important stuff!”), and a few who argued that the entire Approved Inspector system was fundamentally flawed.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q1. Do you agree that a vision for building control based on the boxed text in Chapter 1 would be useful?	97	100	83	83	100	96	94
Q2. Are the areas covered in the boxed text generally the right ones?	97	91	85	92	100	92	94
Q3. Are there other areas a vision statement should cover?	56	36	59	45	54	62	56
Q4. Is what we say about quality generally correct?	99	100	88	82	86	76	95
Q5. Are there other issues under quality which we need to cover?	28	30	46	27	33	50	33
<i>Maximum number of respondents answering any one question</i>	222	11	65	12	14	25	349

### Comments on the vision statement

- 1.1.5 Further comments on this proposal were offered by 183 bodies.
- 1.1.6 Local Authority Building Control (LABC) commented that the vision should be enhanced to *refer to end-users as well as customers*, a point that was picked up by a large number of other respondents from the building control sector. They noted that the direct customers for building control providers were often not the same as the end-users of a building, and that the aim of the system was to provide for the health, welfare and safety of *users*.
- 1.1.7 The Association of Consultant Approved Inspectors (ACAI) set out its own vision for building control. This included suggestions that the service should be overseen by a *single regulatory and licensing body*; all building control bodies (BCBs) should be trading bodies subject to the same set of requirements; and the service should be backed by adequately resourced *policing bodies within local authorities* operating separately from their commercial building control activities. A few other respondents also made similar suggestions, including some from within the LABC sector.
- 1.1.8 The Chartered Institute of Building (CIOB) expressed slight concern about the *use of the word 'delivers'* in the first line of the boxed vision statement, noting that the building control system does not actually 'deliver' buildings, and it was important that the statement should not lead to confusion about roles. This point was also picked up by the Institution of Structural Engineers (IStructE) and many other respondents.
- 1.1.9 The Royal Institution of Chartered Surveyors (RICS) was among a number of respondents to comment on the importance of *distinguishing between the building control system and the building control service*, arguing that recognition of this difference was important in establishing a new culture of compliance, responsibility and understanding.
- 1.1.10 The National House Building Council (NHBC), the CIOB and the Federation of Master Builders (FMB) are among substantial numbers of respondents who welcomed the approach of defining *what the building control system is NOT*, emphasising in particular that it should not be seen as a 100 per cent guarantee of compliance, and that this is the responsibility of the person carrying out the work. The Royal Institute of British Architects (RIBA) argue for a *clear explanation of the system and responsibilities within it*, suggesting that different interest groups currently have different 'takes'.
- 1.1.11 Other points raised about the boxed text included:
- NHBC was unhappy with reference to warranties in the penultimate bullet on grounds that their coverage was limited
  - the vision should include a commitment to the proper resourcing and training of people providing the building regulation service

- it was important to consider the audience it was aimed at
- the vision largely reflects what already exists in practice (Construction Industry Council (CIC) and some other construction industry interests)
- the need for e-gov should be included in the vision.

1.1.12 There were also a range of comments on the system at large including:

- the need for better redress for customers and better mechanisms for dispute resolution
- the scale of the challenge on climate change, and the need for a tougher stance from building control
- the need for some integration between building control and the construction, design and management regulations
- there was a case for some form of ongoing building standards control after completion, particularly in the context of fire precautions.

### **Comments on coverage of 'quality'**

- 1.1.13 The response document also sought comments on whether there were other issues under 'quality' which needed coverage. A number of those who responded pointed out that the word 'quality' does not appear in the vision as currently drafted, and there were different interpretations of the type of quality issue on which the Department was seeking views.
- 1.1.14 A number of respondents commented on the discussion in paragraphs 39 to 41 of the consultation, which sets out the limited respects in which the building regulations deal with the *quality of a building, as opposed to its performance standards*. Most respondents supported the Department's position. One respondent proposed that the process be renamed 'HSE Technical Compliance' or similar to reinforce the fact that it was essentially technical rather than aesthetic. A contrary view was that it was essential to include quality considerations if sustainability issues were to be properly addressed; poor workmanship was not sustainable.
- 1.1.15 A number of respondents dealt with the *quality of the building control process*, suggesting that more needed to be done to ensure that building control requirements were adequately enforced. The Electrical Safety Council argued for a system which was demonstrably more credible and effective. One respondent commented that there is a huge amount of work which is not approved or notified, where the service fails to provide even basic protection for the public and the environment. Another noted that the consultation makes no reference to testing as part of the process of ensuring that the quality or performance is maintained. Several respondents argue for tighter control on builders through a builders' register or other mechanism.

- 1.1.16 Finally, a number of respondents dealt with the *quality of performance among building control staff*. The Home Builders Federation (HBF) was one of many respondents to stress the importance of building control bodies being adequately resourced and trained, not least to deal with the influx of work to be dealt with if the Government's house-building target is to be met.

## Proposal 1.2. A procedural guide to explain what building control is for and action needed to reconnect with the customer

### **The proposal**

- 1.2.1 The consultation notes that the Department proposes to issue a procedural guide for LAs and AIs. The guide could also be used by designers, developers, small builders, surveyors and other building professionals, and by members of the public wanting in-depth material. It would sit alongside the shorter explanatory booklet which is currently being updated.
- 1.2.2 The consultation also proposes that building control bodies should take the lead in reconnecting with the customer through issuing a standard document at the point of first contact; engaging with the home owner as well as the builder; giving guidance on how to appoint a designer and/or builder; and encouraging the use of contracts.

### **Overview of responses**

- 1.2.3 About 90 per cent of respondents dealt with this proposal, the large majority welcoming the proposal to issue a procedural guide. Substantial numbers argued that it would need to be pitched differently for different audiences. While most respondents favoured an online version, many argued that it should also be made available in hard copy. Most respondents saw raising awareness as part of the responsibilities of building control bodies, but many urged action by national bodies as well.
- 1.2.4 Most of the national representative bodies who responded volunteered to play a part in developing the guidance.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q6. Do you agree that a procedural guide would be helpful?	99	100	89	93	100	100	97
Q7. An online only version would be easier to keep updated. Would you support this approach?	83	82	67	97	93	72	80
Q8. Should more be done to communicate the benefits of BC; should raising awareness be an explicit responsibility for a building control service?	94	100	85	87	93	100	92
Q9. Do you have good examples, or organisations that should be engaged to lead in co-ordinating this work?	45	56	44	29	50	60	46
<i>Maximum number of respondents answering any one question</i>	<i>220</i>	<i>11</i>	<i>66</i>	<i>15</i>	<i>15</i>	<i>26</i>	<i>353</i>

### **A procedural guide**

- 1.2.5 There was general support for the issue of a procedural guide from across all interest groups. The Construction Products Association (CPA) and the Chartered Institute of Building (CIOB) were among a number of respondents who noted that the Manual had been an important tool for professionals, and who supported the proposal to issue and regularly update a guide with similar coverage. The CIOB was particularly concerned that it should embrace other relevant statutory regimes, and that it should be accessible and preferably searchable online.

- 1.2.6 The CIOB was also among a number of respondents to urge that consideration be given to developing a separate professional guide and a customer-focused guide. A further suggestion was for three levels of guidance addressing separately: (1) professionals and large builders, (2) small builders and (3) the public.
- 1.2.7 The comments made revealed some confusion about the purpose of the guide, with some respondents assuming that the intention was that it should be addressed primarily to customers. There was a suggestion, for example, that it should include advice to applicants on entering into contracts with their builders, and stress the importance of obtaining a building certificate. Another respondent commented that the target audience is 'lay people' and that the 'new Manual' should therefore be made more accessible.

### **Online only version**

- 1.2.8 Although 80 per cent of respondents ticked the 'Yes' box in responding to question 7, evidence from the comments suggests that the majority are opposed to there *only* being an online version. A large number of respondents noted that there were still people without access to the Internet and/or that many people still prefer to work with paper copies.

### **Promoting awareness and the role of the building control service**

- 1.2.9 There was little disagreement that more should be done to communicate the benefits of building control but less consensus that raising awareness should be an explicit responsibility for a building control service. The Association of Building Engineers (ABE) and NHBC were among a large number of respondents who argued that the Government also had a clear role in raising public awareness. There were suggestions that the message needed to be conveyed in a consistent way across the country. Several respondents suggested that the Department should work with television property programmes to raise awareness.
- 1.2.10 There were many comments also on the difficulty of raising public awareness given that many people came into contact with the building control regime only once in their lives.

### **Organisations to lead on the work**

- 1.2.11 Many of the national bodies who responded to the consultation volunteered to play a part in the development of guidance. RIBA argued that it must be prepared by a respected and recognised body. Others recommended one or more of a range of national bodies including RIBA, RICS, FMB, LABC, British Standards Institute (BSI) and Building Control Alliance (BCA).

## Proposal 1.3. To create a seamless planning and building control service

### **The proposal**

- 1.3.1 The consultation stated that the overlap presented by planning and building control regimes causes more problems for stakeholders than links with other services. It noted that the Government is working with stakeholders to streamline the two application processes, and is committed also to helping the customer to better understand when building regulation and/or planning approval need to be sought. The consultation welcomed the increasing number of authorities providing a single point of information to the customer which covers a range of regulatory services, and the efforts made by local authorities to collaborate across services.

### **Overview of responses**

- 1.3.2 Some 90 per cent of respondents dealt with this issue. Overall, views were fairly evenly divided as to whether or not more should be done to require building control and planning to operate as a single function, with 55 per cent agreeing that it should. Views expressed by the construction industry were more likely to be in favour than those from local authority building control and only 27 per cent of Approved Inspectors expressed support.
- 1.3.3 The comments indicated concerns from all categories of respondent about how far it is practicable and desirable to take the process of integration. At the same time, there was widespread support for closer working. There was more consensus on this issue than may appear from the simple yes/no count of responses.
- 1.3.4 Many respondents cited examples of existing close working relationships (see paragraphs 1.3.12–13).

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
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?	51	27	61	73	60	69	55
Q11. Do you have examples of successful close working relationships in your LA which we could disseminate?	55	0	32	25	53	28	46
<i>Maximum number of respondents answering any one question</i>	<i>218</i>	<i>11</i>	<i>66</i>	<i>15</i>	<i>15</i>	<i>26</i>	<i>351</i>

### Operating as a single function

- 1.3.5 There was a spread of views from among the national and representative bodies. At one end of the spectrum, there were some voices from the construction industry arguing that operating as a single function was well overdue, and seeking more detailed proposals for debate. At the other end, LABC said that building control and planning should not be required to work as a single service as this would create further confusion and would result in building control being subsumed in planning. ACAI was equally firmly opposed to the proposal "at this time", expressing concerns about the quality of the planning service, and the need first to resolve existing overlaps and misunderstandings about the scope of the two services.
- 1.3.6 Among those in favour, FMB reported that 71 per cent of its members had expressed support for merged planning and building control processes for domestic projects. CIOB and ABE both supported the principle of closer working but were concerned about how this might fit with the role of AIs. RICS stressed that care needed to be taken not to create a system which synchronises with the natural building procurement/ design timeline. HBF and the NHBC were both opposed to the proposal, with the HBF questioning how there could be a 'seamless' service "given the incongruence of public sector planning departments and AIs".

- 1.3.7 An examination of the comments offered on this subject suggests a fair amount of common ground across all respondent categories and shades of opinion. Many of those who ticked the 'no' box commented on the importance of close working between the two services while many of those who ticked the 'yes' box drew attention to the problems of integration and/or argued that it was essential that building control should maintain its identity.
- 1.3.8 The most frequently expressed concern was about *how AIs would fit in with a single service*. These included those who saw separation from the planning function as a selling point for AIs, those who saw LABC's closeness to the planning function as giving them an unfair competitive advantage, and those who simply did not see how a single service involving AIs as well as LABC could be made to work. NHBC suggested that operational LA building control should be set up as an arm's length company and the opportunity given for developers to submit combined applications using either local authority or private sector building control.
- 1.3.9 Other frequently expressed concerns were:
- Respondents argued that building control and planning are very *different disciplines*. They also have different procedural requirements and timelines, and face different pressures at the local political level, making integration difficult
  - An increasing number of 'technical conditions' were being added to planning permissions, confusing the relationship with building control in the eyes of customers, and creating problems for enforcement by building control
  - Many respondents queried how *permitted development* would be dealt with under combined arrangements.
- 1.3.10 The Institution of Fire Engineers was among a number of respondents to argue the need to *distinguish between small domestic and large commercial projects*; for most commercial projects, it would not be feasible to deal with planning and building control simultaneously.
- 1.3.11 There were suggestions that physical closeness could be important in ensuring that building control and planning teams worked closely together; that a cross-service project team approach was particularly important for major projects; and that particular aspects of the requirements – such as party walls and daylighting, or sustainable construction and Disability Discrimination Act issues – should be more closely integrated.

### **Examples of successful relationships**

- 1.3.12 Many LABC respondents gave details of their own arrangements for working with planning and other regimes. These included LB Enfield's enviro-crime unit dealing with both planning and building control enforcement; the East and South Cheshire Building Control partnership which involves elected members and chief officers from

three councils; the South Lakeland LABC Partner Authority Scheme, which involves 23 partners including builders, developers and architects; Braintree District Council's development forum for Great Notley Garden Village, and its arrangements for single point of contact project officers; and many more.

- 1.3.13 There were commendations from respondents in the construction industry and related professions for:
- Wycombe District Council's system of joint working
  - the pilot schemes in Hartlepool, Bexley, Brighton and Wycombe
  - working on Battersea Power Station with LB Wandsworth.
- 1.3.14 There were some negative comments. For example, one AI respondent argued that cross-service working relationships in LAs tended to be focused on securing competitive advantage as against AIs, causing detriment to the quality of building control. A consultant argued that there were no examples of good practice: that was the problem! An architect suggested that the development team approach will never take off in practice because both services argue that they are too busy to attend meetings.

## Proposal 1.4. Other tools for a seamless service

### The proposal

- 1.4.1 The consultation notes the commitment in the Local Government White Paper to right first-time, seamless and accessible services, and argues that e-enabling has potential to deliver a faster building control service which is more integrated with planning. It notes that take-up of electronic services is low for those local authorities which offer the service, and commits the Department to doing more to remove barriers and promote the use of electronic applications.

### Overview of responses

- 1.4.2 As shown in the table above, the large majority of respondents supported the Department's aim to further e-enable the building control system. Commenting on the barriers to e-enabling, respondents referred to the need to provide for those without access to the Internet, the continuing need for paper plans for certain purposes, the costs to the Building Control service of managing an electronic system, the need for recognised systems and protocols to safeguard information storage and retrieval and a number of other issues.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q12. Do you agree with our aim to further e-enable the building control system and its processes?	96	73	93	91	93	96	94
<i>Maximum number of respondents answering any one question</i>	220	11	67	15	15	25	353

### Views of national and representative bodies

- 1.4.3 The ACAI was the only national or representative body to oppose this proposal. While they welcomed greater e-enabling in principle, they argued that the proposal for a single online application form covering building control and planning would not be helpful to customers and could also encourage anti-competitive behaviour.
- 1.4.4 The BCA, Institution of Structural Engineers (IStructE), ABE, the Chartered Institution of Building Services Engineers (CIBSE), and LABC — all supporting the proposal — were among the many respondents to argue that there must continue to be adequate arrangements for those without access to the Internet, and for householders and smaller businesses with limited computer facilities, know-how and software. The CIC said that the Department needed to distinguish between (i) informing citizens, where more work needed to be done centrally to generate the right methodology, and (ii) dealing with applications by email, where the Department might usefully set targets. Several respondents referred to their comments in response to the October 2007 consultation *Enabling Electronic Communication of Building Control Documents*.<sup>4</sup>

### The costs of e-enabling

- 1.4.5 Many Building Control practitioners made the point that e-enabling did not obviate the need for paper plans, the printing costs of which were transferred from the applicant to the building control body. Paper plans continued to be needed on site (“try climbing a scaffold with your laptop running”) and for checking at a desk; large and complex plans are difficult to check on screen. Other costs falling to building control were identified as initial system set-up costs and costs of hardware, annual software licenses and maintenance costs, training of staff on new upgrades, and frequent increases to the server memory requirement as the amount of recorded data grows.

<sup>4</sup> [www.communities.gov.uk/publications/planningandbuilding/enablingelectroniccommunications](http://www.communities.gov.uk/publications/planningandbuilding/enablingelectroniccommunications)

- 1.4.6 Several respondents noted that Planning Delivery Grants were available to support the delivery of e-planning, and argued that there should be a similar system in place for building control.

### **Protocols for data management and retrieval**

- 1.4.7 Many respondents also expressed concern about the lack of compatibility of some of the different software systems in use, and the need to ensure that proper records were maintained. A group of Dorset LABC respondents identified the needs as follows:
- investigating and agreeing pan-industry management protocols for IT software, data, attachments and drawings
  - maintaining security of received data, and clarifying how it may be subsequently used
  - ensuring that all relevant software is capable of reproducing drawings and documents created by the software which is used by the public and building industry
  - clarifying time limits for the storage of electronic historic data and drawings.

- 1.4.8 The CIOB was among a number of respondents suggesting that central government should provide guidance on appropriate protocols. They also said that they would support the establishment of a national database for logging applications consistently.

### **Planning Portal**

- 1.4.9 There were a number of positive references to the Planning Portal, though some were suggestions that it still had some way to go in terms of public and industry awareness (see fuller discussion on proposal 2.6).

### **Wet ink signatures**

- 1.4.10 Many respondents referred to the problem about accepting electronic signatures. The Department's commitment to introduce legislation where necessary to deal with this and similar problems was welcomed.

# Chapter 2

## A better approach to delivering regulations and guidance

### Proposal 2.1. Introduce a periodic system of review

#### **The proposal**

- 2.1.1 The consultation proposes a fixed periodic cycle for the review of regulations. The preferred option is a three-year cycle, with a 'two-cycle rule' so that a particular issue would not be reviewed more than once every two cycles, unless necessary through exceptional circumstances.

#### **Overview of responses**

- 2.1.2 More than 88 per cent of respondents dealt with this proposal, with large majorities (93–95%) agreeing with the preferred options of a three-year cycle with a 'two-cycle rule', starting in 2010. However, reservations were expressed by many of those agreeing with the proposal. These included concerns about the implications of revising a large number of ADs at the same time in terms of training and product development, the need to secure consistency between different parts of the documents and potential difficulties about securing adequate evidence for the Backward Look. Among the few who disagreed with the proposal, the most common minority view was in favour of a five-year cycle.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q14. Do you support the introduction of a three yearly review of the regulations, whereby no one issue/subject will be reviewed more than once every two cycles, unless necessary through exceptional circumstances?	98	100	91	80	100	83	95
Q15. Do you agree with our analysis of why a shorter or longer time frame does not work?	95	91	87	86	100	84	93
Q16. Do you agree that we should start the first cycle of review in line with commitments to review Part L (ie starting in 2010)?	97	91	81	87	86	95	93
<i>Maximum number of respondents answering any one question</i>	<i>220</i>	<i>11</i>	<i>65</i>	<i>15</i>	<i>15</i>	<i>24</i>	<i>350</i>

### Comments on the review cycle

- 2.1.3 Local Authority Building Control (LABC) expressed a reservation that *any large number of ADs being revised at the same time would have adverse implications* for training and implementation and product development.
- 2.1.4 The Association of Consultant Approved Inspectors (ACAI) argued for a *holistic approach to developing standards and technical guidance, with inter-related parts being reviewed together*. The Chartered Institute of Building (CIOB) said their support was conditional on reviews being structured to ensure consistency and avoid conflict between different parts. They identified Parts L and F, or K, M and N as examples; and the same parts were cited in many other responses which said that these needed simultaneous review.

- 2.1.5 The Royal Institute of British Architects (RIBA) argued for a *wider holistic approach* to review, saying conflict should also be avoided with regulations or standards controlled by other bodies, such as the Health and Safety Executive.
- 2.1.6 The Construction Industry Council (CIC) expressed concern that *the review cycle would give inadequate evidence for the Backward Look* since an adequate sample would be available only several years after an amended Part was introduced, and they criticised the small sampling used in the past. They asked for more discussion. The Construction Products Association (CPA) emphasised that sufficient resources were needed to obtain evidence for the Backward Look and Forward Look. Other respondents also commented that *more effective means were needed to assess the impact of changes*.
- 2.1.7 A number of respondents voiced criticisms of the roll-out of the 2006 Part L amendment and its consequences, using terms such as “fiasco” and “debacle”.
- 2.1.8 A number of respondents, including the Federation of Master Builders (FMB), welcomed the intention to introduce some stability. The Institution of Structural Engineers (IStructE) said that equipment suppliers needed *stability in the market* and strongly supported a regular cycle of review. Another respondent who preferred a five-year review cycle argued that this would allow more *time for industry to produce the solutions and products required*.
- 2.1.9 A number of respondents expressed concerns about *possible exceptions to the two-cycle rule*, such as political imperatives and European deadlines. A few suggested that exceptions should be agreed with stakeholders, such as building control bodies.

### **Comments on start date and other aspects**

- 2.1.10 A small number of respondents offered suggestions about immediate or delayed start dates for the new cycles of review, many of these mutually incompatible. These included:
- revise Part A to take on board Eurocodes
  - Part B and Part M need urgent review
  - start with Parts L, F and J in 2009
  - no reason to wait until 2010
  - start in 2012 — “give everyone a break so we can all catch up”.
- 2.1.11 A few respondents mentioned the *Code for Sustainable Homes*. Two argued that the ADs should aim to drive compliance with higher standards over time, as a pathway of standards, instead of focusing on minimum standards. Another expressed concerns that scientific aspects of the Code had not been given sufficient consideration, such as reducing air permeability in the context of radon.

2.1.12 There were also comments on other aspects, including:

- concern that six years was too long for the regular review of electrical safety
- concern that the timescales may not accord with the plans of the Welsh Assembly Government.

## Proposal 2.2. Introduce a standstill period before implementation

### The proposal

2.2.1 The consultation proposes a standstill period of six months between publication of the new legislation and its implementation, in order to deliver a robust implementation strategy. It notes that it may be impossible to achieve this in implementing EU obligations, but efforts will be made to raise awareness of the content of legal obligations to assist preparation during the transposition period.

### Overview of responses

2.2.2 Almost 88 per cent of respondents dealt with this proposal, with a large majority agreeing with the proposed six-month standstill period. Many respondents argued that the six months should start from the time when ADs and third party documentation was publicly available so as to allow adequate time for training and product development. There were also arguments for a longer standstill period in some or all cases and for clarification of transitional provisions.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q17. Do you support the introduction of a six-month standstill period?	97	82	90	77	100	96	95
<i>Maximum number of respondents answering any one question</i>	221	11	63	13	15	25	348

### Comments

2.2.3 LABC proposed that the *standstill period should start from the published availability of all third party documentation and the Approved Documents (ADs)* and the Home Builders Federation suggested software should also be included. This view, and variants on it, were expressed by many respondents who identified the importance of adequate training and preparation in order to achieve compliance and allow product development.

- 2.2.4 Many respondents argued for a longer period. The ACAI stated that *nine months was a realistic minimum* period to achieve an effective communications and training programme. LABC and many others made a link between the number, or complexity, of changes that may occur and whether a longer period than six months may be required.
- 2.2.5 The ACAI and a few other respondents said that *transitional provisions should be clarified and be consistent*. They proposed that the regulations applying should be those in force when planning permission was secured (and the developer owns the land). Other suggestions included a time limit allowing commencement of building work up to a year after a change in regulations.
- 2.2.6 A few respondents suggested that there may be *safety implications where a revision needs to be made as a matter of urgency*, or that the standstill period could be shorter depending on the issues being covered.
- 2.2.7 Other comments were made, including:
- the term 'standstill' is too negative
  - a suggestion that a common system of review and standstill should apply across the EU
  - a view that clarity in implementation depends on continuing professional development in building control.

## Proposal 2.3. Rename, revise and reduce Approved Documents

### **The proposal**

- 2.3.1 The consultation notes that guidance should be presented in as clear and comprehensive a manner as possible, without the distraction of undertaking a major restructuring of the Approved Documents (ADs) and technical requirements. There is a commitment to applying a consistent style and structure as the ADs are reviewed.
- 2.3.2 The consultation suggests that 'Official' or 'Technical' Guidance may be a clearer name for the ADs. It proposes that the number of ADs should be reduced over time within the periodic review, removing overlaps and other points of confusion. It invites views on the presentation on electronic and paper versions, and more generally how these can be provided to suit users.

### **Overview of responses**

- 2.3.3 Approaching 89 per cent of respondents dealt with this proposal in one respect or another. Only 33 per cent of respondents supported the suggestion of renaming the documents (less than 50% in all sectors). Sixty-eight per cent agreed with the proposed approach to merging and reducing the number of ADs over time although there were concerns that the resulting documents might become too large and complicated.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q18. Do you agree that Approved Documents should be renamed? If Yes, any suggestions?	27	36	44	43	29	50	33
Q19. Do you think our approach to merging and reducing the number of Approved Documents over time is the right one?	66	45	74	71	92	57	68
Q20a. Do you use the Approved Documents online?	80	73	73	62	60	79	77
Q20b. Or did you purchase a Part?	79	73	71	8	60	57	73
Q20c. Or a full bound set?	79	91	54	17	46	33	70
Q21a. Do you have other suggestions to improve the presentation and usability of these documents? Hard copies.	70	70	61	46	46	68	67
Q21b. Do you have other suggestions to improve the presentation and usability of these documents? Electronic copies.	72	80	69	50	62	71	71
<i>Maximum number of respondents answering any one question</i>	<i>217</i>	<i>11</i>	<i>63</i>	<i>14</i>	<i>14</i>	<i>22</i>	<i>341</i>

### Comments on renaming

- 2.3.4 LABC and a number of experienced users of the ADs saw no benefit in renaming them, as the current system is well understood, and many of these suggested that resources would be better used elsewhere. Others commented that renaming is not needed if project guides are produced. Several commented that renaming would not assist greater compliance. A number suggested “just educate people about what they are to be used for”. The FMB considered that the upheaval and loss of familiarity with making changes (renaming, revising and reducing) would only be justified by a considerable reduction in the complexity of the regulations.
- 2.3.5 Among the minority who supported a change of name, many commented that ADs are commonly seen as the only method of compliance. The Chartered Institution of Building Services Engineers (CIBSE) supported a change of name to ‘Technical Guidance’ as one element in meeting the educational challenge of distinguishing more clearly between requirements and guidance. A number of other respondents also suggested renaming on similar lines. ‘Approved Guidance Documents’ and ‘Building Control Guidance’ were among the further alternative names suggested by other respondents.

### Comments on merging and reducing the Approved Documents

- 2.3.6 LABC supported the proposed approach to merging and reducing the ADs, with a note of *concern about the resulting documents being too large or complicated*. Similar reservations were expressed by many of those respondents who agreed with the proposal, with one saying that clarity should not be sacrificed.
- 2.3.7 A number of the respondents who opposed mergers similarly believed that *the resulting documents would be too large, too complicated, less familiar and harder to use*. The CIBSE argued that the number of documents was less important than the provision of clear regulations and guidance. The Electrical Contractors Association emphasised that the current ADs took time to understand and commented that developing larger multi-discipline ADs was a route to further confusion.
- 2.3.8 Some respondents believed that there would be *benefits for users in extending the current range of separate documents, with fewer pages*. Several pointed out that splitting Parts B and L had raised understanding in those areas and improved compliance. The Construction Industry Council (CIC) also mentioned the possibility of new parts being introduced.
- 2.3.9 A number of respondents supported the *breaking down of all the ADs into domestic/ non-domestic parts*. One suggested this approach might eventually result in a Domestic Buildings Manual.
- 2.3.10 A few respondents suggested *a structure for the ADs based on elements of a building* (walls, floors, etc). A disability group that supported this approach commented that keeping the ADs separate helped to explain the drivers for the guidance. The CIOB

said that *the ADs could be restructured to reflect the construction sequence (eg below ground, envelope, services, finishes)*. The HBF suggested *Structure, Services and Sustainability*, saying that this should not be seen as a sequence.

- 2.3.11 A number of respondents, including some who cited the needs of small users or builders with weak English, considered that an AD should be as simple as possible, showing ways to comply without needing to refer to other sources. One described the objective as publishing “prescriptive procedures for showing compliance”. Another suggested breaking down the ADs into small-scale/major works, with the former focusing on practical ways to comply.
- 2.3.12 One respondent suggested that the ADs should identify objectives and principles with sufficient background to give a methodology to justify alternative approaches to compliance.

### **Comments on use of online Approved Documents, Parts and full bound sets**

- 2.3.13 Several respondents identified *advantages in using published hard copies of the ADs*, including use in consultation meetings and the ability to add notes. Some also described published hard copies as a way to improve compliance with builders who lacked ICT access and skills: one said there are “few computers on the type of building sites that cause the most problems”. Another respondent commented on the value for professional users of being able to skim quickly through a book.
- 2.3.14 The HBF and other respondents preferred to print a *hard copy of online ADs, ensuring that they are working to current guidance*. Several respondents described that as the cause of their increasing reliance on online versions over published copies.
- 2.3.15 A few respondents including the IStructE commented that all the formats were useful in different ways.

### **Suggestions to improve presentation and usability**

- 2.3.16 Many respondents commented on the language and appearance of the ADs, expressing preferences for *plainer English, clearer diagrams, photographs and flow charts*. BSI British Standards suggested that the requirements for the preparation and presentation of British Standards should be applied also to ADs, and referred to ‘BS 0 – A Standard for Standards’.
- 2.3.17 Other suggestions included using a professional sub-editor and graphic designer. A number of respondents suggested *better indexing*, with several mentioning Part B as a good example.
- 2.3.18 The greater number of comments focused on the presentation and features of the online ADs.

- 2.3.19 Many comments suggested *hyperlinks to other ADs and third party documents*. Several pointed to the difficulty at present of linking material about escape stairs in Part B (fire safety), Part H (stairways) and Part M (accessibility). The HBF commented additionally on the importance of hyperlinks being well maintained; and the Royal Institution of Chartered Surveyors (RICS) suggested using smart tags.
- 2.3.20 A number of respondents including the ACAI and the IStructE suggested *improved searchability*, although a few commented favourably on the existing search ability of PDF documents. The desired kind of improvement was described by some as *searching by project type, or building type*, with one respondent giving the example of “replace bathroom suite” and another “two storey office building, 1,500 m<sup>2</sup> floor area”.
- 2.3.21 Many of the comments about the online ADs suggested that *users should be able to cut and paste extracts* for ease of communicating accurately. The CIOB suggested that BCBs might be willing to *pay a licence fee to overcome any copyright problems*.
- 2.3.22 Other comments on the online ADs included suggestions about:
- providing a contents list with clickable links to pages
  - not using a two-column format
  - providing 3-D diagrams
  - providing a facility for users to add their own notes
  - providing ‘track changes’ versions
  - providing a print format that minimises the use of paper
  - providing a black and white format for print clarity.
- 2.3.23 Comments made about the *published hard copies* mainly suggested a *loose-leaf format* for more convenient and lower cost updates. A few respondents were concerned that *printed ADs should always be updated in step with the online version*.
- 2.3.24 Other comments on the printed copies suggested *using more colour coding*.

### **Comments on other aspects**

- 2.3.25 The Local Government Association (LGA) suggested *more guidance in the ADs on innovative construction products and multi-storey timber-framed construction*. The CPA similarly commented that ADs should contain a chapter on innovative products.
- 2.3.26 The range of other comments included suggestions about:
- clarifying the Foreword to ADs about their legal status
  - giving more guidance on the use of timber (span tables)

- giving more guidance on surfaces and other features to assist blind people
- publishing the ADs in formats for visually disabled users
- publishing the ADs in additional languages
- publishing the ADs on CD or DVD.

## Proposal 2.4. Project guides

### The proposal

- 2.4.1 The consultation notes that the Department is looking to complement the Approved Documents (ADs) with specific project guides. It describes an approach of working with stakeholders to produce guides in areas where there is a high volume of projects taking place, levels of compliance with the standards are generally thought to be low, and work is generally carried out by those lacking close experience with building regulations.
- 2.4.2 The consultation invites views on project guidance for domestic extensions and loft conversions, and on other areas where compliance is thought to be low and a project guide might help.

### Overview of responses

- 2.4.3 More than 88 per cent of respondents dealt with this proposal, with a large majority (93%) supporting the development of project guidance for domestic extensions and loft conversions. There were some differences of view about content and approach.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q22. Do you support the development of project guidance for domestic extensions and loft conversions?	97	91	88	86	73	92	93
<i>Maximum number of respondents answering any one question</i>	<i>220</i>	<i>11</i>	<i>66</i>	<i>14</i>	<i>15</i>	<i>26</i>	<i>352</i>

### General comments on project guides

- 2.4.4 The great majority of respondents supported the development of project guides.
- 2.4.5 There were differences of view about the *content and approach* of project guides, such as whether they should be 'how to' guides, and how they should relate to innovation and freedom of design. The IStructE said that they should be on the lines of 'dos and don'ts', with advice to consult an expert for projects beyond the scope of the guide. LABC and a number of respondents said that they should not be seen as 'deemed to satisfy' guides which would reduce engagement with BCBs; and they should support the building regulations, enabling innovation and freedom of design. The CIOB suggested they should embrace all relevant regulations.
- 2.4.6 On the general *scope of project guides*, the CIBSE suggested that it would be confusing to develop project guides outside the domestic sector in the light of 'Technical Guidance'.
- 2.4.7 A few respondents offered *comments explaining their opposition to project guides*. One suggested that householder needs were becoming more complex (eg subterranean) and a guide was likely to be misused, or rapidly become out of date. Others thought the consequence would be less engagement with BCBs, or that too much written information would be confusing.

### Comments on other areas for guides

- 2.4.8 By far the greater number of those who commented suggested guides in the domestic sector. Some respondents gave general descriptions such as guides to cover all "simple internal alternations", "small domestic works" or "material change of use".
- 2.4.9 Many of the respondents who commented gave specific suggestions, including:
- conservatories
  - garage conversions
  - basements
  - through lounges
  - removing chimney breasts
  - damp proof courses
  - external claddings
  - upgrading roof coverings
  - barn conversions
  - low rise housing (a number suggested up to two storeys, others three)

- flat conversions and houses in multiple occupation (HMOs).
- single storey commercial buildings
- retail fit-out.

2.4.10 Others suggested topics such as:

- fire safety/means of escape
- energy performance in refurbishment
- renewable/micro generation
- electrical safety.

### **Other comments**

2.4.11 LABC said its members would welcome the ability to offer lower charges if project guides were followed. Robust Details Limited (RDL) argued similarly that *incentives should be attached to their use*, such as a reduced charge or fast-track approval.

2.4.12 RDL also commented that *hard evidence should be collected*, both for decisions about where compliance is low and in monitoring/sampling work post-completion.

2.4.13 The RIBA said that guides could make formal links with third party product and installer certification schemes (in areas such as damp-proofing).

2.4.14 Several respondents commented on good examples of leaflets from local authorities. Two made suggestions about distributing leaflets, either with council tax bills or in DIY outlets.

## Proposal 2.5. Establish criteria for references to third party documents

### **The proposal**

2.5.1 The consultation notes that the Approved Documents (ADs) should be as self-contained as possible.

2.5.2 It proposes that references to third party documents should only be included in future after assessment against a set of criteria. These criteria will include the extent to which the documents are easily and freely available on the Internet (with the exception of British and European standards), not commercially biased or favouring one product or process over another, and are presented in a clear and accurate way.

## Overview of responses

- 2.5.3 More than 87 per cent of respondents dealt with this proposal, with large majorities (92% or more) agreeing that third party references are helpful and that these references should be assessed against the set of criteria described. There were, however, a number of comments about getting the right balance in including third party references, and about their presentation and availability.

	% of responses answering 'Yes'						All responses
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	
Q24. Do you find references in the Approved Documents helpful?	95	100	82	100	93	90	92
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?	96	100	89	93	100	87	94
<i>Maximum number of respondents answering any one question</i>	219	11	66	14	15	21	346

## General comments on third party references

- 2.5.4 In reducing the burden for users in referring to other sources, many respondents suggested *using quotations or extracts in the ADs* to replace references to brief information in another document, and *clearer explanation about what is contained in a third party document*. LABC and many others mentioned "abortive work in checking for compliance". IStructE also argued that the number of references should be reduced to match the needs of users. The RIBA commented that it was *wrong to have any significant reliance on third party documents for basic compliance*. One BCB pointed to the hierarchy of guidance to adopt for working out unprotected areas (requirement B4) as a good example of an AD providing a core solution.
- 2.5.5 The RIBA and others suggested that *the ADs should be made shorter by reducing or removing third party references*. Another respondent considered that the *balance of benefit for users would be to make them more self-contained even at the expense*

*of making them bigger.* The CIC thought that the balance between length and use of references needed further discussion. Another respondent suggested adopting a consistent approach to using third party references such as: only where the guidance was too lengthy, or if it was of minority interest.

- 2.5.6 BSI British Standards suggested making a distinction between normative (*ie essential*) references and informative references.
- 2.5.7 Some of the minority of respondents disagreeing with the proposal commented that there were *too many third party references*, and others considered that the third party documents were too complicated.

### **Availability and costs**

- 2.5.8 There was little disagreement with the proposed criterion of free online availability. Many respondents argued in favour of *including free extracts or quotations from British and European Standards, or providing alternative free online access*. LABC commented on the considerable costs to its members of purchasing third party documents.
- 2.5.9 However, some respondents noted also that providing for free online availability could be problematic, both for Standards and for some other third party documents. The IStructE commented that it was unreasonable to exclude high quality guidance from professional bodies and others on grounds of cost alone. BSI British Standards commented that BSI cannot make standards available free of charge, since it is mainly funded by sales of standards. The CPA and the CIBSE suggested that the *Government should fund the free availability of all documents*.

### **Commercial bias**

- 2.5.10 A small number of respondents commented in support of the proposed exclusion of commercial bias. The ACAI thought this was inadequate to cover lobbying interests and suggested that *third party documents must be from a recognised and verified authority*. A few respondents were concerned that trade associations and other corporate bodies represented a form of commercial interest and pointed to their involvement in the 'sponsorship' of British Standards. Other respondents suggested that *only an 'accredited source' should be eligible to provide third party documentation*, such as a UKAS approved body.
- 2.5.11 One respondent pointed to a possible difficulty in the interaction between (independent) testing data for certain technologies and potential commercial bias in areas such as multi-foil.

### **Presentation of third party documents**

- 2.5.12 A larger number of comments focused on issues of language and presentation. LABC and many other respondents said that *third party documents should be in plain English*, and that *users should be offered simplified versions of very technical explanations*. Other respondents, including the Association of Building Engineers (ABE), asked for language more appropriate to the persons likely to be using the guidance.
- 2.5.13 Similarly, many respondents asked for a *layout and feel consistent with ADs*.

### **Additional criteria: quality assurance**

- 2.5.14 A number of respondents suggested additional criteria to support and manage the quality of third party documents. Respondents including the CIBSE suggested *peer review, validation or pre-publication approval by an independent body*, aiming to ensure excellence and rigour.
- 2.5.15 A larger number of respondents including the CIOB focused on *the need for third party documents to stay up-to-date, using a formal commitment to regular review as a criterion*. More generally, the RIBA suggested 'tight Quality Assurance (QA).'
- 2.5.16 One respondent who disagreed with the proposal pointed out that revisions to third party documents meant that changes to an AD could take effect without proper consultation.

### **Other comments**

- 2.5.17 The HBF was concerned that *any documentation could be a material factor in litigation*, so clarity was needed about the status of any documents referenced.
- 2.5.18 Other comments made include suggestions for:
- an additional criterion of availability in hard copy format
  - an additional criterion of availability in languages other than English
  - clearer bulletins about changes to third party documents
  - developing references to third party documents on historic buildings.

## Proposal 2.6. Make best use of the Planning Portal

### The proposal

- 2.6.1 The consultation noted that better use of the Internet should improve accessibility to the building regulations and associated guidance.
- 2.6.2 It asked for feedback on how the Planning Portal is currently being used and invited views on rebranding.

### Overview of responses

- 2.6.3 More than 87 per cent of respondents dealt with this question, with large majorities (86% or more) confirming their use of the Planning Portal and agreeing with the proposal of rebranding. There were differences of view about the current usefulness of the Portal website, with positive comments about its content balanced by criticisms about difficulty of navigation.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q28. Do you agree the Planning Portal needs to be rebranded to reflect its role in hosting building control content?	98	64	83	75	92	96	93
Q29. Do you use the Planning Portal?	91	82	77	73	86	82	86
<i>Maximum number of respondents answering any one question</i>	<i>219</i>	<i>11</i>	<i>64</i>	<i>15</i>	<i>14</i>	<i>22</i>	<i>345</i>

### Rebranding

- 2.6.4 Several respondents, including the HBF and CIBSE, suggested that *a single portal could cover all aspects of development or the built environment*, including listed buildings, environmental legislation and EU Directives.
- 2.6.5 Many respondents who supported rebranding, including LABC and the Building Control Alliance (BCA), said that this was needed to *raise the profile of building control*.
- 2.6.6 CIBSE and many other respondents argued that the name *'Planning Portal'* was *confusing* in itself.

2.6.7 Comments from *respondents disagreeing with the rebranding proposal* included views that:

- householders generally use 'planning permission' to cover anything related to building works
- successful brand management needs continuity
- professionals have growing familiarity with the Planning Portal brand.

2.6.8 The FMB commented that 33 per cent of their members in a survey had not heard of the 'Planning Portal'. Several respondents, including the CIC, commented that *marketing is needed as part of any rebranding exercise*. Another said that rebranding could be expensive with little effect.

2.6.9 Small numbers of respondents suggested new names for the Portal, with some variation on "Planning and Building Control Portal" being the most common suggestion. Other suggested names included the terms 'Development Control' or 'Construction'.

### **Comments on the Planning Portal**

2.6.10 The most frequent comments were criticisms about the *difficulty of navigation* on the website. The ABE commented that the Portal was complex to navigate, except for frequent users. LABC and a number of respondents suggested better indexing for professional users, and a structure which takes a customer through all stages from the application process to completion of the work.

2.6.11 There were several negative comments about material on the Portal being *out of date*, including material on electrical safety.

2.6.12 Other suggestions for improvements included:

- access to earlier Statutory Instruments
- specific guidance to legislation in Wales
- site map
- online payments and applications to any local authority.

2.6.13 Some respondents gave *positive comments about the usefulness of the Portal*, ranging from “useful and reasonably clear” to “an excellent resource” (in comparison with BSI) and “invaluable”. A number remarked on the convenience of being able to direct their customers to the Portal.

2.6.14 A number of respondents commented on the usefulness of links between local authority web pages and the Portal. Several commented that duplication in local authority guidance could be reduced.

# Chapter 3

## Modernising inspection and enforcement

### Proposal 3.1. Provide specific guidance on risk assessing projects

#### The proposal

- 3.1.1 The consultation reiterated the Government's support for a risk-based approach to inspection, first set out in *Building Control Performance Standards*. It invited views on whether specific guidance on risk assessing projects would be helpful, what particular type of projects the guidance should aim to cover first, and for information on what guides BCBs are already using for this purpose.

#### Overview of responses

- 3.1.2 Eighty-six per cent of respondents dealt with this proposal, the majority of whom agreed that specific guidance on risk assessing projects would be helpful. Around one-fifth of all respondents did *not* agree, spread across building control bodies and construction industry groups. Opposition from respondents in both public and private sectors was on the grounds that such guidance should not be necessary for a building control professional, and could "insult the intelligence of most experienced, qualified building control surveyors". There was also the view that specific guidance could not usefully be given as the degree of risk could depend on the deficiencies of individual owners or builders as much as the nature of the project. Opposition from other interests ranged from concern to limit the 'nanny state', to a sense that there was already too much advice around, to opposition in principle to moving to a risk-based approach to inspection.
- 3.1.3 Many of the responses to this question raised points of substance about the proposal to move to a risk-based approach to inspection. These are dealt with in describing the response to the proposal to replace the statutory notification stages with a service plan (proposal 3.2).

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q31. Do you agree specific guidance on risk assessing projects would help?	81	64	77	67	100	100	81
<i>Number of respondents answering the question</i>	<i>217</i>	<i>11</i>	<i>62</i>	<i>12</i>	<i>14</i>	<i>23</i>	<i>339</i>

### Defining the scope of advice

- 3.1.4 The Institution of Structural Engineers (IStructE) was among a number of respondents to note that there was a need for formal definition of what was meant by risk assessment in this context as interpretations varied widely. The *consequences* of non-compliance needed to be taken into account, as well as the *likelihood* of it. The Home Builders Federation (HBF) warned that guidance could be dangerous if it was too specific, and useless if it was too vague.

### Type of projects to be covered first

- 3.1.5 There was a wide range of responses to the question about the particular types of project which the proposed guidance should address in the first instance. A number of respondents argued that the type of project is irrelevant and that it is the skills, or lack of them, of the builders that is the most important determinant of risk. One respondent noted that warranty providers have experience of risk assessing builders, and argued that their example should not be ignored. The Association of Consultant Approved Inspectors (ACAI) argued for generic guidance on risk factors to be taken into account for broad categories of projects, supported by individual BCB tools and criteria based on local knowledge and experience, etc. A large number of local authority building control respondents expressed the view that specific guidance for all types of project should be available before the statutory notifications are removed and the service plan approach adopted.
- 3.1.6 Among those respondents who suggested particular types of project for priority attention, domestic work and, in particular, loft conversions and extensions were frequently mentioned. But there were also those who advocated commercial and industrial building projects and/or large and complex projects. Other suggestions for priority ranged across the full spectrum of development types including new housing and apartment buildings, major public buildings such as shopping malls and hospitals, historic structures, non-traditional forms of construction, any changes to existing structures, fire escape arrangements for large buildings and access for disabled people.

### **Existing guides for risk assessment**

- 3.1.7 Those respondents who responded to question 33 about what guides they currently use for risk assessment (208 in total, of whom 186 were BCBs) for the most part described current practices rather than guides as such. Many referred to examples already provided to the Department by LABC. Practices described by individual local authorities included a two tier arrangement based on residential and commercial experience, a dynamic approach which took account of information gained during inspections, and working with a template of 20 common stages on a notification sheet, from which relevant ones were selected depending on the nature of the project.
- 3.1.8 Many respondents expressly said that there were no guides which they used at present and/or that they relied on the knowledge and experience of staff. Documents that were specifically mentioned were the CICAIR Code of Practice, the BCPSAG Building Control Performance Standards, guidance prepared by London District Surveyors, and a couple of internal documents named by two AIs.

## **Proposal 3.2. Remove statutory notification stages for local authorities and replace with a risk-based approach to inspection (a service plan)**

### **The proposal**

- 3.2.1 The consultation proposes the removal of the existing statutory notification stages which apply where a local authority is the building control body, and their replacement with a requirement that local authorities draw up a service plan for each application which details the likely stages of inspection following a risk assessment. These stages would spark a requirement for notification. The consultation argues that this approach will allow for a more flexible inspection regime, based on professional judgement and local and project specific circumstances, and that it will also address inconsistencies in performance between public and private service providers, the latter of whom are not subjected to the statutory notification regime.

### **Overview of responses**

- 3.2.2 Eighty-six per cent of respondents dealt with this proposal, with only around half of respondents agreeing with the two specific questions put. The lowest level of agreement was from among construction industry bodies, with only around one-fifth agreeing with the proposals.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q34. Do you agree we should remove statutory notification stages?	53	90	53	21	57	52	53
Q35. Do you agree we should replace with a requirement to issue a service plan?	59	70	48	21	64	52	55
<i>Maximum number of respondents answering any one question</i>	219	10	61	14	14	21	339

3.2.3 However, analysis of the comments made revealed that different respondents interpreted the detail of the Department's proposal in different ways, and that there was a much greater degree of consensus on the issue than the tick box answers suggested. In particular, there was wide consensus that the current statutory notification stages were out-of-date, and that the number and timing of inspections should be based on risk assessment. There was also widespread support for some continuing form of *mandatory* notification, whether in the form of updated statutory notification stages or based on an agreed service/inspection plan. Many welcomed the opportunity of bringing the public and private regimes more closely into line.

3.2.4 Among those who opposed the proposals, the main concerns were, on the local authority building control side, that the removal of mandatory notification would undermine the enforcement process and, on the construction industry side, that a variation in the notification and inspection requirements of different authorities would lead to confusion among builders and a fall-off in compliance levels.

### **Views of national and representative bodies**

3.2.5 Local Authority Building Control (LABC) supported the proposal in principle but argued that (i) the proposed service plans should become the legal framework for notification, allowing for effective enforcement; (ii) the arrangements should become mandatory for both public and private sectors; (iii) the charges regulations be revised to allow BCBs to adjust charges to take account of variations in the level of their input; and (iv) advice on liability should be sought from the insurance industry. ACAI were also in favour, though they contested the consultation assertion that BCBs currently tend to focus disproportionately on issues that are critical to safety. CIOB, RICS, RIBA, BCA and NHBC

also agreed with the proposal, several of them also arguing that the arrangements should apply to both sectors.

- 3.2.6 The Construction Industry Council (CIC) opposed the proposal, arguing that the issues needed further debate. They suggested that the statutory notification and service plan approaches were complementary rather than mutually exclusive and that a modified statutory notification scheme should be part of the risk-based assessment regime. Among other concerns, the Association of Building Engineers (ABE) feared that the service plan requirement might generate disproportionate workload. The Federation of Master Builders (FMB) argued for transparency in the process of drawing up a service plan so as to provide a proper basis for resolving disputes about the level of inspection and fees. The Construction Products Association (CPA) expressed some unease about leaving LAs with no guidance on appropriate notification stages. The National House Builders Council (NHBC) wanted to see service plans renamed as ‘key stage inspections’, arguing that this terminology was well understood by the industry and more accurately described what was being achieved. Health and safety interests argued that reducing the number of inspections was not necessarily a good thing, and underlined the continuing importance of traditional health and safety concerns.

#### **Need for a mandatory structure for enforcement**

- 3.2.7 Among the many LA building control bodies who opposed this proposal, the most commonly expressed concern was that the removal of statutory notifications would undermine the enforcement process. The same concern was expressed by many who supported the proposal. Many argued that “the service plan should become the legal framework and failure to follow it should become an offence allowing enforcement action”. Spelling out what was proposed more fully, one opposing respondent argued for (i) each project to be risk assessed; (ii) an inspection plan to be agreed on the basis of the risk assessment; (iii) the requirement to notify specified in the plan to have statutory status; and (iv) the requirement to notify to be matched by a responsibility on the part of the LA or AI to actually carry out the inspection.

#### **Providing for variation in charges**

- 3.2.8 A large number of LA building control bodies also echoed the LABC’s suggestion that charging arrangements would need to be revised to reflect variations in their input in different cases. The argument was that it would not be fair to charge responsible and hence low-risk developers to cross-subsidize work considered necessary to maintain a close check on higher risk cases. A counter argument from one respondent was that fees could not be based on a service plan as this would probably not be known when the application was submitted.

### **Updating current statutory stages**

- 3.2.9 Whether supporting or opposing the proposal, many respondents were in agreement that the current statutory notification stages needed updating, with some also arguing for simplification. Many respondents wanted to see a continuing statutory requirement for notification of commencement and completion at a minimum. There were a range of suggestions as to the ways in which the stages might best be updated with some authorities referring to their own existing practice. One authority, for example, said that it had already implemented six discretionary notification stages, selected on the basis of risk assessment at the commencement of work; these were (i) commencement of work; (ii) excavation of foundations and other foundation related matters, (iii) superstructure, structural frame, foul drainage (before backfill); (iv) first fix, thermal insulation, fire safety and accessibility; (v) testing: drainage, sound, emergency lighting/ alarm commissioning; and (vi) other intermediate as required.

### **Concerns about complexity and variation**

- 3.2.10 There were some concerns particularly from the construction industry and related professions that a system based on individual service plans might be excessively complicated and uncertain. Typical comments were that “existing mechanisms are understood by all and work well” and “there will be too much variation between BCBs and also between individual inspectors”. Another comment was that “experience suggests inspections would become too numerous and too complicated, leading to delays”.

### **Suggestion that service plan requirement applied to both regimes**

- 3.2.11 Perhaps the single most frequently expressed view from across the LABC sector and the construction industry and related professions was that any change along these lines should be applied to both public and private sector building control. Also favouring a move towards common requirements, the Construction Industry Council (CIC) argued that some statutory notifications might be an aid to all BCBs under a common risk-based methodology. Other AI interests were generally supportive of these proposals but did not express a view on the prospect of applying them equally to the AI sector.

## **Proposal 3.3. Make the issue of completion notice certificates by local authorities mandatory**

### **The proposal**

- 3.3.1 The consultation proposes that there should be a new mandatory requirement for local authorities to issue completion certificates for all work for which they are the building control body, replacing the current mixed mandatory and discretionary practice. It will bring local authority BCBs into line with AIs, who are already required to issue final certificates.

3.3.2 To support this proposal, the consultation also proposes that there should be a mandatory requirement to undertake at least one inspection which could be contained in the service plan. The consultation invites views on this proposal and whether the requirement should be extended to AIs as well as LA BCBs.

### Overview of responses

3.3.3 Eighty-eight per cent of respondents dealt with this proposal. The very large majority across all interest groups supported the proposal to make completion certificates mandatory for all types of application. The proposal to introduce a mandatory requirement to undertake at least one inspection prompted a much more mixed reaction. Whilst around three-quarters of respondents ticked the 'yes' box, most of those who expressed views argued that one inspection was unlikely to be enough in most cases. There were widespread concerns that limiting the number of mandatory inspections to one might send the wrong message.

3.3.4 A number of respondents from the LABC sector argued that the private and public sectors should both be subject to any mandatory inspection requirements. Few others commented on this particular point.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q36. Do you agree with the making of completion certificates for all works mandatory, whether submitted using building notice of full plans?	92	100	94	93	100	96	93
Q37. Do you agree that we should introduce one mandatory inspection as part of the service plan and to support the completion certificate?	77	82	73	64	79	68	75
<i>Maximum number of respondents answering any one question</i>	<i>219</i>	<i>10</i>	<i>65</i>	<i>14</i>	<i>15</i>	<i>24</i>	<i>347</i>

### **Mandatory completion certificates**

- 3.3.5 Some 88 per cent of respondents dealt with the proposal to make completion certificates mandatory, of whom over 90 per cent were in favour. Those opposing the proposal tended to be of the view that the present discretionary arrangements worked well enough and/or against any further government intervention in the system.
- 3.3.6 All the national and representative bodies who responded on this issue favoured the proposal, with the FMB 'warmly welcoming' it. CIC said that, if applied, it would remove one of the level playing field anomalies. LABC noted that this aspect of performance is already measured as part of the current set of voluntary indicators. On a more cautious note, the Electrical Contractors' Association argued that LABCs would need additional training and resources if they were to be in a position to certify proper compliance in all areas.
- 3.3.7 There was a range of suggestions as to work that might be excepted from the mandatory requirement. LABC and a fair number of local authority BCB respondents argued that the requirement should not apply to cavity wall notifications, which were not routinely inspected. CIC thought that, depending on the outcome of the debate about the scope of building notice arrangements, it might not be necessary to have mandatory certificates for minor domestic scale work. A few respondents argued for the rule to be applied to full plan applications only. One trade body noted that it would cause unhelpful delays if applied to temporary modular buildings used to deal with emergencies.
- 3.3.8 Seven individuals from two approved inspector firms responded on this issue alone. They noted that there are a significant number of cases with minor but important matters outstanding at the conclusion of a project, and that current mechanisms to bring such cases to a close are not fully satisfactory. Their suggestion was for it to become "an offence in its own right to be in occupation of a building which has been the subject of building work after the expiry of a statutory period...This would quickly translate into a self policing contractual obligation (as with CDM regulations) on the developer/contractor to deliver timely certification to the BCB and client".

### **Mandatory inspection**

- 3.3.9 Some 86 per cent of respondents dealt with this aspect of the proposal, of whom 75 per cent ticked the 'yes' box. The general thrust of responses was to favour mandatory inspection requirements but to query the wisdom of stipulating a minimum of one.
- 3.3.10 Views expressed by the national bodies were generally representative of responses as a whole. While ticking the 'yes' box, LABC said that one inspection would not be sufficient in most cases and that all inspections identified in the service plan should have been undertaken before a completion certificate is issued, with one as the absolute minimum. ACAI said that one inspection must be the minimum, not the accepted norm. The Chartered Institute of Building (CIOB) thought that the stipulation

of only one *mandatory* inspection could send the wrong message. The ABE argued that there was little logic in insisting on at least one inspection without indicating the stage at which it should be made. The Chartered Institution of Building Services Engineers (CIBSE) was concerned that a single inspection at completion stage would be unsatisfactory because there would be little enthusiasm for enforcement action at that stage. The IStructE argued that stipulating a minimum of one inspection could encourage too few inspections, and suggested an obligation on BCBs to carry out “sufficient inspections to enable them properly to discharge their functions”.

- 3.3.11 There were a few suggestions as to the stages at which inspections should be mandatory. One LABC body argued that completion, foundation and drainage inspections should be mandatory. Others suggested that completion and commencement inspections should be mandatory. The Chief Fire Officers’ Association proposed a joint inspection at completion in cases where the Regulatory Reform (Fire Safety) Order RR(FS)O applies, marking the point at which responsibility for enforcing the fire safety element would be handed over to the fire and rescue authority. A different perspective came from the Fire Industry Association, who noted that an actual inspection of installed fire protection systems could prove difficult as much of the work would have been covered up by following trades.

### **Resource implications**

- 3.3.12 There were a number of comments about the resource implications of mandatory inspections. The Royal Institute of British Architects (RIBA) argued that the idea was right in principle, but there were resource implications, and implementation should not be at the cost of delays or inefficiencies. Several builders expressed some concern about getting the building inspector to the site at the right time so that there is no delay in the work. One respondent argued that any mandatory minimum was out of step with a risk-based approach, and would tie up resources on inspections that are not necessary at the expense of higher risk projects.

## **Proposal 3.4. Limit building notices to minor works**

### **The proposal**

- 3.4.1 The consultation proposes increasing the range of project types on which full plans are required to include the erection of new dwellings, the extension of buildings, and loft, cellar and garage conversions. It argues that the removal of the building notice (BN) option in these cases will improve consumer protection, free-up LA resources by reducing the need for inspections and on-site design, improve compliance and enable a level playing field between local authority BCBs and AIs, who are not subject to the building notice provisions. Views were sought on whether the Department is right to want to limit building notices, whether the new areas proposed for full plans are the right ones or whether others should be considered, and what unintended consequences are anticipated.

## Overview of responses

3.4.2 Some 87 per cent of respondents dealt with this issue, over 90 per cent of whom supported the proposal to limit building notices. Support came from all sectors, including the construction industry. Views on whether the right areas had been identified as needing full plans were more mixed, with some respondents offering different or additional suggestions. There were concerns from across the sectors about increasing the likelihood of unauthorised work, and about the resource implications for local authority BCBs. The LABC sector wanted AIs to be subject to equivalent obligations.

	% of responses answering 'Yes'						All responses
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	
Q39. Are we right to want to limit building notices?	91	73	92	86	79	100	91
Q40. Are the areas we propose to require full plans the right ones?	81	82	89	77	86	89	83
<i>Maximum number of respondents answering any one question</i>	<i>221</i>	<i>11</i>	<i>64</i>	<i>14</i>	<i>14</i>	<i>21</i>	<i>345</i>

## Proposal to limit building notices

3.4.3 All of the *national representative bodies* supported the proposal to limit building notices. There were particularly positive reactions from the Building Control Alliance (BCA), who argued that the change would have a significant impact on raising compliance, and the FMB, who noted that 85 per cent of their members agreed that new buildings should require full plans.<sup>5</sup> However, the LABC, NHBC, ABE and CPA were among many respondents to highlight the danger that the proposal would increase the likelihood of unauthorised work. HBF pointed to resource implications for local authority building surveyors, and wondered how they would cope. RIBA and the Chartered Institute of Architectural Technologists both proposed using a BN with a requirement for full plans to follow within four weeks. LABC argued that the requirement for full plans should extend to both public and private sectors. ACAI indicated support for the proposal but offered no comments.

<sup>5</sup> But see following paragraphs for more mixed views on conversions and extensions.

- 3.4.4 The most commonly expressed concern about the proposal was that it would *drive more work underground*. This view came in particular from AIs (one of whom noted that applicants would no longer be able to rely upon the LA as the cheaper alternative), from construction industry professionals and from local authority building control bodies. There was some scepticism about the Administration Burdens Exercise conclusion that the costs to industry are the same whether using full plans or building notices. The LABC was among a number of respondents to argue that it was important to promote the benefits to home owners and end-users to ensure that the additional up-front cost is seen as adding value.
- 3.4.5 There were also concerns about the *resource implications for BCBs*, and the potential delays that might result. These came both from construction industry bodies, and from BCBs themselves. Many noted that time spent on plan checking would substantially increase, albeit offset to some extent by a reduction in time spent on site visits. The latter saving was seen as a disadvantage in itself by some respondents.
- 3.4.6 Many local authority BCB respondents argued that the requirement to submit full plans should be *extended also to cases dealt with by AIs*. Some challenged the consultation's assertion that Approved Inspectors generally ask for the equivalent of the information needed to make a full plan application up-front before they are employed to do the work. One construction industry professional predicted business being driven to the private sector which "would not mean better quality". The Department was urged not to leave an easy 'no plans' route through AIs.
- 3.4.7 The CIOB was among a relatively small number of respondents to flag up a concern that, without any requirement for plan approval prior to commencement of work, there was nothing to prevent poor quality work being constructed in accordance with poor quality plans. In a few cases, the respondent went on to argue for a '*permit to start*' or other approval mechanism before work was allowed to start.
- 3.4.8 Alongside the notes of caution, there were some very *positive endorsements* of the proposals. One local authority building control partnership thought that the proposal would "reduce the burden on BCBs, raise the quality of building, create opportunities for the architectural profession" and reduce site waste by allowing for building material needs to be more accurately measured. Another local authority building control body commented "cannot foresee any problems, only positives!"
- 3.4.9 Other points that were made included:
- It was important to continue to allow for *staged applications* so that key points could be resolved at the start before detailed design work was undertaken
  - There was likely to be criticism of the proposals on grounds of *increased bureaucracy*

- An option would be to *attach conditions to BN applications*; eg to allow them only where the builder was a warranted builder or member of FMB
- Greater emphasis needs to be placed on *ensuring existing householders are aware of the need to make applications* to the BCB
- *LA community enforcement officers should be appointed* to deal with householder breaches for both planning and building regulations.

### **Areas requiring full plans**

- 3.4.10 The question of whether the areas proposed to be brought within the scope of the full plans requirement were the right ones was responded to by 335 bodies, over 80 per cent agreeing that they were. 164 bodies responded on whether there were other types of project which ought to be added in, large numbers of whom commented simply that the right areas had been identified. There were nonetheless substantial numbers of respondents who wanted to see other types of work added to the list of those for which full plans should be required, and others who took the converse view that the proposals went too far in reducing the scope of building notices.
- 3.4.11 There was support for a full plans requirement to be extended to the following additional categories of work:
- chimney breast and stacks
  - conservatories
  - barn and mill conversions
  - other changes of use
  - any alterations to a dwelling of more than three storeys
  - any work to historic buildings.
- 3.4.12 There were suggestions also that the criteria for distinguishing between BN and full plan cases should be expressed in different ways including:
- Limiting BN projects to those beneath a stipulated floor area or cost. Suggested limits included 10 m<sup>2</sup> to 20 m<sup>2</sup>, and £10k in value
  - Allowing the local authority to make different provision for different builders taking account of their level of proficiency.
- 3.4.13 There were some respondents in both the construction industry and local authority BCBs who argued that that the proposals went too far. There were suggestions that simple small extensions should be allowed to continue under building notices, and considerable numbers of respondents argued that garage conversions should not need full plans. The FMB noted that their survey had revealed that 83 per cent of their members thought that that garage conversions should continue to be allowed to

proceed under a building notice, and that a substantial minority also wanted to see the retention of BNs for loft conversions (40%), cellar conversions (43%) and extensions (45%).

### **Mini survey of stakeholder views**

- 3.4.14 In parallel to the consultation exercise, the Department ran a mini survey of views on this proposal to reach house owners and small builders. LABC were asked to publicise the survey to their clients – householders that are in contact with building control – and builders, and touch screen kiosks were set up at the Ideal Home Show in March/April and Grand Designs in May.
- 3.4.15 The survey run by LABC revealed that 77 per cent of home owners surveyed were in favour of stopping the use of building notices for major works while 79 per cent of those working in the building industry were in favour. Taking both groups together, all but one respondent thought that the use of BNs should be discontinued for new buildings while 73 per cent thought they should be discontinued for conversions and 58 per cent for extensions. These figures tell broadly the same story as those from the FMB survey reported in paragraphs 3.4.3 and 3.4.13.
- 3.4.16 There were inconsistencies in the results of the touch screen surveys which cast some doubt on their validity. The Department is considering the case for further research to explore stakeholder views.

## **Proposal 3.5. Allow local authorities to issue stop notices**

### **The proposal**

- 3.5.1 The consultation notes that the Regulatory Enforcement and Sanctions Bill contains provisions under which powers might be extended to local authorities to enable them to enforce the building regulations by using stop notices. Using such powers, local authority BCBs would be in a position to require building work to cease in cases where there was a significant risk of harm until appropriate steps had been taken to deal with the risk. The consultation paper invites views on the proposal to extend such powers to local authorities and, if so, in what circumstances they might most usefully be applied.

### **Overview of responses**

- 3.5.2 Eighty-seven per cent of respondents dealt with this issue, 85 per cent of whom thought that powers to issue stop notices would be of benefit in enforcing the building regulations. Of the remainder, about half (27 respondents) answered 'no' and half (25 respondents) answered 'don't know'. Local authority BCBs were no more likely to answer 'yes' than other groups and were about as likely to answer 'don't know'. The national representative bodies all answered 'yes'.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q43. Do you agree that stop notices would be of benefit to local authorities in enforcing the building regulations?	83	91	86	93	93	91	85
<i>Number of respondents answering this question</i>	<i>218</i>	<i>11</i>	<i>64</i>	<i>14</i>	<i>15</i>	<i>22</i>	<i>344</i>

### **Strengthening enforcement**

- 3.5.3 Many of those who supported this proposal did so on grounds that they were generally in favour of any measures to strengthen enforcement. For example, the CIOB noted that the enforcement role of local authorities had been neglected in the past and should be given greater prominence in the future. The ACAI wanted to see the local authority enforcement role substantially strengthened, and saw stop notices as one of a number of useful potential powers. The FMB reported support from a significant majority of their members for serious enforcement action against informal economy operators. Many saw the proposal as a long overdue measure to tackle cowboy builders.

### **Approved Inspectors role in enforcement**

- 3.5.4 Many respondents commented on how this proposal would impact on the work of AIs, though the conclusions which were drawn varied. The ACAI commented that "local authorities are the best enforcement bodies". They argued that "the enforcement role should be significantly strengthened, and separated from any commercial operations. In this way, the local authority building control team will be effectively 'privatised' and able to work in a similar way to Approved Inspectors, and the separate, publicly funded enforcement team will not be in any way constrained by commercial considerations".
- 3.5.5 Other respondents took a different view. The CIOB noted that "Approved Inspector services....may need similar powers to drive good design and workmanship". Many local authority BCBs expressed concern that the new power would drive builders down the AI route where "this negative aspect will not apply". Some took the argument further and proposed that AIs should become responsible for enforcement. There were some suggestions as to how the relationship between local authorities and AIs over enforcement might be made to work better, for example, proposing that AIs become liable for costs in cases where a stop notice served at their suggestion was found to be

unwarranted. Some local authority BCBs simply questioned what the Department was proposing for AIs in this connection.

### **Importance of adequate penalties**

- 3.5.6 LABC noted advice from planning colleagues that stop notices may have limited impact. Where procedures are longwinded and penalties poor, the financial gains of non-compliance may outweigh the risks of not complying. Many local authority BCB respondents supported this view some arguing, like the LGA, that penalties must be adequate to deter non-compliance.

### **Circumstances in which stop notices should be used**

- 3.5.7 In responding to the question, in what circumstances stop notices might most usefully applied, respondents answered variously including:

- sparingly, as a last resort and/or where negotiations have broken down
- when work is progressing without plans submitted, and work constitutes a danger
- when a builder ignores advice that work is in serious contravention
- to prevent the covering over of non-compliant work
- only for serious breaches where the safety of the public is at risk/where there is a strong possibility of injury
- when linked to aspects of a project that affect health and safety or energy conservation
- for inadequate structures, fire precautions, means of escape
- for the domestic sector only.

### **Other issues**

- 3.5.8 The CIOB and others noted that it could sometimes be difficult *to find the right person to serve a notice on* with, for example, a single labourer being present on site. They suggested that this difficulty be resolved by serving the notice on both the owner and the builder.
- 3.5.9 A few respondents queried whether stop notices were a suitable mechanism for building control enforcement, arguing for some amendment and *strengthening of the powers in sections 35 and 36 of the Building Act 1984* instead.

## Proposal 3.6. Allowing local authorities to issue fixed monetary penalties

### The proposal

- 3.6.1 The consultation notes that the Department is considering whether local authorities should be able to issue fixed monetary penalties (FMPs). These powers would be in addition to existing sections 35 and 36 enforcement powers. The paper suggests that FMPs could enable local authority BCBs to deal with less serious offences in a more proportionate and less complicated way, and one which did not entail the stigma of a criminal record for the offender. The paper suggests that FMPs would not be appropriate for more serious or deliberate cases of non-compliance, or where a business has made a significant financial gain as a result of non-compliance. The paper invites views on whether the threat of an FMP could act as a useful deterrent, and on the circumstances in which they might usefully be applied.

### Overview of responses

- 3.6.2 As with other proposals in this chapter, over 85 per cent of respondents offered views. Reaction to the proposal was more mixed than on other proposals, with only 68 per cent of all respondents indicating that they agreed that FMPs would prove a useful deterrent. Construction industry interest groups and AIs were slightly more likely to oppose the proposal than respondents from local authorities, but there were substantial reservations from among respondents in the local authority sector also. Those in favour echoed the Department's arguments about providing a more proportionate enforcement route for less serious offences. Those against were concerned in particular about sending the wrong message about the ability to 'buy' consent, the danger of encouraging use of 'informal economy' businesses, creating an incentive to approach AIs in preference to local authority BCBs, and the fines being used as a 'stealth tax'.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	All responses
Q45. Do you agree that the threat of a fixed monetary penalty could act as a useful deterrent to breaches of the regulations?	68	60	64	42	93	82	65
<i>Number of respondents answering this question</i>	219	10	61	12	14	22	338

### **Views of national representative bodies**

- 3.6.3 The views of the national representative bodies were split on this issue although not strictly on lines of BCB as against construction industry/developer interests. LABC, ACAI, CIC, RIBA, ISE and NHBC all indicated that they thought the power could be useful in some circumstances. The RICS, CIOB, ABE, CPA, HBF and FMB all disagreed with the suggestion, the FMB arguing that it was fundamentally opposed because it would encourage clients to seek out the informal sector, and the CIOB arguing that it would send out the message that approval could be 'bought'. CIBSE indicated that they were not convinced.

### **Concerns about the proposal**

- 3.6.4 Some of the concerns about this proposal echoed those expressed on stop notices. There were concerns in particular that the powers would drive builders to approach Approved Inspectors in preference to local authority BCBs, and about finding the right person on whom to serve the charge notice. Other concerns expressed were that:
- the arrangements would generate additional bureaucracy, and be very difficult to implement equitably and consistently
  - unless fines were fixed at a level to cover the costs of the additional activity, they were likely to be an additional burden on the council tax payer
  - conversely, some argued that fines would be used as a tax on the industry, with fine income being channelled away to be used for other purposes. ACAI were one of a number of bodies to argue that fine income should be reinvested in the enforcement function
  - the arrangements would be poorly received, and undermine the relationship between the BCB and the industry. Some BCBs argued that the arrangement would "cheapen the profession", reducing staff to the level of 'building wardens'
  - fear of fines would encourage clients to seek out 'informal economy' firms while legitimate firms would have to bear the cost of enforcement. This view was strongly expressed by FMB.

- 3.6.5 A further important argument was that there are far too many grey areas in building control compliance for it to be susceptible to treatment by as blunt a tool as FMPs. There is often scope for differences of interpretation of the regulations and Approved Documents.
- 3.6.6 Finally, a number of respondents noted that fines would only act as a deterrent if the size of the fine was greater than the potential savings resulting from non-compliance.

### **Applying fixed monetary penalties**

- 3.6.7 The consultation posed the question of how local authorities might most appropriately apply FMPs, and what criteria should be used. A number of respondents argued that FMPs should apply to *breaches of procedure only*, arguing that the merits of other matters were unlikely to be clear-cut. There were suggestions that penalties might apply in relation to unauthorised work, failing to notify commencement, failing to stick to a service plan, non-notification of inspections, non-displaying/giving of certificates, and where the instructions of the BCB had been ignored.
- 3.6.8 Other proposals were that FMPs might be imposed:
- on persistent offenders
  - with respect to minor ongoing contraventions (eg extractor fan missing from kitchen)
  - where environmental standards are compromised (ie not for health and safety)
  - for minor non-conformances in domestic work.
- 3.6.9 There were some suggestions also that the penalty might be linked to the size of company, ability to pay, number of offences and seriousness of offence.

## Proposal 3.7. Extending time limits for prosecution

### **The proposal**

- 3.7.1 The consultation noted that the Government is already committed to extending the time limits available to local authorities to take prosecutions for breaches of the requirements of the building regulations to two years from discovery of the breach. It proposes that the time limit for serving enforcement notices under section 36 should also be increased to two years, and that the time limit for issuing FMP notices should be set at two years. Consultees were invited to indicate whether they agree with these proposals.

### Overview of responses

- 3.7.2 Eighty-five per cent of respondents dealt with this proposal, with 93 per cent in favour. There was an *almost unanimous welcome* for the proposal from BCBs in both public and private sectors, and a good degree of support from elsewhere. All the national representative bodies were in favour, and – in contrast to a range of other issues – very few comments and no major concerns were expressed alongside the ticks in the ‘yes’ box. The support was for the most part unambivalent. One AI respondent commented that “this is the best idea you have had so far” and that “it will help LAs no end”.
- 3.7.3 Most of the *small minority who opposed the proposal* argued along lines that that “two years is too long” and that “enforcement should be swift and rigorous”. From a very different perspective, a few of those opposing the proposal argued that there should be no time limit at all. There was one suggestion for a time limit of five years.
- 3.7.4 Those *in favour of the proposal* welcomed consistency with the recently introduced rules for areas affecting energy efficiency. They noted that defects covered up at the time of inspection may not become apparent for some time. There was also the suggestion that a longer time limit for enforcement may reduce the need to carry out frequent inspections.

	% of responses answering ‘Yes’						All responses
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/ other govt	Other	
Q47. Do you agree that it would be useful to set the enforcement action time limits to all forms of enforcement at two years?	97	100	85	64	93	91	93
<i>Number of respondents answering this question</i>	221	10	59	11	14	22	337

# Chapter 4

## Alternative routes to compliance

### Proposal 4.1. Improvements to the Competent Person Schemes

#### **The proposal**

- 4.1.1 The consultation notes that the Government has been conducting a review of the Competent Person Schemes, and that it plans to continue to look for opportunities to extend their application to other appropriate types of work in areas other than structure, fire and underground drainage. The consultation notes also that the Government proposes other improvements to the management of the scheme to follow up its review including: requiring all schemes to achieve UKAS accreditation to standard EN 45011; encouraging the publication of leaflets explaining what services the schemes provide; and resolving difficulties with data transfer between the schemes and local authority BCBs.
- 4.1.2 Respondents' views are sought on these proposals, and on other ways in which the existing system might be improved.

#### **Overview of responses**

- 4.1.3 Eighty-six per cent of respondents dealt with this proposal. Overall there was strong support (86%) for encouraging more Competent Person Schemes for appropriate types of work. Respondents who dissented did so for two main reasons: some, including about 10 per cent of local authority BCBs, felt that the Government should not encourage further expansion of the schemes because this risked loss of control; others, particularly professional groups, felt that the Government should not exclude the schemes being used for areas such as structure.
- 4.1.4 At the same time, there was a large majority (88%) that thought the Government should do more to improve the existing schemes than their current proposals. Although the construction industry and the Approved Inspectors were less enthusiastic, most others, including Local Authority Building Control (LABC), saw improvements as a priority.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/other govt	Other	All responses
Q48. Are we right to encourage more schemes in existing areas and to continue not to approve schemes in the areas of structure, fire and underground drainage?	89	91	74	73	93	82	86
Q49. Do we need to do more to improve existing systems than our current proposals?	93	64	75	55	100	89	88
<i>Maximum number of respondents answering any one question</i>	215	11	66	11	14	22	339

### Extending Competent Person Schemes

- 4.1.5 Although there was widespread support for the proposed continued extension of Competent Person Schemes, 22 local authority BCBs (11%) were opposed to this. They argued that there was already a heavy administrative burden on local authority BCBs from the growing number of such schemes and that further expansion was likely to lead to a loss of control over them. Some commented that a 1 per cent inspection rate was far too low to ensure compliance and that notifications should be made before rather than after work was carried out. Some other respondents agreed that because of the low level of checks on their work, many of the 'competent persons' were regularly failing to meet the minimum requirements of the building regulations. The Chartered Institution of Building Control Engineers (CIBSE) also expressed some concern about the level of enforcement, and the Association of Consultant Approved Inspectors (ACAI) said that more time should be allowed to ensure that existing schemes were working properly before any further extensions.

### **Not approving schemes in certain areas**

- 4.1.6 Some stakeholders supported the extension of the schemes but disagreed with the Government's stance with regard to areas such as structure. The Institution of Structural Engineers (IStructE) described proposals that they had developed, together with the Institution of Civil Engineers (ICE), for a Competent Persons Scheme that would allow members of either institution who were registered with the scheme to certify compliance of design with Building Regulations Part A Structure. They noted that such a scheme had been running in Scotland since 2005, and several other respondents advocated the Scottish system as a method of improving standards and recognising the importance of structure rather than a cause for concern. The Construction Industry Council (CIC) asked how the IStructE proposals would fit into the building control system. The Construction Products Association (CPA) also felt that there was scope for competent persons in some areas of underground drainage and suggested that this should be discussed further.

### **Improving existing systems**

- 4.1.7 A large majority of respondents (88%) said that the Government should do more to improve the existing systems than the current proposals would achieve, but many of these did not offer any suggestions as to what other improvements should be considered. The main concern expressed was over lack of control over current schemes and *many respondents called for minimum compliance inspection regimes*. A few, including UKAS itself, explicitly supported the proposal to require *UKAS accreditation* as a means of achieving better compliance, and one commented that the Department should have introduced this requirement when the schemes first became operational. The Electrical Contractors Association, however, felt that UKAS would demand processes that limited innovation and added to scheme bureaucracy. Others made the point that schemes needed to improve their performance in dealing with customer complaints and monitoring their members' levels of service, as well as checking that work certified by an installer was fully within the scope of that installer's membership.
- 4.1.8 Very few commented on the proposal for *improving the profile of schemes*, but in general these respondents agreed that there was a need to educate the public about what the schemes can and cannot do.
- 4.1.9 There was widespread support for tackling the *problems with address matching and the data submitted to local authority BCBs for registration*. One LA said that less than 5 per cent of notifications received matched automatically with their database, with the rest having to be input manually. The problem was that the data provided were not in a BS 7666 format which meant that the system was time-consuming and not cost effective, and scheme administrators were not able to resolve these problems. Others noted that data emailed to local authority BCBs were often out of date, inaccurate or misleading. One response suggested that all schemes should have an online register which local authority BCBs could access, as FENSA does.

- 4.1.10 The most common suggestion for other improvements (from about 50 respondents, including LABC and a number of local authority BCBs) was to *reduce the time limits for notifications to be passed from Competent Person Schemes to local authority BCBs*. Because it can take up to 40 days for the LA to be notified of work that has been carried out, the issuing of completion certificates to the owner could be delayed. All those who commented felt that the time limits should be shorter, with either a requirement for pre-notification on or before commencement of the work or a five day limit (as for AIs on initial notices).

## Proposal 4.2. Investigate the case for other forms of certification

### The proposal

- 4.2.1 The consultation notes that in 1999 most respondents were strongly opposed to whole building certification and that opinion is unlikely to have changed. The consultation states that the Government supports a continued role for an independent building control service to secure a good service for the customer and to ensure that buildings are safe, accessible and sustainable. Views are sought on the proposal *not to consider whole building self-certification in the immediate future*.
- 4.2.2 However, the consultation reports that the Government is open to the suggestion that the existing Competent Person Schemes could be widened to cover *third party certification* for specialist areas of the regulations, given that buildings are becoming more complex and technical. This would allow a third party to certify that parts of a project complied with building regulations, whereas the existing schemes only allow installers to certify that their own work complies. Views are also sought on this proposal.

### Overview of responses

- 4.2.3 Eighty-four per cent of respondents dealt with this proposal. As expected, most of these were strongly opposed to whole building certification with 87 per cent saying that they saw no merit in it. Opposition was highest (94%) among local authority BCBs and lowest (62%) among the construction industry.
- 4.2.4 Responses on the question of allowing third party certification were slightly less negative, with about two-thirds of respondents opposing it, including 77 per cent of local authority BCBs. Approved Inspectors were broadly in favour, while the construction industry and professional groups were evenly split.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/fire/other govt	Other	All responses
Q50. Do you see any merit in whole building certification?	6	9	28	38	15	29	13
Q51. Do you think it is appropriate to develop third party certification but only within the CPS framework?	23	64	52	50	33	40	32
<i>Maximum number of respondents answering any one question</i>	<i>216</i>	<i>11</i>	<i>60</i>	<i>13</i>	<i>13</i>	<i>21</i>	<i>334</i>

### Whole building certification

4.2.5 As in 1999, opinion remained negative on whole building certification, with 87 per cent of respondents opposed. Among local authority BCBs, 94 per cent rejected the idea. LABC pointed to the failure of such systems in other countries that had implemented such regimes and saw no reason why self-certification should have any more chance of succeeding in this country.

### Third party certification

4.2.6 Overall about two-thirds of respondents (including LABC) were opposed to third party certification, and again the opinion of local authority BCBs was slightly more negative (77% against). They acknowledged that Competent Person Schemes had been beneficial in areas where:

- installations had little effect on other areas of the regulations
- installers certified the work themselves.

4.2.7 However, they argued that to allow parts of the project to be certified by third parties who had not done the work themselves and where the work might affect other areas would undermine the building control service. The National House Building Council (NHBC) felt that it would lead to fragmentation and dislocation of control, with responsibility becoming diluted and roles less clear. Others agreed that it was essential for a holistic view of the project to be maintained.

- 4.2.8 Nearly two-thirds of Approved Inspectors were in favour of third party certification, but ACAI was opposed. The Royal Institute of Chartered Surveyors (RICS) doubted whether it would be financially viable in practice, since installers would rather have local authority BCBs carry out their existing checks than employ a third party to do so.
- 4.2.9 CIC felt that this was one of the areas where further debate was crucial before acceptable solutions could be proposed. They suggested that the debate should cover whether certain parts of the regulations, such as Parts G and L, might lend themselves to whole building certification by specialists operating as Competent Persons under an accreditation system, within a legal framework that goes beyond self-certification.

### **Possible areas suitable for third party certification**

- 4.2.10 The minority who favoured development of third party certification argued that some aspects of building control were becoming increasingly technically specialised. There was a wide range of suggestions as to which specialist areas might be suitable for third party certification. These included: historical structures; building services; modular or factory-made buildings; timber frame erection; air conditioning units; Part F on non-domestic buildings; fire safety; and roof construction.
- 4.2.11 Several respondents suggested heating, ventilation and thermal insulation and a number of others suggested that structural designs could be certified by third parties as many building control bodies already used consultants to check these. ISE and CIBSE both referred to possible schemes whereby a suitably qualified person could certify that they had checked that the design and works had been undertaken as described. ISE thought that this approach would be suitable for Part L, while CIBSE proposed using it for certification of work packages as is done for SAP ratings. The Chartered Institute of Building (CIOB) supported third party certification provided that it related to the actual completed constructed asset and was not just a paper exercise similar to the plans assessment.

## **Proposal 4.3. Further encourage the Appointed Person role**

### **The proposal**

- 4.3.1 The consultation lists a number of advantages of having an Appointed Person to perform a management/coordination role and act as a single point of contact for building control on site. The consultation invites views on whether it is desirable for the Government to regulate to require there to be such a person, or whether the Government should simply promote the adoption of this role as good practice.

## Overview of responses

- 4.3.2 Eighty-three per cent of respondents dealt with this proposal. Approximately three-quarters of these were opposed to regulating for the Appointed Person role. Local authority BCBs were the most strongly opposed (80% against) and the construction industry least strongly opposed (55% against). There was a strong majority of opinion (83%) in favour of the Government simply promoting the adoption of the Appointed Person role as good practice.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/other govt	Other	All responses
Q53a. Do you think that we should regulate for the Appointed Person role...?	20	36	34	45	40	50	26
Q53b. ...or simply promote the adoption of this role as good practice?	85	80	80	82	92	72	83
<i>Maximum number of respondents answering any one question</i>	<i>218</i>	<i>11</i>	<i>56</i>	<i>11</i>	<i>15</i>	<i>18</i>	<i>329</i>

## Regulating for the Appointed Person role

- 4.3.3 Just over a quarter of respondents, including CIBSE, favoured regulating for the Appointed Person role. In general these respondents felt that there was a much better chance of such a role coming into being if it was regulated for, and felt that the advantages of requiring such a role outweighed the disadvantages set out in the consultation. Some fire services suggested that careful choice of qualifying criteria within the regulations, eg on size and complexity of projects, would ensure that the role was only required where it was warranted. LABC and about 20 other respondents expressed disappointment that the Department did not wish to regulate, but said that they understood the reasoning behind this. Several, including RICS, added the thought that the role could be promoted as good practice initially but that legislation might then follow if experience showed inadequate rates of compliance.
- 4.3.4 However, the majority of responses felt that regulating for such a position was unnecessary and would lead to greater confusion in the building control area. Several commented that it would add another layer of bureaucracy, particularly in relation to smaller projects where it would be unreasonable to expect builders to employ such a person. The Federation of Master Builders (FMB) felt strongly that this was a matter for

individual business management, not for regulation, and argued that regulation would impose new costs, making everything from home improvements to new housing more expensive. They pointed to the experience of the Construction Design Management Regulations 1994 which required the appointment of a Planning Supervisor. However, this role grew to the point where outside organisations were engaged to discharge the responsibilities on larger projects, rather than a single individual already at the firm. This was not what HSE had wanted or intended.

### **Promoting the adoption of the role as good practice**

- 4.3.5 LABC was among a large majority of respondents (83%) who strongly supported promoting the adoption of the Appointed Person role as good practice, not only to provide a focus for building control and regulations on major sites but also to see an increase in client representation on site. Of the few who did not support it, some favoured regulation (see above) while others felt that the role added complexity or had not worked in other countries such as Norway.

## **Proposal 4.4. Extension of the pattern book approach**

### **The proposal**

- 4.4.1 The consultation raised the question of whether the pattern book approach should be extended. Under this approach, detailed guidance is provided on designs that are likely to satisfy some specific requirement(s) of a part of the building regulations. There is currently one example of the approach in operation, which is a scheme operated by the company Robust Details Limited (RDL) for demonstrating compliance of dwellings with Part E (sound insulation). Builders who register under the scheme gain exemption from pre-completion sound insulation testing.
- 4.4.2 The consultation noted that the Review Working Group had supported the extension of the approach but had felt that it was difficult to identify areas where it would work practically and financially as a business because it would require a considerable investment and it was questionable whether industry would be prepared to pay. It suggested that this approach might work for airtightness and insulation continuity, which was a difficult area for normal building control inspections to check and for which compliance was thought to be low. In order to pay for this approach, builders would expect an exemption from testing but this might not be enough to encourage usage of the system since it was usually easy and not very expensive to rectify problems revealed during testing. Views were therefore sought on whether the pattern book approach should be extended and what areas it could cover.

## Overview of responses

- 4.4.3 Eighty per cent of respondents dealt with this proposal. Views on whether the pattern book approach should be extended were fairly evenly divided, with a slight majority (53%) being against it. Some differences emerged between categories of respondents, with the construction industry, Approved Inspectors and other respondents showing two-thirds or more in favour, while a small majority of the remaining categories (including LA building control) were opposed. There were a number of suggestions as to what areas a pattern book approach could cover. On the specific question about applying it to airtightness testing, opinion was again mixed with the majority (58%) being opposed, although the construction industry respondents were quite strongly in favour (78%).

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/fire/other govt	Other	All responses
Q54. Should the pattern book approach be extended?	44	73	44	69	45	67	47
Q56. Do you agree that a pattern book scheme could be developed to cover airtightness testing and accredited details for Part L in dwellings?	41	55	38	78	25	50	42
<i>Maximum number of respondents answering any one question</i>	218	11	50	13	11	15	318

## Extending the pattern book approach

- 4.4.4 Overall there was a slight majority (53%) against extending the pattern book approach, but the reasons given for their opposition were very varied. Several respondents said that the RDL pattern book could be incorporated into Approved Documents. Others were concerned that the approach would limit innovation and might work in the domestic sector but not in the non-domestic sector. There was a comment that pattern books would become superseded too quickly and might be used in inappropriate situations. Some thought that the approach was based on 'over-design' to compensate for poor workmanship, resulting in extra expense for manufacturers and end-users. Others said that they were not convinced that this approach ensured enforcement and that nothing seemed to focus minds like the potential for testing. LABC and ACAI were not convinced that there were any other 'quick wins' where the approach could be used with the same degree of success as for Part E.

### **Areas that the pattern book approach could cover**

- 4.4.5 Among those who supported extending the approach, there was a wide range of suggestions as to which areas it might be suitable for. The most common suggestion, from about 35 respondents, was for it to cover some or all of Part L (see next paragraph). A number of responses thought that the approach was most suitable for *domestic extension elements* such as walls, floors and pitched or flat roofs or more generally for *conversions* such as loft, basement or garage conversions rather than new build. Other ideas suggested included *ventilation (Part F)*, *moisture ingress*, *toilets/bathrooms*, *above ground drainage and access* (such as wheelchair compartments, assisted WCs and passenger lifts). The CIC suggested examining situations where non-compliance leads to expensive and disruptive remedial works and considering these first as potential areas for applying this approach.
- 4.4.6 Robust Details Ltd proposed that *consideration should be given to the inclusion of a pattern book approach in every future instance where regulation change was considered*. They questioned whether this should be limited to circumstances where compliance was low *and* users would pay extra for the benefits. They argued that where compliance was low it would be reasonable to consider a pattern book as a potential remedy and address the question of 'who pays' during the consultation. Similarly, if users were prepared to pay for a benefit, the fact that compliance rates were already acceptable should be immaterial. They concluded that there were aspects of Parts A, C, E, F, G, H, L and M that might lend themselves to the pattern book approach.

### **Using the pattern book approach to cover airtightness testing and accredited details for Part L in dwellings**

- 4.4.7 For most categories of respondent, the majority was again slightly opposed to using the pattern book approach for this purpose (overall 58% against, including LABC), but the construction industry was quite strongly in favour (78% 'yes'), as were the Royal Institute of British Architects (RIBA) and the Association of Building Engineers (ABE). A number of respondents made the point that a pattern book approach would have difficulties in limiting air leakages because these were mainly dependent on site workmanship issues rather than design. They said that air permeability tests were relatively simple and inexpensive to do and that these tests would be important in working towards zero carbon housing. Random testing should be retained to ensure compliance, but this would mean that there was little economic incentive for using pattern books. LABC and about 50 local authority BCBs questioned whether the RDL pattern book had really been responsible for improved compliance on sound insulation and expressed doubt as to whether there was any economic argument for applying the approach to other areas where testing costs were relatively small compared to Part E. One response noted that the start-up costs for applying the system to Part L were likely to be large, and said it was important that pattern books were not seen as a way of avoiding a proper system of testing as work proceeds.

- 4.4.8 Among respondents who supported using the approach, several said that they were not clear how this would work, as a whole building solution would be needed. Some felt that it was crucial for random testing to be retained, while others, including NHBC, said that there must be an incentive such as exemption from testing. The CPA reported that there was a wide range of views, with some believing that a pattern book approach would be useful while others felt that on-site supervision and quality of workmanship were the key. While most agreed that disseminating best practice standards on thermal insulation and air leakage should improve matters, there were differing views on how much the improvement might be and who should fund the work.
- 4.4.9 RDL said that there was no doubt that the approach used for Part E had many elements that were transferable to airtightness testing and accredited details. It said that RDL was participating in the industry advisory groups on Part L and would provide guidance to participants during this process.

## Proposal 4.5. A fast-track dispute resolution service and modernised statutory system

### **The proposal**

- 4.5.1 The consultation describes the existing system of determinations and appeals and noted that stakeholders regard the current statutory procedures as restrictive, protracted and outdated. It says that the Government will work with the industry to establish a fast-track dispute resolution scheme, as a more efficient means of resolving disputes. The scheme would offer a speedy review of the case by an independent expert panel. The panel's decisions would not be legally binding, but in the event that the case subsequently escalated to the courts or other statutory process, the panel's findings could be submitted as evidence. The consultation seeks views on whether such a scheme would be beneficial to users, whether respondents have had any technical disputes in the last year when they would have referred to it, and what would deter them from using it.
- 4.5.2 The consultation noted that the Government is also committed to replacing the current determination and appeal procedures with a more efficient process for those few cases where a more formal decision is needed. One option would be to introduce a new statutory appeal procedure relating to compliance with the building regulations, which would be accessible at any stage after full plans had been submitted to the BCB. Another option would be to discontinue the involvement of the Secretary of State, allowing for disputes to be settled by independent experts chosen by the parties, or by an independent statutory tribunal. Views were sought on whether respondents favour continued recourse to the Secretary of State or whether they would be content with other options.

### Overview of responses

- 4.5.3 Eighty-three per cent of respondents dealt with this proposal. Two-thirds of these favoured the idea of a new industry-led dispute resolution scheme, with support among Approved Inspectors and the construction industry being considerably higher (91% and 85%, respectively). A total of 73 respondents said that they had had technical disputes in the last year which they would have taken to such a scheme, of which 50 were local authority BCBs. On the question of what might deter them from using it, the two main factors cited were a perceived lack of impartiality and the possibility of further proceedings (since the panel's decision would not be binding).
- 4.5.4 A large majority of respondents (86%) agreed that the current statutory procedures were in need of reform. Less than a quarter said that repealing the current right of appeal to the Secretary of State would cause them any difficulties, but over three-quarters wanted continued recourse to the Secretary of State to resolve disputes and supported the new right of appeal along the lines outlined. Thirty-nine per cent of respondents favoured other options instead of, or as well as, the right of appeal to the Secretary of State (see paragraph 4.5.13 for these options), but only the Approved Inspectors strongly preferred the other options.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/other govt	Other	All responses
Q57. Do you agree that a voluntary industry-led dispute resolution scheme would be beneficial?	63	91	73	85	58	78	67
Q58. Have you had a technical dispute in the last year which you could have taken to this scheme?	24	57	15	33	25	31	23
<i>Maximum number of respondents answering any one question</i>	<i>217</i>	<i>11</i>	<i>59</i>	<i>13</i>	<i>12</i>	<i>18</i>	<i>330</i>

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/fire/other govt	Other	All responses
Q60. Do you agree that the current statutory determination and appeal procedures are in need of reform?	90	82	78	55	92	73	86
Q62. Would repealing the right to appeal to the Secretary of State cause you any difficulties?	20	27	29	67	8	17	23
Q63. Do you consider that continued recourse to the Secretary of State to resolve disputes is beneficial?	78	80	66	64	85	78	76
Q64a. Would you support a provision giving a new right of appeal to the Secretary of State along the lines outlined...?	83	40	76	86	85	88	81
Q64b. ...or would you support the other options suggested?	37	90	39	25	40	30	39
<i>Maximum number of respondents answering any one question</i>	<i>218</i>	<i>11</i>	<i>55</i>	<i>12</i>	<i>13</i>	<i>18</i>	<i>327</i>

### Industry-led dispute resolution scheme

- 4.5.5 Two-thirds of all respondents favoured the establishment of a new industry-led dispute resolution scheme. This proposal was supported by all categories of respondents, although support was strongest among Approved Inspectors (91%) and the construction industry (85%). BCA and RICS were strongly in favour. Most of the 109 respondents who opposed it were local authority BCBs (but also LABC and NHBC) and they gave two main reasons. Firstly, they argued that an industry-led scheme would not be seen as impartial because it would be led by the very providers that the

building industry was in dispute with. They felt, however, that such a scheme would be supported if it was Government-led and that the service could be made self-financing in the same way as if the industry was leading it. Secondly, they felt that the decisions of the panel should be binding or else the scheme would simply add another stage to the process. Some were also concerned that the scheme might encourage every petty disagreement to be referred to it.

- 4.5.6 A total of 73 respondents (23%) said that they had had a technical dispute within the past year that they would have taken to such a scheme. Although 50 of these were local authority BCBs, the other 23 were spread across all respondent categories.
- 4.5.7 On possible deterrents to using the scheme, there was the concern that decisions would not be legally binding, which could lead to further dispute. A number of respondents questioned whether the panel would have sufficient expertise on specialist areas. They were worried that panel members would only be 'peers' with possibly less experience than the people seeking the determination, rather than Government-appointed specialists with access to accredited research documents and background knowledge. The panel would need to be seen as impartial, balanced and independent. Apart from these factors, the main deterrents to using the scheme would be the cost and possible delays if decisions were not issued quickly enough.

### **Changes to the statutory determination and appeal procedures**

- 4.5.8 There was widespread agreement (86%) that the current statutory procedures were in need of reform, although the construction industry was less strongly in favour (55%) than the other respondent categories. Of those who gave reasons, the majority mentioned speed, *ie* the time taken to process appeals and determinations. Several local authority BCBs also felt that the procedure should not be based solely on written representations but that meetings with all parties should be arranged.
- 4.5.9 Almost 90 per cent of local authority BCBs said that they had received no formal relaxation or dispensation applications in the last three years, with many adding that they could not recall any applications ever. Some said they preferred to use discussions with developers to negotiate and agree any relaxations informally. Among the 19 local authority BCBs which had received formal applications, there was a total of about 50 cases in the last three years of which about 30 had been consented to. This would indicate that there are probably fewer than 10 refusals a year.

### **Recourse to the Secretary of State/other options**

- 4.5.10 Overall only 23 per cent of respondents foresaw difficulties if the current appeal and determination system to the Secretary of State was repealed, although this included 67 per cent of the construction industry responses. Some said that the current system would be perfectly satisfactory if it could be speeded up, while others thought that the costs of setting up an industry-led scheme for such a small number of cases (13 last year) would outweigh the benefits.
- 4.5.11 There was strong support (76%, including LABC) for *continuing recourse to the Secretary of State to resolve disputes* where necessary and this support was spread across all respondent categories. Some said that this was necessary to provide transparency or to resolve cases where the panel was uncertain as to a decision. Occasionally a regulatory requirement might be found to be wrong, in which case referral back to the author of the requirement is essential.
- 4.5.12 Eighty-one per cent of respondents supported the *new right of 'appeal' to the Secretary of State* as outlined in proposal 4.5, while 39 per cent favoured other options as well as, or instead of, this avenue. Approved Inspectors were the least likely to favour the Secretary of State route (40%) and the most likely to support other options (90%). Of the 100 or so respondents favouring the other options, about two-thirds favoured using the industry-led dispute resolution scheme and about a quarter preferred the idea of using independent experts or a tribunal. ACAI suggested the right of appeal to a higher authority such as their proposal for a regulatory body for all BCBs.
- 4.5.13 A variety of *other proposals were put forward* of which the most commonly mentioned (by LABC and about 50 other respondents) were existing local authority *voluntary mediation processes*, with the suggestion that private sector BCBs could set up similar schemes and that this might limit the need to pass on disputes to a national scheme. Others included arbitration by various parties, independent audit, peer review, regional or area disputes panels, or an appeal procedure like that for planning appeals.

# Chapter 5

## Improved performance and capacity

### Proposal 5.1. Embed and develop the building control performance indicators

#### **The proposal**

- 5.1.1 The consultation referred to the set of voluntary performance indicators produced by the Building Performance Standards Advisory Group and said that these represented a positive starting point for collecting performance data from every building control body in both the local authority and private sectors. It invited views on the further development of these indicators.

#### **Overview of responses**

- 5.1.2 Eighty per cent of respondents dealt with this proposal. A large majority of these (81%) agreed that the performance indicators should be developed further. There was strong support across most respondent categories, although Approved Inspectors were the least enthusiastic (only 64% in favour). About three-quarters of respondents offered suggestions on how to improve the monitoring and performance of building control. Local Authority Building Control (LABC) and most local authority BCBs thought that the performance indicators should be developed to reflect the vision in order to show customers what added value the building control process brings to their individual projects. Many respondents said that it was essential for these standards to be applied and monitored consistently across all providers, and a number of them, (including the Association of Consultant Approved Inspectors (ACAI), suggested that this should be done by an independent monitoring body.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/other govt	Other	All responses
Q67. Do you agree that we should further develop the building control performance indicators?	83	64	70	91	92	89	81
<i>Maximum number of respondents answering any one question</i>	211	11	54	11	13	18	318

### Developing the building control performance indicators

- 5.1.3 A large majority of respondents (81%) agreed that the performance indicators should be developed further. There was strong support across most respondent categories, although Approved Inspectors were the least enthusiastic (only 64% in favour). Of those who disagreed, a few felt that the present indicators should be given time to bed in or that at least the first set of collected data should be analysed before they were changed. One said that market forces would be sufficient to drive up performance and that BCBs were over-inspected already. Others commented that any indicators must be meaningful: they thought that BCBs should concentrate on delivering a good service and that indicators should monitor quality outcomes and customer satisfaction. Some were concerned that the standards might become mandatory, while others thought this would be a good idea in order to ensure consistency across public and private sectors. Two respondents favoured spot checks or a 'mystery shopper' technique as a better way of monitoring standards than self-reporting.
- 5.1.4 Of those who supported developing the standards, about 50 respondents (including LABC) thought that the performance indicators should be developed to reflect the shared vision for building control in order to show customers what added value the building control process brings to their individual projects. ACAI, the Chartered Institution of Building Services Engineers (CIBSE) and a number of other respondents favoured a single independent regulatory body or a national scheme to monitor standards. Others agreed that there should be independent checks on the level of compliance achieved, particularly when complaints were received. Several respondents, including ACAI, felt that it was important that the standards were mandatory for all BCBs in order to achieve consistency across sectors.

- 5.1.5 The consultation said that the Government did not accept the suggestion that potential clients shop around until they find the cheapest fees or someone willing to accept an interpretation of the regulations which suits their ends. A few local authority BCBs said that the Government was being naïve on this point and that they had evidence that clients were shopping around in just this way.
- 5.1.6 ACAI said that Approved Inspectors are required to submit annual returns against key performance indicators set out by the Construction Industry Council (CIC), the regulatory and licensing body for all AIs, whereas there was no such monitoring for local authority BCBs. They added that early indications suggested that only about a third of local authority BCBs would submit similar information voluntarily this year. This was woefully inadequate and would undermine public confidence in building control generally. For this reason they favoured mandatory indicators for all BCBs which should be monitored by a single regulatory body such as the CIC. The indicators should be qualitative and output-focused. CIC, the Royal Institution of Chartered Surveyors (RICS) and a number of other responses commented that the indicators needed to be more outcome-focused and reflect quality of service, not just those that are easily measurable.
- 5.1.7 One respondent made the point that the IT companies responsible for developing software for local authority BCBs should be involved when performance indicators were formulated. Otherwise the fields within the BCBs' software systems would not match the requirements of the performance indicators, meaning that manual recording was required with a greater risk of inaccuracy.

## Proposal 5.2. Strengthening the overarching performance management system

### **The proposal**

- 5.2.1 The consultation notes that the current performance indicators will not tell stakeholders how well the system is working overall or what levels of overall compliance are really being achieved. It expresses the hope that BCBs will adopt tools such as peer review initiatives or audits, across the two sectors, to drive sustainable business improvement through shared learning and dissemination of best practice. It seeks views on peoples' experiences of such schemes and how they could be applied to both sectors without putting undue pressure on industry or local authorities and in line with the principles of better regulation.

## Overview of responses

- 5.2.2 Eighty-one per cent of respondents dealt with this proposal. Although the large majority of these (83%) answered 'yes' to the question whether some form of peer review or audit would be helpful, there were substantial reservations about the role of peer review itself. LABC, ACAI, the Building Control Alliance (BCA), the National House Building Council (NHBC), the Royal Institute of British Architects (RIBA) and the Chartered Institute of Building (CIOB) were among a large number of respondents who argued that an independent system, using neutral assessors, was appropriate either instead of, or in addition to, peer review. Among those who answered 'no' to the question, there were concerns that it peer review/audit would increase red tape and would have little effect, and that it would divert resources that would be better spent on improving the service rather than simply monitoring it (Federation of Master Builders ,FMB).

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/other govt	Other	All responses
Q69. Do you agree that some form of peer review/audit for the reasons described here would be helpful?	83	73	80	78	93	80	83
<i>Maximum number of respondents answering any one question</i>	<i>216</i>	<i>11</i>	<i>51</i>	<i>9</i>	<i>14</i>	<i>20</i>	<i>321</i>

## Peer review

- 5.2.3 Although 83 per cent of respondents answered 'yes' to the question whether some form of peer review or audit would be helpful, the support for peer review as such was much more limited. LABC and the majority of local authority BCBs did *not* consider that a peer review system would be of benefit. They said that the burden of such a system would fall heavily on local authorities and they were not convinced that the system would be fully subscribed to by either public or private providers. They argued that an independent system, using neutral assessors, would be preferable.
- 5.2.4 ACAI felt that peer reviews might be helpful for sharing learning and disseminating best practice among all BCBs. But they argued that this should be *in addition to* a formal monitoring regime, not as a substitute for one.

5.2.5 Of the 174 respondents who commented on this question, only about 10 supported peer review as distinct from audit. These took the view that peer review could be useful (several noted that it is used to good effect within the Trading Standards profession), provided that comparisons were like for like and it did not involve inviting competitors to review market share and performance. Some of those who said no to the original question also gave this as their reason, *ie* that it was inappropriate to have businesses in competition with each other undertaking reviews of their competitors.

### **Audit**

5.2.6 Some form of audit system was widely supported by those who commented, but the vast majority of these (including ACAI, BCA, NHBC, RIBA and CIOB) called for an independent system using neutral assessors. The main arguments for this were:

- to add to the probity of the system
- to ensure consistency across sectors
- to safeguard commercially sensitive information
- to avoid competitors reviewing each other.

5.2.7 NHBC and several others argued that CIC could or should undertake this role as they already had authority to act in matters relating to AIs and would be sufficiently independent to deal with local authority BCBs also. One proposed that all BCBs should be licensed by CIC and another 10 responses thought that all BCBs should be overseen by a centrally appointed regulator who should have the power to impose penalties on failing BCBs.

5.2.8 One respondent said that it would be helpful to have a common and readily applicable process for carrying out audits of BCBs.

### **Neither peer review nor audit**

5.2.9 Among those who answered 'no' to this question, only about 20 respondents gave reasons for thinking that neither peer review nor audit would be helpful. Some felt that it would simply increase red tape and would have little effect, or that the resources would be better spent on improving the service rather than simply monitoring it (FMB). Several local authority BCBs said that peer review was already often undertaken between local authorities to gain positive experience from others, but argued that it would not be tenable for peer reviews by competitors. A few thought that performance would be sufficiently improved by market forces, and the remainder felt that there should be monitoring by an independent agency.

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

### The proposal

- 5.3.1 The consultation stated the Government's view that competition between local authority BCBs and Approved Inspectors can provide a stimulus to higher levels of customer service as long as an effective monitoring system is deployed. It noted that some had suggested that private sector building control provided a lower level of service, customer care and protection than local authorities did, but it pointed out that the Construction Industry Council operates a formal investigation system to deal with complaints from customers about the service they receive from AIs. Of 18 formal complaints against AIs since 1999, only one had been upheld. For local authority BCBs, customers were able to use the relevant authority's internal complaint procedures and then, if necessary, the Local Government Ombudsman. There had been only three cases reported on building control since 2005. The consultation sought views on whether these complaints procedures were fit for purpose.

### Overview of responses

- 5.3.2 Seventy-eight per cent of respondents dealt with this proposal. The majority of these (58%) did *not* think that the current complaints procedures were fit for purpose. However, there were notable differences of views between the respondent categories. At one end of the spectrum, 90 per cent of construction industry respondents said that the procedures were satisfactory whilst at the other end nearly two-thirds of local authority BCBs said that they were not.
- 5.3.3 Local authority building control respondents for the most part took the view that LA building control complaints systems were adequate while those applying in the private sector were not. Respondents from other categories were more likely to argue for a single complaints system applying across both sectors, handled by CIC or an agency.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/fire/other govt	Other	All responses
Q70. Do you think that these complaints procedures are fit for purpose?	35	55	55	90	54	47	42
<i>Maximum number of respondents answering any one question</i>	212	11	47	10	13	15	308

### **Views of national representative bodies**

- 5.3.4 LABC argued that procedures for complaining about local authority building control were adequate and also extremely transparent and open to challenge. However, they argued that the system employed for complaints against AIs did not give the complainant the same rights in terms of appeal or access to information.
- 5.3.5 In contrast, ACAI argued that rigorous monitoring and regulation by CIC ensures that appropriate action can be taken against the minority of underperforming BCBs in the AI sector, and that similar arrangements for accountability should be extended to all parts of the building control industry. They were particularly concerned about unregulated consultancies providing outsourced building control support to local authorities. CIC noted that they continually strive to improve and update the AI complaints procedures.
- 5.3.6 NHBC and RICS, like ACAI, argued that there should be a single complaints procedure for all BCBs, handled by CIC or an agency. The BCA also said that they favoured a single system applying to all BCBs. CIOB noted that majority feedback from members was that complaints procedures are fit-for-purpose, although some concerns were expressed about their adequacy to deal with incidences of low standards.

### **The complaints procedures**

- 5.3.7 Seventy-five local authority BCBs supported the LABC view that LA complaint systems were adequate while those applying to AIs were not.
- 5.3.8 A number of respondents supported the suggestion for an independent third party monitoring system or a regulator to handle all complaints. Many agreed with the suggestion that the same system should apply for complaints against both sectors.
- 5.3.9 Some respondents reported comments from complainants that they had found CIC unhelpful and disinclined to act. There were suggestions also that CIC was seen as not wanting to ruffle any feathers, and that complaints were not investigated because they were classed as technical or a matter of professional judgment.
- 5.3.10 Other comments included the following:
- The statement in the consultation that only one complaint against an AI had been upheld since 1999 did not prove that everything was all right. It indicated instead that the complaints system was flawed
  - If customers had chosen to use AIs in the first place because they were seen as more lenient, *ie* more favourably disposed towards the customer, they were unlikely then to make a complaint that their chosen inspection service had not enforced the building regulations adequately.

### **Other points**

- 5.3.11 Some respondents from the construction industry expressed concern about the perception mentioned in the consultation that private sector building control provided a lower level of service and said that this was contrary to their experience. They said that private sector BCBs were generally eager to embrace the Government's drive towards sustainable construction, whereas local authority BCBs were often lacking in experience when it came to more technically demanding issues.
- 5.3.12 FMB said that their members were not convinced that competition had improved service provision, and noted that 70 per cent of their members chose to use local authority building control services all the time.

## **Proposal 5.4. Promote shared approaches to working**

### **The proposal**

- 5.4.1 The consultation mentioned that the Government saw significant opportunities to improve the quality and efficiency of local government services by joint working and collaboration with private sector groups. It said that there were already good examples of local authority BCBs and AIs working together in partnership arrangements and such approaches should be encouraged in order to maintain a good level of service. It described a scheme agreed between NHBC and Milton Keynes Building Control which allowed surveyors from both organisations to gain experience in all aspects of building control to aid their professional qualifications and become more rounded. The consultation asked if there were other examples of positive working relationships that could be disseminated to show good practice in providing a modern building control service.

### **Overview of responses**

- 5.4.2 Seventy-three per cent of respondents dealt with this proposal. Of these, 63 per cent agreed that there were examples of positive working relationships. Nearly 200 respondents submitted comments, of which three-quarters were from local authority BCBs. About half of these local authority BCBs' responses followed the LABC line which was that there are many examples of shared working within local authority building control. Various other examples were offered by individuals. However, a number of respondents commented that there is still a poor relationship between the public and private sectors owing to suspicions of the way that AIs operate or because they are viewed as the competition.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/other govt	Other	All responses
Q72. Are there other examples of positive working relationships which we might disseminate as examples of cooperation and good practice?	69	40	46	33	54	61	63
<i>Maximum number of respondents answering any one question</i>	204	10	41	6	11	18	290

### Examples of positive working relationships

5.4.3 LABC and about half the responses from local authority BCBs said that there were many examples of shared working within local authority building control and LABC would be happy to work with the Department in collating this information. Specific examples that they gave were:

- LABC's regional and county groupings
- LABC's own working groups on technical, marketing and management issues
- LABC/ACAI technical liaison group.

5.4.4 Other local authority BCBs said that whilst they actively promoted and encouraged partnership schemes, they questioned who would really benefit from collaboration with private sector groups. Most of the examples given were of partnership working with other local authority BCBs or other internal LA departments or with special interest groups like local access groups. Very few quoted any examples of partnership working with the private sector, although one respondent did mention the local authority BCB carrying out site inspections for AIs. CIOB mentioned exchange visits between Birmingham City Council building control and BAA Building Control Services Ltd to discuss common approaches and projects. The Institution of Structural Engineers (IStructE) referred to a programme of mutual 'cross training' of young staff between the London Borough of Southwark and Butler and Young.

- 5.4.5 One respondent from the fire and rescue service said that a number of larger, more complex projects such as city centre redevelopments, shopping centres, industrial centres, etc are undertaken on a 'build and design' basis which means that work commences on the infrastructure and shell before all the detailed design work is completed. Often design teams are set up for such works comprising representatives from the client, developers, architects, BCB, fire and rescue authority and other related professionals. Such teams often proved very effective in managing the design aspects of such projects with a reduction in bureaucracy and improved decision-making.

### **Barriers to partnership working**

- 5.4.6 Among the respondents who did not think there were examples of positive relationships, some AIs said that they would not wish to partner their local authority BCB. ACAI itself did not offer any examples. Some local authority BCBs said that they were reluctant to work with AIs as this could result in the private sector competition using the opportunity to woo customers away with the offer of a cheaper service with fewer restrictions. Others said that there is still a poor relationship between the public and private sectors owing to suspicions of the way that AIs operate. It was suggested that any partnership arrangement required a high level of trust to succeed and that this was unlikely to exist without a comprehensive memorandum of understanding between the parties. One asked why they should assist a competitor to achieve a positive result.

## **Proposal 5.5. Enabling a 'level playing field'**

### **The proposal**

- 5.5.1 The consultation restates the Government's commitment to ensuring that competition in the building control system does not act as a barrier to delivering a quality service. It acknowledges, however, that there are a few variances between public and private BCBs which may need to be addressed in order to create a more level playing field. The consultation states that a review of the Approved Inspector regulations is planned. It lists a number of specific changes that are under consideration and seeks views on them, while noting that these and other proposals would be fully consulted upon later this year.

### **Overview of responses**

- 5.5.2 Eighty per cent of respondents dealt with one or other aspect of this proposal. The ACAI supported all the changes proposed. Among other respondents, the proposal to remove the need for a signature of the person doing the work on an initial notice got a mixed response, with AIs strongly in favour but most other respondent categories opposed. The proposal to remove the need for a signature on the insurance certificate was supported by most groups but opposed by a large majority in the construction industry category. The proposals to establish a single class of AI and to clarify the regulation 10 requirements were widely supported. The proposal to remove some stages of statutory approvals was backed by AIs and, to a lesser extent, the construction industry but was opposed by other categories.

5.5.3 Sixty-seven per cent of respondents commented on other areas of the regulations that should be covered in the review. LABC and about 50 local authority BCs said that a comprehensive review of these regulations was required to improve compliance with building regulations and health and safety. They suggested four specific areas (set out in paragraph 5.5.10) that would need to be addressed and said that they were happy to work with the Department and others on revisions to the regulations.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/other govt	Other	All responses
Q73. Do you welcome the move to review the AI regulations in the following way:							
Q73a. Remove the need for a signature of the person doing the work on an initial notice?	38	91	41	27	42	53	41
Q73b. Remove the need for a signature on the insurance certificate?	83	91	57	11	92	67	77
Q73c. Simplify the approvals process by establishing a single class of Approved Inspector?	82	91	92	63	100	80	84
Q73d. Clarification of the regulation 10 requirement?	94	82	96	88	100	93	94
Q73e. Removal of some stages of statutory approvals?	33	82	44	56	50	46	38
Q74. Are there other areas covered by the AI regulations which you think should be covered by the above review?	72	80	43	0	73	71	67
<i>Maximum number of respondents answering any one question</i>	<i>217</i>	<i>11</i>	<i>49</i>	<i>11</i>	<i>12</i>	<i>15</i>	<i>315</i>

### **Removing the need for a signature of the person doing the work on an initial notice**

- 5.5.4 This proposal got a mixed response, with AIs strongly in favour (91%) but a majority of most other respondent categories against it. The most opposed were the construction industry (73% against) followed by the local authority BCBs (62% against).
- 5.5.5 LABC and the majority of local authority BCBs said that LAs should not need to approve/reject initial notices but simply register them, as they only needed to know that work was being undertaken by a private sector BCB. Several respondents called for tighter time limits for submission of initial notices, mostly within 0–5 days of commencement of work. Some respondents said that they had experience of initial notices being submitted without the owner’s knowledge or consent and suggested that the owner/client’s signature should be required. CIC commented that there needs to be more clarity on who may sign as the AI. ACAI and the Association of Building Engineers (ABE) proposed that the review should cover the rejection criteria for initial notices to prevent rejection for bureaucratic reasons.

### **Removing the need for a signature on the insurance certificate**

- 5.5.6 This proposal was supported by most respondent categories including 91 per cent of AIs, 83 per cent of local authority BCBs and 92 per cent of planning/other government interests, but was opposed by the large majority of construction industry respondents (89% against). The reasons for their opposition were not made clear. CIC suggested that consideration should also be given to whether a register of AIs’ current insurance policies should be kept and who should be responsible for it (possibly BCA or CIC).

### **Establishing a single class of Approved Inspector**

- 5.5.7 This proposal received support from more than 80 per cent of all categories of respondents except the construction industry, where 63 per cent were in favour. LABC, ACAI and CIC all supported the proposal.

### **Clarification of the regulation 10 requirement**

- 5.5.8 This proposal was supported by 94 per cent of all respondents overall, with over 80 per cent in support in all sectors. LABC and the majority of local authority BCBs thought that regulation 10 should be clarified so that AIs should have no financial or other involvement in projects on which they are engaged so that there can be no prospect of conflicts of interest. However, some local authority BCBs commented that there should be a more thorough reassessment of this regulation. They argued that allowing AIs to design a project and inspect it under the loophole of ‘minor works’ is not a system that encourages compliance. The customer may therefore suffer by not having an impartial third party check.

### **Removal of some stages of the statutory approvals**

- 5.5.9 This proposal was supported by 82 per cent of AIs but was opposed by a majority in most other categories, including 67 per cent of local authority BCBs. Few comments were offered.

### **Other areas of the Approved Inspector regulations that should be covered by the review**

- 5.5.10 About 200 respondents commented on which other areas of the AI regulations should be covered by the review. LABC and about 50 local authority BCBs said that a comprehensive review of these regulations was required to improve compliance with building regulations and health and safety. They suggested four specific areas that would need to be addressed:

- LAs should not need to accept/reject initial notices
- The requirements for full plans applications, service plans and final certificates should be applied in the same circumstances as is being suggested for local authority BCBs
- Risk based guidance should apply equally to both AIs and LAs
- Regulation 10 should be clarified so that AIs had no financial or other involvement in projects that they are engaged on.

They said that they were happy to work with the Department and others on revisions to the regulations.

- 5.5.11 Many respondents commented that the best way of achieving a level playing field was to have the same rules applying to both sectors. One suggested that the review should bring the legislation into line with the duties imposed on local authority BCBs in terms of application types, decision time periods, site inspection regimes and completion certificates. Similarly, AIs should not be permitted to offer similar services to customers (such as design work, warranties, and fire safety engineering) or to not disclose their fee levels. ACAI said that where local authority BCBs were trading in commercial consortia outside their local boundaries, they are effectively working as AIs and should be subject to the same licensing, insurance and performance monitoring regime.
- 5.5.12 CIC thought that the regulations should be clarified in respect of the submission of initial notices (timing in relation to commencement of work), period of LA response, validity of reasons for rejection and the definition of commencement of work.

## Proposal 5.6. Review of the local authority building control charges regime

### **The proposal**

- 5.6.1 The consultation says that the LABC believes that more flexibility is needed in the charging regulations, particularly in relation to the requirement that LAs should pre-fix and publish all of their charges in advance. The Government is aiming to introduce more flexibility and accuracy into the building control charging regime by reviewing how LAs set their charges and better matching charges with the full costs of functions. The consultation lists five possible proposals which could help to achieve this as well as three proposed changes to the accounting system to improve transparency so that charges income, including surpluses, is seen to be used to cover the cost of providing building control only. The consultation says that a more detailed consultation paper on charges will be issued later this year but seeks initial responses on these proposals.

### **Overview of responses**

- 5.6.2 Eighty-two per cent of respondents dealt with this proposal. Of these, 85 per cent agreed that the current building control regime is inflexible and restrictive and in need of review, particularly with regard to competition with Approved Inspectors. There was majority agreement across all categories with the highest level (93%) among local authority BCBs and lower levels among the construction industry, professional groups and AIs (60–64%). The latter expressed some concern about fairness of competition with AIs. Most respondents, including 75 per cent of local authority BCBs, also agreed that surpluses from building control charges income were being used to fund other services within local authorities. The Government's proposed changes to the charging regime were supported by 82 per cent of respondents although AIs were again slightly less likely to be in favour (67% support) than other categories. The Local Government Association (LGA) was opposed to ring-fencing of charges income.

	% of responses answering 'Yes'						
	LA building control	Approved Inspectors	Construct. industry prof. groups	Construct. industry ex. prof. groups	Planning/ fire/other govt	Other	All responses
Q75. Do you agree that the current LA building control regime is inflexible and restrictive, particularly with regard to competition with AIs?	93	64	63	60	86	89	85
Q76. Is there evidence that surpluses derived from LA building control charges income is being used to fund other services within LAs?	76	100	57	25	60	71	72
Q77. Do you believe that the proposals identified in paragraphs 272 and 273 will provide the flexibility and transparency sought?	83	67	78	80	92	77	82
<i>Maximum number of respondents answering any one question</i>	<i>219</i>	<i>11</i>	<i>52</i>	<i>10</i>	<i>14</i>	<i>18</i>	<i>324</i>

### **Need for review of building control charging regime**

- 5.6.3 There was general agreement that the current charging regime is too inflexible and restrictive, particularly with regard to competition with AIs. There was some variation between correspondent categories, with 93 per cent of local authority BCBs supporting the proposition, but smaller majorities among the construction industry, professional groups and AIs themselves (60–64%). A few respondents expressed some concerns, eg that reductions in LA charges might result in less competition because AIs would be driven out of business. Some felt that the present system at least provided some certainty and were not in favour of negotiated, project-specific fees.
- 5.6.4 The ACAI agreed that local authority BCBs should be given the same commercial freedoms and opportunities to innovate as the private sector, but said that they must then be subject to the same controls as apply to privately trading companies. This would

ensure a genuine 'level playing field' and a better building control system for the future. CIBSE also felt that the most important point was that there must be a level playing field for local authority BCBs and AIs. They all needed to work to the same standards and be seen to enforce them. CIBSE suggested that there is perhaps a need for a Building Inspectorate to oversee quality and effectiveness in the building control arena.

### **Using surpluses from building control charges to fund other local authority services**

- 5.6.5 Nearly three-quarters of all respondents, including 76 per cent of local authority BCBs, agreed that there was evidence that surpluses derived from building control charging income was being used to fund other local authority services. Agreement was lowest among the construction industry (only 25%) but AIs were unanimous that surpluses were being used in this way. However, whereas local authority BCBs and most other respondent categories were concerned that surpluses should be retained and reinvested back into training and extra resources for the building control service, AIs were worried about surpluses being used to create an anti-competitive environment. ACAI commented that clearly some public money and income from builders was being diverted to fund the marketing business, LABC services, and support its commercial promotions with warranty bodies or other services. Several respondents also had reservations about fees being manipulated for other policy goals (eg reduced fees for 'green' projects) as this creates distortions in the market.
- 5.6.6 About 25 local authority BCBs commented that in their authority the building control trading account was ring-fenced, but even some of these acknowledged that surpluses were sometimes reduced by excessive recharges for central services and overheads, the basis for which was not transparent. Some complained that there was little support outside building control departments for the CIPFA guidance on BCB finance.
- 5.6.7 Most local authority BCBs seemed to think that the practice of diverting surpluses was widespread, often by disproportionate recharges for central services. LABC said that they were sure that many of its members would furnish the Department with such evidence as part of this consultation process, but in practice very few did so and most seemed to be relying on anecdotal evidence regarding other local authority BCBs. About half a dozen said they were willing to supply the Government with evidence that surpluses were being used to fund other services.
- 5.6.8 Interestingly, the LGA argued that the suggestion in the consultation paper that charges income is in any need of 'safeguarding' is based on a misconception. They said that the Building Act 1984 and the 1998 charging regulations authorise the charging of fees that are "not less than" the costs of the related functions. The legislation does not require that fee income be restricted, or that it be applied to any particular function of the local authority. The presence of competition, alongside democratic accountability, is the appropriate protection for local people against excessive fees. In

line with the Government's declared approach to local government finance, and its own longstanding policy, LGA does not agree that the Government should enforce the ring-fencing of councils' building control operations. Councils must adhere to legal and audit requirements, and corporate decisions on budgets should recognise the competitive market within which building control operates and the need for investment in service quality.

### **Providing flexibility and transparency**

- 5.6.9 A large majority of respondents (82%) agreed that the proposed changes to the charging regime would provide the intended flexibility and transparency, although the level of agreement among AIs (67%) was rather lower than for other respondent categories. LABC said that they were keen to work with the Department in developing these proposals. They also drew the Department's attention to the suggestions made earlier in their response in relation to allowing differential charging where BCBs' inputs differ due to risk assessments and the quality of the builder. CIOB supported this latter point.
- 5.6.10 ACAI said that ring-fencing building control income was desirable, but they strongly believed that local authority BCBs that wanted the financial freedoms of a trading company must therefore be set up as trading companies. NHBC agreed, making the point that freedom to set fees effectively forces building control away from local government into a private trading position, where the business competes in full with Approved Inspectors. For a free trading body to remain an enforcer of its rival is anti-competitive and as such must be separated from local authorities and made subject to the same governance as Approved Inspectors.
- 5.6.11 Again LGA took a different view, arguing that Government should allow councils to set fees at a level which is suitable for local circumstances and fully meets the costs of provision of the relevant service, including costs of improvement and modernisation. Councils are subject to rigorous financial audit, and local democratic accountability. Taken together, these provide a high level of assurance against any attempt to set fees at unreasonable levels. National fee regimes set centrally by government departments can never cater for the variety of local circumstances and costs, and often result in councils not being able to set charges at levels which enable them to operate a professional and high quality service.
- 5.6.12 The LGA supported the proposals in the consultation for a review of the charging regime but stressed that its terms of reference must include a thorough appraisal of the option of allowing councils to set fees for themselves without government controls, and this should be the preferred option unless extremely compelling reasons emerged to the contrary — of a kind of which they were not aware.

# Chapter 6

## Other comments

- 6.1 A total of 200 bodies<sup>4</sup> either offered free-standing comments which were not tied to the specific proposals in the consultation paper, or provided additional comments in the 'any other comments' box at the end of the consultation questionnaire. Most of the points raised in this way are reported under the relevant proposal in preceding chapters of this report.
- 6.2 A substantial number of *local authority building control bodies* used this section to express the view that the dual public/private system of building control was not working, and that building control should be returned to the public sector exclusively. Many supported LABC's view that there were several important areas that the Department had not addressed in the consultation, in particular aspects of enforcement, statutory time limits and exemptions. These and other LABC concerns are reported in Annex D.
- 6.3 A couple of the *AI respondents* used this section to comment that the whole consultation had an undue focus on local authority building control. Others offered a variety of proposals for change to the fundamental arrangements for building control, including the appointment of a single national regulator to oversee both sectors, the involvement of AIs in enforcement, and on the Scottish model, a requirement for a building warrant to be in place before work on site can commence.
- 6.4 There were concerns from the *construction industry sector* about lack of consistency (CPA) and the need for simplification (HBF). FMB listed 14 key recommendations including providing for the appointment of a single inspector and for improving the practical industry experience of building inspectors. A couple of professional group respondents thought that the standards of structural design were not adequately checked under current arrangements and that this could result in a major disaster at some point in the future.
- 6.5 Among comments from *other bodies and individuals*, there were concerns that sustainability and climate change mitigation issues are not being adequately addressed through the current arrangements (London Councils, the Association for Energy Conservation); suggestions that the role of regularisation applications needs to be looked at; and concerns from accessibility groups that Part M requirements are not being enforced with sufficient rigour.

<sup>4</sup> 123 local authority BCs, 8 AIs, 27 from the construction industry and construction industry professional groups, 12 from fire and rescue services or other government, and 20 'other'.

- 6.6 Two *householders* commented from their personal unhappy experiences with the building control system. One urged the need for better enforcement and public information, and felt that the current proposals did not fully address her concerns. Another felt that her particular problems would have been avoided had full plans rather than a building notice been required for her loft conversion.

# Annex A

## Respondents by category

Respondents are listed here by the six broad categories used in analysis:

- Local authority building control departments and officers
- Approved Inspectors
- Construction industry professional groups
- Construction industry excluding professional groups
- Planning/fire and rescue/ other government interests
- Other

The detailed categories shown are generally self-categorisation by the respondent. Open responses not on the consultation form were assigned a detailed category.

### Broad category

### Detailed category

#### Local authority — Building control

Andrew Dickson	Local authority – Building control
Andy Limb	Local authority – Building control
Barry Todd	Local authority – Building control
Brendan Atkinson	Local authority – Building control
Chris McGoldrick	Local authority – Building control
Chris Stevens	Local authority – Building control
Chris Weller	Local authority – Building control
Christopher Smith	Local authority – Building control
Graham King	Local authority – Building control
Graham Shipley	Local authority – Building control
Gregory Edmonds	Local authority – Building control
Ian Glendinning	Local authority – Building control
Ian Malson	Local authority – Building control
Ian Vaughan-Evans	Local authority – Building control
James Frieland	Local authority – Building control
Jason Michael Scott	Local authority – Building control
Jeff Goodfellow	Local authority – Building control
Joanne Boshier	Local authority – Building control
John Jackson	Local authority – Building control
Jonathan Cornell	Local authority – Building control
Keith Eccles	Local authority – Building control

**Broad category****Detailed category**

<b>Broad category</b>	<b>Detailed category</b>
Keith Osborne	Local authority – Building control
Kevin Bunsell	Local authority – Building control
Leigh Burgess	Local authority – Building control
Mark Barrett	Local authority – Building control
Mark Bowman	Local authority – Building control
Mark Page	Local authority – Building control
Mark Saunders	Local authority – Building control
Mark Smith	Local authority – Building control
Mark Stovell	Local authority – Building control
Martin Ramsey	Local authority – Building control
Matthew Dowdell	Local authority – Building control
Michael Ingram	Local authority – Building control
Mike Groves	Local authority – Building control
Mike Harding	Local authority – Building control
Mike Radley	Local authority – Building control
Nigel Daniels	Local authority – Building control
Paul Hymers	Local authority – Building control
Paul Thomas	Local authority – Building control
Peter Baker	Local authority – Building control
Peter Bayley	Local authority – Building control
Peter Bridgstock	Local authority – Building control
Peter Honey	Local authority – Building control
Richard Ellicott	Local authority – Building control
Simon Towns	Local authority – Building control
Stephen Moore	Local authority – Building control
Stephen Shorrocks	Local authority – Building control
Sue Wilcock	Local authority – Building control
Tim Cliffe	Local authority – Building control
Tony Cooper	Local authority – Building control
Tony Van Veghel	Local authority – Building control
Trevor Rogers	Local authority – Building control
Wayne Timperley	Local authority – Building control
Alnwick District Council – Steven Ridpath and others	Local authority – Building control
Amber Valley BC – Dave Chard	Local authority – Building control
Arun District Council – Jim Henn	Local authority – Building control
Aylesbury Vale DC – Adam Heeley	Local authority – Building control
Barrow BC – Kevan Morrison	Local authority – Building control
Bath and NE Somerset Council – Philip Mansfield	Local authority – Building control
Bath and NE Somerset Council – Stephen Atkins	Local authority – Building control
Blackburn with Darwen BC – Mel Young	Local authority – Building control
Blackburn with Darwen BC – Paul Newton	Local authority – Building control
Bolton LABC – David Melling	Local authority – Building control
Bolton MBC – Peter Smith	Local authority – Building control
Borough of Poole – Andy Holmes	Local authority – Building control
Borough of Poole BCS – A Muzzall	Local authority – Building control

**Broad category****Detailed category**

Broad category	Detailed category
Boston BC – Simon Sandland-Taylor	Local authority – Building control
Bournemouth BC – Ian Butterfield	Local authority – Building control
Bournemouth BC – Paul Sired	Local authority – Building control
Bournemouth BC – Peter Trickett	Local authority – Building control
Bracknell Forest BC – Barry Flavin	Local authority – Building control
Bradford Building Control – Alan Dawson	Local authority – Building control
Braintree DC – John Brett	Local authority – Building control
Brighton and Hove Council – Mike Sansom	Local authority – Building control
Bristol City Council – Andrew Little	Local authority – Building control
Bury MBC – Phil Jackson	Local authority – Building control
Bury MBC – Christopher May	Local authority – Building control
Bury MBC – Robert Thorpe	Local authority – Building control
Calderdale Building Control – Phil Deacon	Local authority – Building control
Cannock Chase DC – Paul Beckley	Local authority – Building control
Carrick DC – David Allen	Local authority – Building control
Castle Point BC – Alan Eames	Local authority – Building control
Chelmsford BC – Andrew Savage	Local authority – Building control
Cheltenham BC – Iain Houston	Local authority – Building control
Chichester DC – Garry Goacher	Local authority – Building control
Christchurch BC – M Thompson	Local authority – Building control
City of London Corporation – David Clements	Local authority – Building control
City of London Corporation – Geoffrey Martin	Local authority – Building control
City of London Corporation – Russell Clowser	Local authority – Building control
CNC Building Control – Kevin Love	Local authority – Building control
Colchester BC – Peter Tyler	Local authority – Building control
Conwy BC – Richard Tiedtke	Local authority – Building control
Copeland BC – Mark Key	Local authority – Building control
Craven DC – J Cooper	Local authority – Building control
Darlington BC – Andrew Clarkson	Local authority – Building control
Derby CC – Simon Starkey	Local authority – Building control
Derby City Council – Mick Henman	Local authority – Building control
Devon Building Control Partnership – Roger Collins	Local authority – Building control
Doncaster MBC – Paul Cooper	Local authority – Building control
East and South Cheshire Building Control Partnership – Ian Bunn	Local authority – Building control
East Devon DC – Paul Seager	Local authority – Building control
East Northamptonshire Council – Malcolm Shepherd	Local authority – Building control
East Riding of Yorkshire BC – Richard Hobson	Local authority – Building control
Elmbridge BC – Clive Lomax	Local authority – Building control
Exeter CC – Alan Stokes	Local authority – Building control
Gedling BC – David Ewing	Local authority – Building control
Gloucester City Council – Colin Boughen	Local authority – Building control
Gloucester City Council – Philip Harbron	Local authority – Building control
Gloucester City Council – Richard Ferris	Local authority – Building control

**Broad category****Detailed category**

Gloucester City Council – Tina Bromilow	Local authority – Building control
Gloucestershire Building Control County Group – Iain Houston	Local authority – Building control
Great Yarmouth BC – David Nudd	Local authority – Building control
Harborough DC – Jack Taylor	Local authority – Building control
Harlow District Council – Richard Greaves	Local authority – Building control
Hartlepool BC – G Hutchinson	Local authority – Building control
Hastings BC – Brian Bristow	Local authority – Building control
Herefordshire Council – Anthony Brooks	Local authority – Building control
Herefordshire Council – Chris Jenner	Local authority – Building control
Herefordshire Council – David Jones	Local authority – Building control
High Peak BC – Jeremy Toone	Local authority – Building control
Hull City Council – Paul Everall	Local authority – Building control
Kennet DC – Graham Haddrell	Local authority – Building control
Kennet DC – John Hughes	Local authority – Building control
Kent Building Control – Martin Leggatt	Local authority – Building control
King’s Lynn and West Norfolk BC – Mark Paflin	Local authority – Building control
Kirklees BC – Neal Fearn	Local authority – Building control
LABC Central Region – Richard Beel	Local authority – Building control
LABC West Midlands Region – Tony Perks	Local authority – Building control
LB Camden – George Loureda	Local authority – Building control
LB Croydon – David Lee	Local authority – Building control
LB Croydon – Phil Young	Local authority – Building control
LB Croydon – Richard Patterson	Local authority – Building control
LB Enfield – Peter Card	Local authority – Building control
LB Hackney – Lola Majekodunmi	Local authority – Building control
LB Hillingdon – Ian Inniss	Local authority – Building control
LB Lambeth – Kevin Gathercole	Local authority – Building control
LB Newham – Len Davies	Local authority – Building control
LB Redbridge – Amrik Notta	Local authority – Building control
LB Southwark – Dave Woolmer	Local authority – Building control
LB Tower Hamlets – Peter Hamilton	Local authority – Building control
LB Waltham Forest – Julian Ruaux	Local authority – Building control
LB Waltham Forest – Liam O’Donohue	Local authority – Building control
LB Wandsworth – A Thiru Moolan	Local authority – Building control
LB Wandsworth – James Owen	Local authority – Building control
Leeds City Council – Clive McKevitt	Local authority – Building control
Leicester City Council – Dave Smith	Local authority – Building control
Lewes DC – Roger Carsons	Local authority – Building control
Lichfield DC – Ged Cooper	Local authority – Building control
Liverpool City Council – Keith Bold	Local authority – Building control
London District Surveyors Association – Tony Fenton	Local authority – Building control
Manchester City Council – A C Hough	Local authority – Building control
Manchester City Council – K Beckles	Local authority – Building control

**Broad category****Detailed category**

Mansfield BC – David Pratt	Local authority – Building control
Mid Beds DC – Peter Keates	Local authority – Building control
N Staffordshire BC Partnership – John Brough	Local authority – Building control
N Wilts DC – Chris Turnbull	Local authority – Building control
N Wilts DC – Richard Stubbs	Local authority – Building control
N Wiltshire DC – Paul Kalbskopf	Local authority – Building control
Newark and Sherwood DC – David Ewing	Local authority – Building control
North Dorset DC – M Crisp	Local authority – Building control
North Wilts DC – Sean Seager	Local authority – Building control
North Wiltshire DC – Nigel Daniels	Local authority – Building control
Northampton Borough Council – Lee Hunter	Local authority – Building control
NW Leicestershire DC – David Darlington	Local authority – Building control
Oldham MBC – Jeremy Hall	Local authority – Building control
Oxford City Council – Paul Kirkley	Local authority – Building control
Portsmouth Building Control – Geoff Hill	Local authority – Building control
RB of Windsor and Maidenhead – Roger Paine	Local authority – Building control
Reading BC – Ian Johnson	Local authority – Building control
Redditch BC – David Bradshaw	Local authority – Building control
Redditch BC – Ian Coley	Local authority – Building control
Rhondda Cynon Taf CBC – Stephen Long	Local authority – Building control
Ribble Valley BC – Geoff Lawson	Local authority – Building control
Rochdale MBC – Anthony Taylor	Local authority – Building control
Rotherham MBC – Keith Hirst	Local authority – Building control
Rushcliffe BC – John Neal	Local authority – Building control
Sandwell MBC – Graham Downs	Local authority – Building control
Sefton MBC – Ian Berrington	Local authority – Building control
Sheffield City Council – Andrew Taylor	Local authority – Building control
Shrewsbury and Atcham BC – Dennis Bowers	Local authority – Building control
South Derbyshire Council – Mark Hewings	Local authority – Building control
South Gloucestershire Council – Maria Harvey	Local authority – Building control
South Gloucestershire Council – Martin Harris	Local authority – Building control
South Kesteven DC – Tony Spencer	Local authority – Building control
South Lakeland DC – Eugene McIvor	Local authority – Building control
South Shropshire DC – Ian Maddox	Local authority – Building control
South Tyneside Council – Ian Wilkinson	Local authority – Building control
Southampton and Eastleigh Councils – N Ferris	Local authority – Building control
St Albans District Council – Alan Duncombe	Local authority – Building control
Staffordshire Moorlands DC – Andrew Turner	Local authority – Building control
Stratford-on-Avon DC – Tony Perks	Local authority – Building control
Stroud DC – Paul Bowley	Local authority – Building control
Sunderland City Council – Dawn McQuillan	Local authority – Building control
Swansea BC – Peter Richards	Local authority – Building control
Swindon BC – Ian Tuck	Local authority – Building control
Swindon BC – James Bishop	Local authority – Building control

**Broad category****Detailed category**

Swindon BC – Keith Herbert	Local authority – Building control
Swindon BC – Liz Burton	Local authority – Building control
Swindon BC – Neil Linsell	Local authority – Building control
Taunton Deane BC – Brian Yates	Local authority – Building control
Telford and Wrekin Council – Peter Watkins	Local authority – Building control
Tendring DC – Alan Corbyn	Local authority – Building control
Test Valley BC – Graham Murrell	Local authority – Building control
Tewkesbury BC – Dave Robinson	Local authority – Building control
Tewkesbury BC – Paul Begley	Local authority – Building control
Torfaen CBC – Wayne Collier	Local authority – Building control
Tynedale Council – Patrick Doherty	Local authority – Building control
Urban Vision – Salford City Council – Paul Newton	Local authority – Building control
Vale of White Horse DC – Richard Beel	Local authority – Building control
Wakefield MDC – Tom Reid	Local authority – Building control
Walsall MBC – Mark Skidmore	Local authority – Building control
Wealden DC – Bob Thornely	Local authority – Building control
Welwyn Hatfield council – Barry Dawson	Local authority – Building control
West Dorset DC – D. Potter	Local authority – Building control
West Dorset DC – L. Trevett	Local authority – Building control
West Lancashire DC – Malcolm Kidd	Local authority – Building control
West Oxfordshire DC – Matthew Smith	Local authority – Building control
West Wiltshire DC – Alison Lambdin	Local authority – Building control
Westminster City Council – Tony Fenton	Local authority – Building control
Weymouth and Portland BC – Mike Groves	Local authority – Building control
Wigan Council – Paul Swift	Local authority – Building control
Wokingham BC – Neil Badley	Local authority – Building control
Worthing BC – Tony Downes	Local authority – Building control
Wrexham County BC – Dave Sharp	Local authority – Building control
Wyre BC – Maria Blundy	Local authority – Building control

**Approved Inspectors**

Adrian Godsave	Approved Inspector (Corporate)
John Lewis	Approved Inspector (Corporate)
Assent Building Control Ltd – Adrian Tanswell	Approved Inspector (Corporate)
Assent Building Control Ltd – Mark Fletcher	Approved Inspector (Corporate)
Assent Building Control Ltd – Mike Wilson	Approved Inspector (Corporate)
Assent Building Control Ltd – Paul Armstrong	Approved Inspector (Corporate)
Assent Building Control Ltd – Richard Batte	Approved Inspector (Corporate)
Assent Building Control Ltd – Terry Gordon	Approved Inspector (Corporate)
Association of Consultant Approved Inspectors (ACAI)	Trade body or association
BBS Building Control Ltd – Peter King	Approved Inspector (Corporate)
Butler and Young Ltd – Geoff Wilkinson	Approved Inspector (Corporate)
Butler and Young Ltd – Richard Protheroe	Approved Inspector (Corporate)

**Broad category**

**Detailed category**

Carillion Specialist Services Ltd – Julian O’Rourke	Approved Inspector (Corporate)
MLM Building Control – Michael Wadood	Approved Inspector (Corporate)
On Site Building Control Ltd – Roy Judge	Approved Inspector (Corporate)
Quadrant Approved Inspectors – Nick Ellson	Approved Inspector (Corporate)
Quadrant Approved Inspectors – Paul Knight	Approved Inspector (Corporate)
Salus Approved Inspectors – Paul Meadows	Approved Inspector (Corporate)

**Broad category**

**Detailed category**

**Construction industry professional groups**

Adam Dawson	Individual in practice, trade or profession
Anthony Ferguson	Civil/structural engineer
Bernard Wooster	Individual in practice, trade or profession
Bob Jones	Individual in practice, trade or profession
Bob Newell	Consultancy
Carole Townsend	Architects
Charles Leigh-Dugmore	Consultancy
Chris Bolton	Civil/structural engineer
Chris Brummitt	Professional body or institution
Clive Malcolm Brown	Individual in practice, trade or profession
Clive Millburn	Architects
Danny Davis	Professional body or institution
David Brown	Individual in practice, trade or profession
David Thompsett	Consultancy
Eileen Slater	Architects
F. Law	Individual in practice, trade or profession
Ged O’Sullivan	Consultancy
George Dawson	Individual in practice, trade or profession
Gerald Sharp	Architects
J. Martin	Architects
Jeffrey Goodchild	Architects
John Barber	Individual in practice, trade or profession
John Evans	Architects
John Gordon	Individual in practice, trade or profession
Ken Hastings	Architects
Kristof Bevernage	Individual in practice, trade or profession
L Butler	Consultancy
Mark Hewings	Individual in practice, trade or profession
Martin Elvidge	Civil/structural engineer
Martyn Griffiths	Individual in practice, trade or profession
Nigel Lloyd	Individual in practice, trade or profession
Oliver Palmer	Architects
P.J. Rouse	Individual in practice, trade or profession
Paul Harrison	Architects

**Broad category****Detailed category**

<b>Broad category</b>	<b>Detailed category</b>
Paul Johnston	Individual in practice, trade or profession
Peter Phillips	Professional body or institution
Philip Nicholas	Consultancy
Rafael Waksberg	Architects
Robert Biggs	Consultancy
Simon Lovell	Civil/structural engineer
Simon Pitchers	Professional body or institution
Simon Simmonds	Architects
Steve T. Davies	Civil/structural engineer
Tim Richardson	Consultancy
3DReid – Stuart Barlow	Architects
Association of Building Engineers	Professional body or institution
Building Control Alliance	Professional body or institution
Chartered Institute of Architectural Technologists	Professional body or institution
Chartered Institute of Building	Professional body or institution
Chartered Institution of Building Services Engineers (CIBSE)	Professional body or institution
Clive Malim Architects – Clive Malim	Architects
Construction Industry Council	Professional body or institution
Cotswold DC – Barry Trueman	Professional body or institution
Cotswold DC – Gavin McNaught-Davis	Professional body or institution
Cotswold DC – Richard Jones	Professional body or institution
Electrical Safety Council – M C Clark	Professional body or institution
Farrar Bamforth Associates – John Farrar	Architects
Federation of Master Builders	Professional body or institution
Gladwood (BCS) Ltd – Joe Champion	Consultancy
Gloucester City Council – Philip Harbron	Individual in practice, trade or profession
Historic Building Advisory Service – R Hill	Consultancy
Howes Partnership – R Howes	Architects
I. K. Wyatt Building Design Ltd – Ian Wyatt	Individual in practice, trade or profession
Institute of Historic Building Conservation	Professional body or institution
Institution of Civil Engineers	Professional body or institution
Institution of Structural Engineers	Professional body or institution
LABC	Professional body or institution
LABC Cymru – Chris Jones	Professional body or institution
Leonard Woodhams Architects – Leonard Woodhams	Architects
Martin Dell Associates Ltd – Martin Dell	Individual in practice, trade or profession
Royal Institute of British Architects	Professional body or institution
Royal Institution of Chartered Surveyors	Professional body or institution
Royal Town Planning Institute	Professional body or institution
SCOSS/CROSS – John Carpenter	Professional body or institution
SEDC Ltd – Fawad Akhtar	Consultancy
Swindon BC – unknown	Professional body or institution
Thomasons LLP – Alasdair Beal	Civil/structural engineer

Broad category	Detailed category
<b>Construction industry (excl. prof. groups)</b>	
Donald Galt	Builder – small builders (repairs/ maintenance/extensions)
John Bell	Builder – main contractor (commercial/ volume housebuilder)
Peter Craigie	Builder – main contractor (commercial/ volume housebuilder)
Richard Vogt	Housing Association (registered social landlords)
Simon Harrison	Builder – small builders (repairs/ maintenance/extensions)
Brick Development Association Ltd	Trade body or association
Construction Products Association	Trade body or association
Corus – Richard Dixon	Manufacturer
Electrical Contractors' Association	Trade body or association
Home Builders Federation	Trade body or association
Jones Homes – John Shaw	Builder – main contractor (commercial/ volume housebuilder)
Jones Homes – Rod Peel	House or property developer
Miller Homes Ltd – S E Wielebski	Builder – main contractor (commercial/ volume housebuilder)
Modular and Portable Building Association	Trade body or association
National Federation of Roofing Contractors	Trade body or association
<b>Planning/fire and rescue/other government</b>	
Philip Minchew	Fire and rescue authority
Caradon DC – I Kay	Local authority – other
Chief Fire Officers' Association	Professional body or institution
Core Cities of England and Wales –	Local authority – other
Devon and Somerset Fire and Rescue Service –	Fire and rescue authority
Graham Jackson	Other non-governmental organisation
Essex Fire and Rescue Service – Andy Stapleton	Trade body or association
Fire Industry Association	Trade body or association
Fire Protection Association	Trade body or association
Fire Safety Development Group	Trade body or association
Institution of Fire Engineers	Professional body or institution
Local Government Association	Local authority – other
London Councils	Local authority – other
London Fire Brigade	Fire and rescue authority
Mendip DC – Tracy Aarons	Local authority – other
Milton Keynes Council – Kate Page	Local authority – other
Monmouthshire CC – Colin Palmer	Local authority – other
North Kesteven DC – Hugh Johnson	Local authority – other
Northamptonshire Fire and Rescue Service – Baz Fox	Fire and rescue authority

Broad category	Detailed category
Redditch BC – Colin Audritt	Local authority – other
South Northamptonshire Council – Robert Boscott	Local authority – other
Stockport MBC – Ian Vaughan	Local authority – other
Wolverhampton CC – Richard Davis	Local authority – other
<b>Other</b>	
Andrew Vittery	Others
Anonymous (1)	Others
David Hill	Householder
David Potter	Others
Denis Hands	Others
Derek Coleman	Others
George Jones	Others
Haydn Williams	Householder
Helena Turner	Householder
Roger Hitchin	Others
Roger Rudkin	Insurer
Steven Fayers	Householder
Association for the Conservation of Energy – Andrew Warren	Specific interest or lobby group
Association of British Theatre Technicians – David Adams	Specific interest or lobby group
BRE Global Ltd	Other
Brecknock Access Group – John Phillips	Specific interest or lobby group
BSI British Standards	Others
Business Community Safety Forum (BCSF) – Graham Ellicott	Others
Cavity Insulation Guarantee Agency – Peter Dicks	Others
Conwy Voluntary Access Group – Laura Crawford	Specific interest or lobby group
Custodial Property – Les James	Property management
Disability Advice Project – A Crowhurst	Specific interest or lobby group
FM-Nectar part L Review Team – Malcolm Bell	Research/academic organisation
London South Bank University – Ian Bourne	Research/academic organisation
London Underground Ltd – John Caves	Others
Manchester Disabled People’s Access Group – Felicity Harris	Specific interest or lobby group
NHBC	Others — housing warranty provider and Approved Inspector
Northgate Information Systems – Kathy Sutton	Others
Robust Details Ltd – Dave Baker	Others
RoofBLOCK Ltd – Andrew Schofield	Others
UKAS	Others
Wrexham Access Group – John ap Richard	Specific interest or lobby group

# Annex B

## Overview of responses by consultation proposal and broad respondent type

Proposal	Numbers of respondents	% supportive of lead proposition <sup>5</sup>		
		All respondents	LABC	Construction industry <sup>6</sup>
1.1 Vision	349	94	97	83
1.2 Procedural guide	353	97	99	90
1.3 Integrating planning and BC	351	55	51	63
1.4 Other tools	353	94	96	91
	<i>Average 351</i>			
2.1 Periodic review system	350	95	98	89
2.2 Standstill period	348	95	97	88
2.3 Approved Documents	341	33	27	44
2.4 Project guides	352	93	97	88
2.5 References in Approved Docs	346	92	95	85
2.6 Planning Portal	342	92	98	81
	<i>Average 347</i>			
3.1 Guidance on risk assessment	339	81	81	76
3.2 Removing stat. notification	338	53	53	47
3.3 Mandatory completion certs.	347	93	92	94
3.4 Limiting building notices	345	91	91	91
3.5 Stop notices	344	85	83	87
3.6 Fixed monetary penalties	338	68	68	60
3.7 Time limits for enforcement	337	93	97	81
	<i>Average 341</i>			
4.1 Competent persons scheme	339	86	89	74
4.2 Other forms of certification	334	13	6	30
4.3 Appointed person role	329	27	20	36
4.4 Pattern book approach	318	47	44	49

Proposal	Numbers of respondents	% supportive of lead proposition <sup>5</sup>		
		All respondents	LABC	Construction industry <sup>6</sup>
4.5 Determinations and appeals	330	67	63	75
	<i>Average 330</i>			
5.1 Performance indicators	318	81	83	74
5.2 Perf. management system	321	83	83	80
5.3 Handling complaints	308	42	35	61
5.4 Shared working approaches	290	63	69	45
5.5 Review of AI regulations	315	41	38	38
5.6 LA building control charges	324	85	93	63
	<i>Average 312</i>			

<sup>5</sup> The lead propositions are identified in Annex C.

<sup>6</sup> Includes respondents in the categories 'construction industry professional groups' and 'construction industry excluding professional groups'.

# Annex C

## Questions and response numbers

Those questions identified as lead propositions in Table 3 are marked \*\*

### **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? \*\*
- Q2. Are the areas covered in the boxed text generally the right ones?
- Q3. Are there other areas a vision statement should cover?
- Q4. Is what we say about quality generally correct?
- Q5. Are there other issues under quality which we need to cover?

### **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? \*\*
- 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?
- 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?
- 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?

Question number		LA Building Control	Approved Inspectors	Construction industry professional groups	Construction industry (exc. professional groups)	Planning/ Fire & Rescue/ other government	Other	Total
Q1	Yes	215	11	54	10	14	24	328
	No	7	–	11	2	–	1	21
	Total	222	11	65	12	14	25	349
Q2	Yes	215	10	53	11	14	22	325
	No	6	1	9	1	–	2	19
	Total	221	11	62	12	14	24	344
Q3	Yes	121	4	37	5	7	13	187
	No	94	7	26	6	6	8	147
	Total	215	11	63	11	13	21	334
Q4	Yes	219	10	52	9	12	16	318
	No	2	–	7	2	2	5	18
	Total	221	10	59	11	14	21	336
Q5	Yes	58	3	27	3	5	10	106
	No	131	5	22	6	6	8	178
	D/K	19	2	10	2	4	2	39
	Total	208	10	59	11	15	20	323
Q6	Yes	217	11	59	14	15	26	342
	No	3	–	7	1	–	–	11
	Total	220	11	66	15	15	26	353
Q7	Yes	182	9	45	13	14	18	281
	No	36	2	22	2	1	7	70
	Total	218	11	67	15	15	25	351
Q8	Yes	204	10	55	13	14	22	318
	No	13	–	10	2	1	–	26
	Total	217	10	65	15	15	22	344
Q9	Yes	94	5	27	4	7	12	149
	No	114	4	34	10	7	8	177
	Total	208	9	61	14	14	20	326

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

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

**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?
- Q15. Do you agree with our analysis of why a shorter or longer time frame does not work?
- Q16. Do you agree that we should start the first cycle of review in line with commitments to review Part L (ie starting in 2010)?

**Proposal 2.2: Introduce a standstill period between reviews**

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

Question number		LA Building Control	Approved Inspectors	Construction industry professional groups	Construction industry (exc. professional groups)	Planning/ Fire & Rescue/ other government	Other	Total
Q10	Yes	112	3	40	11	9	18	193
	No	106	8	26	4	6	8	158
	Total	218	11	66	15	15	26	351
Q11	Yes	111	–	19	3	8	5	146
	No	92	10	41	9	7	13	172
	Total	203	10	60	12	15	18	318
Q12	Yes	212	8	61	14	14	24	333
	No	8	3	6	1	1	1	20
	Total	220	11	67	15	15	25	353
Q13	Total	194	5	40	9	13	18	279
Q14	Yes	215	11	59	12	15	20	332
	No	5	–	6	3	–	4	18
	Total	220	11	65	15	15	24	350
Q15	Yes	209	10	53	12	15	16	315
	No	10	1	8	2	–	3	24
	Total	219	11	61	14	15	19	339
Q16	Yes	213	10	51	13	12	20	319
	No	6	1	12	2	2	1	24
	Total	219	11	63	15	14	21	343
Q17	Yes	214	9	57	10	15	24	329
	No	6	2	3	2	–	1	14
	D/K*	1	–	3	1	–	–	5
	Total	221	11	63	13	15	25	348

\* D/K = Don't know

**Proposal 2.3: Rename, revise and reduce Approved Documents**

- Q18. Do you agree that Approved Documents should be renamed? If yes, any suggestions? \*\*
- Q19. Do you think our approach to merging and reducing the number of Approved Documents over time is the right one? \*\*
- Q20a. Do you use the Approved Documents on-line?
- Q20b. Or did you purchase a Part?
- Q20c. Or a full bound set?
- Q21a. Do you have other suggestions to improve the presentation and usability of these documents? Hard copies.
- Q21b. Do you have other suggestions to improve the presentation and usability of these documents? Electronic copies.

**Proposal 2.4: Project guides**

- Q22. Do you support the development of project guidance for domestic extensions and loft conversions? \*\*
- Q23. What in your view are the other areas where compliance is thought to be low and a project guide might be of help?

Question number		LA Building Control	Approved Inspectors	Construction industry professional groups	Construction industry (exc. professional groups)	Planning/ Fire & Rescue/ other government	Other	Total
Q18	Yes	58	4	28	6	4	11	111
	No	159	7	35	8	10	11	230
	Total	217	11	63	14	14	22	341
Q19	Yes	141	5	45	10	12	12	225
	No	72	6	16	4	1	9	108
	Total	213	11	61	14	13	21	333
Q20a	Yes	172	8	44	8	9	15	256
	No	43	3	16	5	6	4	77
	Total	215	11	60	13	15	19	333
Q20b	Yes	158	8	36	1	9	8	220
	No	42	3	15	11	6	6	83
	Total	200	11	51	12	15	14	303
Q20c	Yes	169	10	27	2	6	5	219
	No	45	1	23	10	7	10	96
	Total	214	11	50	12	13	15	315
Q21a	Yes	143	7	35	6	6	13	210
	No	60	3	22	7	7	6	105
	Total	203	10	57	13	13	19	315
Q21b	Yes	147	8	41	7	8	15	226
	No	56	2	18	7	5	6	94
	Total	203	10	59	14	13	21	320
Q22	Yes	213	10	58	12	11	24	328
	No	5	1	7	–	–	–	13
	D/K	2	–	1	2	4	2	11
	Total	220	11	66	14	15	26	352
Q23	Total	199	9	46	9	8	19	290

**Proposal 2.5: Establish criteria for references to third party documents**

- Q24. Do you find references in the Approved Documents helpful? \*\*
- 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?
- Q26. What other criteria need to be applied?
- Q27. Are there other problems with third party documents which we need to address?

**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? \*\*
- Q29. Do you use the planning portal?
- Q30. If yes, do you find it useful?

**Proposal 3.1: Provide specific guidance on risk assessing projects**

- Q31. Do you agree specific guidance on risk assessing projects would help? \*\*
- Q32. For what particular projects would you most welcome guidance in the first instance?
- Q33. (BCBs only) What guides do you currently use to help you risk-assess applications and draw up an inspection notification framework?

Question number		LA Building Control	Approved Inspectors	Construction industry professional groups	Construction industry (exc. professional groups)	Planning/ Fire & Rescue/ other government	Other	Total
Q24	Yes	207	11	54	14	14	19	319
	No	12	–	12	–	–	2	27
	Total	219	11	66	14	14	21	346
Q25	Yes	209	11	58	13	13	20	324
	No	8	–	7	1	–	3	19
	Total	217	11	65	14	13	23	343
Q26	Total	105	6	32	5	7	15	170
Q27	Total	143	7	35	8	12	14	219
Q28	Yes	214	7	52	9	12	23	317
	No	5	4	11	3	1	1	25
	Total	219	11	63	12	13	24	342
Q29	Yes	199	9	49	11	12	18	298
	No	20	2	15	4	2	4	47
	Total	219	11	64	15	14	22	345
Q30	Total	173	9	38	9	9	15	253
Q31	Yes	175	7	48	8	14	23	275
	No	42	4	14	4	–	–	64
	Total	217	11	62	12	14	23	339
Q32	Total	174	6	38	6	11	21	256
Q33	Total	177	9	13	1	4	4	208

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

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

**Proposal 3.4: Limit Building Notices to minor works**

- Q39. Are we right to want to limit Building Notices? \*\*
- Q40. Are the areas we propose to require Full Plans the right ones (ie loft, cellar and garage conversions, erection of new buildings and extensions)?
- Q41. What might the unintended consequences be?
- Q42. Are there any areas we have not covered which in your view need to be considered?

Question number		LA Building Control	Approved Inspectors	Construction industry professional groups	Construction industry (exc. professional groups)	Planning/ Fire & Rescue/ other government	Other	Total
Q34	Yes	116	9	32	9	8	11	179
	No	98	1	25	8	4	7	143
	D/K	5	–	3	3	2	3	16
	Total	219	10	60	14	14	21	338
Q35	Yes	129	7	29	3	9	11	188
	No	77	2	25	7	2	6	118
	D/K	13	1	7	4	3	4	33
	Total	219	10	61	14	14	21	339
Q36	Yes	202	10	61	13	15	23	324
	No	17	–	4	1	–	1	23
	Total	219	10	65	14	15	24	347
Q37	Yes	166	9	47	9	11	15	257
	No	50	2	17	5	3	7	84
	Total	216	11	64	14	14	22	341
Q38	Total	193	9	45	11	15	20	293
Q39	Yes	202	8	59	12	11	21	313
	No	19	3	5	2	3	–	32
	Total	221	11	64	14	14	21	345
Q40	Yes	175	9	56	10	12	17	279
	No	40	2	7	3	2	2	56
	Total	215	11	63	13	14	19	335
Q41	Total	200	7	43	10	10	16	286
Q42	Total	115	3	24	5	6	11	164

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

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

**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? \*\*

**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? \*\*
- 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)?

Question number		LA Building Control	Approved Inspectors	Construction industry professional groups	Construction industry (exc. professional groups)	Planning/ Fire & Rescue/ other government	Other	Total
Q43	Yes	180	10	55	13	14	20	292
	No	21	1	3	1	–	1	27
	D/K	17	–	6	–	1	1	25
	Total	218	11	64	14	15	22	344
Q44	Total	197	8	38	11	11	16	281
Q45	Yes	149	6	39	5	13	18	230
	No	69	4	22	7	1	4	107
	D/K	1	–	–	–	–	–	1
	Total	219	10	61	12	14	22	338
Q46	Total	165	8	42	8	10	14	247
Q47	Yes	215	10	50	7	13	20	315
	No	6	–	9	4	1	2	22
	Total	221	10	59	11	14	22	337
Q48	Yes	192	10	49	8	13	18	290
	No	22	1	17	3	1	4	48
	D/K	1	–	–	–	–	–	1
	Total	215	11	66	11	14	22	339
Q49	Yes	201	7	42	6	12	16	284
	No	15	4	14	5	–	2	40
	Total	216	11	56	11	12	18	324

**Proposal 4.2: Investigate the case for other forms of Certification**

- Q50. Do you see any merit in whole building certification? \*\*
- 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?
- Q52. If yes, in what areas?

**Proposal 4.3: Further encourage the Appointed Person role**

- Q53a. Do you think we should regulate for the Appointed Persons role or simply promote the adoption of this role as good practice? Regulate? \*\*
- Q53b. Do you think we should regulate for the Appointed Persons role or simply promote the adoption of this role as good practice? Promote Good Practice? \*\*

**Proposal 4.4: Extension of the Pattern Book approach**

- Q54. Should the pattern book approach be extended? \*\*
- Q55. What areas do you think the pattern book approach could cover?
- 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?

Question number		LA Building Control	Approved Inspectors	Construction industry professional groups	Construction industry (exc. professional groups)	Planning/ Fire & Rescue/ other government	Other	Total
Q50	Yes	13	1	17	5	2	6	44
	No	203	10	43	8	11	15	290
	Total	216	11	60	13	13	21	334
Q51	Yes	49	7	30	6	4	8	104
	No	166	4	28	6	8	12	224
	Total	215	11	58	12	12	20	328
Q52	Total	56	2	21	5	5	8	97
Q53a	Yes	44	4	19	5	6	9	87
	No	174	7	37	6	9	9	242
	Total	218	11	56	11	15	18	329
Q53b	Yes	182	8	44	9	11	13	267
	No	32	2	11	2	1	5	53
	Total	214	10	55	11	12	18	320
Q54	Yes	96	8	22	9	5	10	150
	No	122	2	28	4	6	5	167
	D/K	–	1	–	–	–	–	1
	Total	218	11	50	13	11	15	318
Q55	Total	80	8	19	8	6	9	130
Q56	Yes	87	6	19	7	3	9	131
	No	104	4	22	1	4	6	141
	D/K	21	1	9	1	5	3	40
	Total	212	11	50	9	12	18	312

### **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? \*\*
- Q58. Have you had a technical dispute in the last year which you would have taken to this scheme had it existed?
- Q59. What would deter you from using such a scheme?
- Q60. Do you agree that the current statutory determination and appeal procedures are in need of reform? \*\*
- 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?
- 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?
- Q63. Do you consider that continued recourse to the Secretary of State to resolve disputes where necessary is beneficial?
- Q64a. 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?
- Q64b. 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? Other options?
- Q65. If you support the other options, do you have a preference as to which option you support, and why?
- Q66. Do you have any other proposals on how best to resolve building control disputes?

Question number		LA Building Control	Approved Inspectors	Construction industry professional groups	Construction industry (exc. professional groups)	Planning/ Fire & Rescue/ other government	Other	Total
Q57	Yes	136	10	43	11	7	14	221
	No	81	1	16	2	5	4	109
	Total	217	11	59	13	12	18	330
Q58	Yes	50	4	8	4	3	4	239
	No	162	7	44	8	9	9	73
	Total	212	11	52	12	12	13	312
Q59	Total	167	7	33	10	9	11	237
Q60	Yes	194	9	39	6	11	11	270
	No	22	2	11	5	1	4	45
	Total	216	11	50	11	12	15	315
Q61	Total	174	1	6	–	5	–	186
Q62	Yes	43	3	16	8	1	3	74
	No	144	8	26	–	8	9	195
	D/K	31	–	13	4	4	6	58
	Total	218	11	55	12	13	18	327
Q63	Yes	170	8	35	7	11	14	245
	No	39	2	10	1	1	1	54
	D/K	9	–	8	3	1	3	24
	Total	218	10	53	11	13	18	323
Q64a	Yes	172	4	34	6	11	14	241
	No	36	6	11	1	2	2	58
	Total	208	10	45	7	13	16	299
Q64b	Yes	69	9	16	2	4	3	103
	No	116	1	25	6	6	7	161
	Total	185	10	41	8	10	10	264
Q65	Total	65	8	11	1	2	5	92
Q66	Yes	88	2	16	1	9	6	122
	No	111	8	25	8	3	9	164
	Total	199	10	41	9	12	15	286

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

**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? \*\*

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

- Q70. Do you think these complaints procedures are fit for purpose? \*\*
  
- Q71. How might they be improved?

**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? \*\*

Question number		LA Building Control	Approved Inspectors	Construction industry professional groups	Construction industry (exc. professional groups)	Planning/ Fire & Rescue/ other government	Other	Total
Q67	Yes	176	7	38	10	12	16	259
	No	35	4	16	1	1	2	59
	Total	211	11	54	11	13	18	318
Q68	Total	168	7	34	4	9	15	237
Q69	Yes	180	8	41	7	13	16	265
	No	36	3	10	2	1	4	56
	Total	216	11	51	9	14	20	321
Q70	Yes	75	6	26	9	7	7	130
	No	137	5	21	1	6	8	178
	Total	212	11	47	10	13	15	308
Q71	Total	152	4	25	3	9	11	204
Q72	Yes	141	4	19	2	6	11	183
	No	63	6	22	4	5	7	107
	Total	204	10	41	6	11	18	290

**Proposal 5.5: Enabling a “level playing field”**

Do you welcome the move to review the AI regulations in the following way:

- Q73a. Remove the need for a signature of the person doing the work on an initial notice \*\*
- Q73b. Remove the need for a signature on the insurance certificate
- Q73c. Simplify the approvals process by establishing a single class of approved inspector
- Q73d. Clarification of the regulation 10 requirement
- Q73e. Removal of some stages of statutory approvals
- Q74. Are there other areas covered by the AI Regulations which you think should be covered by the above review?

**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? \*\*
- Q76. Is there evidence that surpluses derived from local authority building control charges income is being used to fund other services within LAs?
- Q77. Do you believe that the proposals identified in paragraphs 271 and 272 will provide the flexibility and transparency sought?

Question number		LA Building Control	Approved Inspectors	Construction industry professional groups	Construction industry (exc. professional groups)	Planning/ Fire & Rescue/ other government	Other	Total
Q73a	Yes	83	10	20	3	5	8	129
	No	134	1	29	8	7	7	186
	Total	217	11	49	11	12	15	315
Q73b	Yes	181	10	28	1	11	10	241
	No	36	1	21	8	1	5	72
	Total	217	11	49	9	12	15	313
Q73c	Yes	178	10	44	5	13	12	262
	No	38	1	4	3	–	3	49
	Total	216	11	48	8	13	15	311
Q73d	Yes	200	9	43	7	12	13	284
	No	12	2	2	1	–	1	18
	Total	212	11	45	8	12	14	302
Q73e	Yes	71	9	19	5	6	6	116
	No	142	2	24	4	6	7	185
	Total	213	11	43	9	12	13	301
Q74	Yes	143	8	15	–	8	10	184
	No	55	2	20	6	3	4	90
	Total	198	10	35	6	11	14	274
Q75	Yes	203	7	33	6	12	16	277
	No	16	4	19	4	1	2	46
	D/K	–	–	–	–	1	–	1
	Total	219	11	52	10	14	18	324
Q76	Yes	161	8	21	2	6	10	208
	No	49	–	16	6	3	4	78
	D/K	1	–	–	–	1	–	2
	Total	211	8	37	8	10	14	288
Q77	Yes	176	6	35	8	11	10	246
	No	36	3	10	2	1	3	55
	Total	212	9	45	10	12	13	301

# Annex D

## Other issues raised by Local Authority Building Control

- D.1 LABC felt that there were several areas that the Department had not addressed that could have been covered by this review. They said that the opportunity should be taken to review other areas of the regulations, which are in need of modernisation. These views were supported by a large number of local authority building control respondents.

### **Enforcement**

- D.2 In addition to the new powers suggested in the consultation, the opportunity should be taken to strengthen the existing remedies contained in sections 35 and 36. The conclusion of section 36 is that the council can correct the work in default which is often a time consuming and expensive task. Section 35 results in a fine without any requirement to correct the work. It would be appropriate to consider the breach as a 'continuing offence' and a daily penalty imposed until the work was corrected.

- D.3 LABC also proposed that the suggestion that stop notices and fixed penalty notices be introduced for offences under the building regulations should be extended to other areas covered by the Building Act 1984 such as Dangerous Structures (BA 1984, sections 77 and 78) and Demolitions (BA 1984, sections 80 and 81).

### **Statutory time periods**

- D.4 LABC argued that five-week periods, eight-week periods and extensions of time are out of date and inappropriate. Shorter targets should be established for domestic works and larger schemes should be agreed with the client. The need to reject an application because the time period has expired creates poor customer relations. This is often done to achieve improved performance indicators, which are incorrectly focused. Targets should be realistic, measurable and agreed with the client.

### **Local acts**

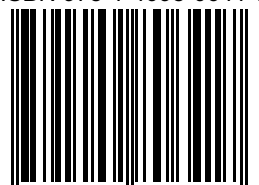
- D.5 LABC argued that these should either be included within the regulations or removed. The inconsistency creates problems for the industry.

### Exemptions

- D.6 LABC said that the exemptions in schedule 2 are being abused, for example with porches being built up to the allowed 30 m<sup>2</sup> that are in fact to be used for purposes other than a porch. The exemption for mobile homes being extended to large timber-framed properties means that one-off permanent dwellings are being built which do not meet the regulations, particularly Part L.
- D.7 LABC also argued that major multi-occupied managed buildings such as shopping centres should be controlled by one BCB. These are complicated buildings with critical designs based on fire engineered solutions; allowing numerous BCBs to control fit out works without a clear understanding of the safety features often leads to problems.
- D.8 Additionally LABC expressed concern about the way in which some of the information was presented in the 'Survey of Building Control Bodies'.

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