
REPORT TO:	ENVIRONMENTAL & DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 12
DATE OF MEETING:	3rd JUNE 2008	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF SERVICES COMMUNITY	OPEN
MEMBERS' CONTACT POINT:	MARK HEWINGS EXT: 5734	DOC:
SUBJECT:	FUTURE OF BUILDING CONTROL - CONSULTATION	REF:
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: EDS

2.0 Recommendations

That Members reply to the Department of Communities and Local Government as follows: The Council:

2.1 Supports the proposals for

- Developing a shared vision for the future of building control
- Introducing a Procedural Guide to explain what building control is for and the action needed to reconnect with the customer
- Other tools for a seamless service;

2.2 Agrees with the reasoning and logic behind the creation of a 'seamless planning and building control service' but believes there are major difficulties in achieving this given the current two-tier building control system (Local Authority and Approved Inspectors) that operates in this country.

2.3 Suggests an alternative for creating a seamless service would be for a Local Authority Planning Department to have a statutory obligation to consult with its own Building Control Department to lay out the methodology and design principles required for the eventual Building Control Body that is employed to carry out the function of the Building Regulations in the form of conditions on planning permissions;

2.4 Supports the government's proposals to establishing a better approach to the way we deliver regulations and guidance by

- Introducing a periodic system of review
- Introducing a standstill period between reviews

- Renaming, revising and reducing Approved Documents;
- 2.5 Supports the proposal for the production of 'specific project guides' formulated for loft conversions, domestic extensions and garage conversions;
- 2.6 Suggests that further investigation be undertaken to establish the potential to extend project guidance to help consumers improve their sustainability and ecological requirements, for example
- installing solar panels, installing grey water re-cycling, installation of wind turbines, installing combined heat and power, heat recovery system installation, construction of reed bed treatment systems and surface water attenuation systems;
- 2.7 Suggests that the best way of using the planning portal's success is by providing building control with its own section of the portal;
- 2.8 Supports the proposals to modernise inspection and enforcement as listed below,
- Preparing specific guidance on risk assessing projects
 - Removing statutory notification stages for local authorities and introducing a risk-based approach to inspection (a Service Plan)
 - Making the issuing of Completion Certificates by local authorities mandatory
 - Limiting Building Notices to minor works, and hence extending the requirements for Full Plans application as described in the details below.
 - Allowing local authorities to issue stop notices
 - Allowing local authorities to issue fixed monetary penalties
 - Extending time limits for prosecution
- 2.9 In addition to those items referred to in paragraph 2.6 above would like to see
- a procedural change to work needing a Full Plans application, after limiting Building Notices to minor works. That is to say Full Plans applications should be required to attain approval or have a service plan in agreement before work is permitted to start on site, similar to the system in Scotland; and
 - if the application is required via the LA's Full Plans application route, then the AI must be statutorily obliged to lodge a plans certificate and/or a service plan with the LA prior to any work starting on site.
- 2.10 Supports the proposal that Approved Documents be re-branded as 'Guides for Building Regulation Compliance'
- 2.11 Supports the proposal for improvements to the competent persons scheme by ensuring all schemes are United Kingdom Accreditation Scheme accredited to standard EN45011, encourage the publication of leaflets, resolving data transfer and their difficulties.
- 2.12 Supports the proposal to investigate the case for other forms of certification with the

subject to all proposals being fully assessed in open forum and their being no third party verification.

- 2.13 Supports the proposal to further encourage the Appointed Person role, but not on a mandatory basis.
- 2.14 Supports the proposal to extend the pattern book approach.
- 2.15 Supports the introduction of a fast-track dispute resolution service and modernised statutory system subject to retaining as a final resort appeal to and determination by the Secretary of State.
- 2.16 Supports the proposal to embed and develop the building control performance indicators.
- 2.17 Supports the proposals to strengthen the overarching performance management system.
- 2.18 Recommends that the monitoring and performance of building control is improved by providing feedback into the system of its outputs. (There is a need to know where the system is failing and where it needs to 'sharpen up its act' e.g. feedback from insurance companies and warranty providers on defects and non-compliance issues as every business activity must have authentic historical data on how it is performing in order to forward plan.)
- 2.19 Supports the proposal to promote shared approaches to work.
- 2.20 Supports the proposal to continue to promote industry standards in a competitive market place by creating a robust building control system where a level playing ground truly exists and where the system limits any opportunity to corrupt it.
- 2.21 Supports the proposals to review the local authorities Building Control Charges regime.

3.0 Purpose of Report

- 3.1 To inform Members of the consultation document 'The Future of Building Control' and seek agreement of a response to be submitted to the Department of Communities & Local Government by 10th June 2008. (An electronic link to the consultation document is available from the homepage of the Council's website)

Executive Summary

- 4.1 The Government through the Department of Communities and Local Government (DCLG) seeks changes to the building control system in England and Wales to address weaknesses in the current system to ensure that it remains fit for purpose now and in the future, whilst remaining easy to understand and comply with. Hence ensuring that our buildings are safe, healthy, sustainable and accessible for everyone who uses them or lives or works in or around them.
- 4.2 The proposals to achieve this fall into the following five areas:

- **developing a vision for building control** which will help the system to work effectively by ensuring maximum compliance and minimum burden. See

paragraphs 5.7 – 5.18

- **establishing a better approach to the way we deliver regulations and guidance** by introducing a periodic system of review, a standstill period between reviews, by renaming, revising and reducing Approved Documents (AD's), by producing 'specific project guides' and by making the best use of the planning portal. See paragraphs 5.19 - 5.30.
- **modernising inspection and enforcement** by giving specific guidance on risk assessing projects, removing statutory notification stages for local authorities and replace with a risk-based approach to inspection (a Service Plan), making the issuing of Completion Certificates by local authorities mandatory, limiting Building Notices to minor work, allowing local authorities to issue both stop notices fixed monetary penalties as well as extending time limits for prosecution. See paragraphs 5.31 – 5.57.
- **providing alternative routes to compliance** without the need to involve the services of the local authority building control or private building control bodies called approved inspectors (AI) by the traditional route. See paragraphs 5.58 – 5.62.
- **enabling improved performance and capacity** by embedding and developing the building control performance indicators enabling the review and monitor of the systems effectiveness. See paragraphs 5.63 – 5.70.

5.0 Detail

INTRODUCTION

- 5.1 A consultative paper from Department of Communities and Local Government (DCLG) seeks views on proposals by Government for changes to the building control system in England and Wales. The changes proposed are designed to address weaknesses in the current system, as identified by users of the system and the building control industry itself, and are intended to both improve compliance with the Building Regulations and further reduce the burdens associated with the system. A Brief explanation of the Building Regulations and the Building Control System can be found in Appendix A.
- 5.2 The Government believes the Building Regulations have brought great benefits to society over the years. However, the world and environment is moving on at a fast pace and there are ever more demands placed on the Building Control system. It is asked it to ensure that our buildings are not only safe and healthy but that they are accessible for all and sustainable to make a direct contribution to tackling climate change. In doing so, we need to ask it to take account of ever more complex technologies whilst remaining easy to understand and comply with.
- 5.3 The Government believes Climate change is one of the greatest challenges we face and the Building Regulations will be requiring carbon neutral homes by 2016 and carbon neutral non-domestic buildings by 2019.
- 5.4 Feedback from in depth discussions with stakeholders tells the government that, while the system is not broken, it has some significant weaknesses that must be

tackled if we are to ensure that it remains fit for purpose now and in the future.¹

- 5.5 The aim is to define the practical actions and changes, which need to happen as soon as possible, in order to create a more effective framework within which Building Control can operate today and develop into the future.

SUMMARY OF CONSULTATION PROPOSALS.

- 5.6 The proposals discussed in order below, fall into the following five areas:
- **a vision for building control**
 - **establishing a better approach to the way we deliver regulations and guidance**
 - **modernising inspection and enforcement**
 - **providing alternative routes to compliance enabling**
 - **Improved performance and capacity**

A VISION FOR BUILDING CONTROL

- 5.7 The challenges of climate change and the need to dramatically increase the number of new homes required to be built make it a time of major change for the building control system. This will only be met if the system is working effectively, and that means ensuring maximum compliance and minimum burden.
- 5.8 In order to achieve and maintain this into the future the government needs to make sure we are all working to the same-shared vision for building control. Developing that vision at the moment is difficult because:
- many people do not understand what building control does and how to use it to ensure that they get a good job done which meets their needs and meets minimum standards
 - many people do not understand their role or the role of their builder or designer in the system so either assume that building control does something it cannot understand or tries to avoid it altogether
 - many people do not understand the connection between building control and other regimes, particularly planning
- 5.9 The government needs a consensus about these views to deal with the future as challenges grow. This vision needs to meet realistic customer expectations for the service, meet the construction industry's needs and ensure high levels of compliance and low levels of burden.
- 5.10 The government has put together four proposals for this vision.
1. Develop a shared vision for the future of building control
 2. Introduce a Procedural Guide to explain what building control is for and action needed to reconnect with the customer

¹ When we refer to stakeholders, we refer to our key stakeholders and they include building control bodies, developers, architects, designers, builders, homeowners, etc.

3. To create a seamless planning and building control service

4. Other tools for a seamless service

5.11 The shared vision statement needs to clearly explain what building control **does** and **does not** deliver.

The Governments proposal for a **VISION STATEMENT** is shown below

Our vision is for a service which delivers safe, healthy, accessible and sustainable buildings for current and future generations

To deliver this vision we need a building control system which:

- works with the customer to help them achieve a building project which meets their expectations, as well as building standards and the public need
- works hand-in-hand with other regulators to provide a coherent service to customers
- ensures that the level of inspection is appropriate to the risk and need
- gives local authorities the powers needed to enforce building standards
- ensures all Building Control Bodies regularly assess and improve their performance
- is professional, well-managed and ensures resources are used appropriately
- offers end-users an effective means of resolving disputes about compliance

We also need to be clear with customers that building control will not:

- act as a 'Clerk of Works' monitoring every stage of the construction process on site. That is a matter for the contracts and arrangements put in place between the client and builder. Ultimately, compliance is clearly the responsibility of the person carrying out the work
- address issues such as the finish and aesthetics of the final project where these are not Building Regulations standards – these are a matter for designers, builders, and new home warranty providers
- offer protection to a client in a contract with a builder. This is a matter of contract law

5.12 The introduction of a Procedural Guide will enhance the building regulation explanation booklet already published. This will be designed to give a clearer more comprehensive guide to the building control system than the existing guide, by:

- clarifying the intent of the building control system,
- setting out the processes and procedures of the system
- setting out the roles and responsibilities of the key players and the value building control adds to a project
- explaining the kind of work to which the regulations apply
- describing the two alternative systems of building control (LAs and AIs),

- supplementing the regulations with an explanatory note on how they might be met
- including a summary of other legislation that might apply to building work
- including a list of supporting documents and useful addresses.
- other areas which need to be better communicated, as identified in this consultation document.

5.13 This document could be used by building control providers, designers, developers, small builders, surveyors and other professionals involved in relevant building work as well as being available to members of the public wanting to know in greater detail what is involved

5.14 The proposal to create a seamless planning and building control service when running a two tier building control system with Public and Private Building Control Bodies would appear to be fatally flawed.

5.15 However, we agree with the government's desire for the planning and building control systems to work very closely together so that the requirements and methodology for planning and for Building Regulations are aligned while also ensuring that the customer of these two regulatory regimes are not receiving conflicting messages or demands.

5.16 A suggested route to meet this preference we consider worthy of further investigation would be for the planning department to be given a statutory obligation to consult with its own authority's building control department. This would enable agreement on the methodology and design principles required for the eventual Building Control Body that is employed to carry out the function of the Building Regulations. A few examples of issues this could include are listed below:

- whether a sustainable drainage system is required for the development
- to what level should the proposals achieve with regards to the sustainable homes/sustainable non domestic buildings
- whether the size and purpose group of the building warrants the installation of a passenger lift or platform lift
- is access for the fire service considered achievable

5.17 These are all functional principles not building regulation technical issues. In essence this would mean that after consultation with the same authorities building control department, the fundamentals for building regulation compliance would become a condition of Planning Permission. This would help to create the much-discussed 'level playing field' for both public and private building control bodies. It would remove in one simple mechanism the opportunity for 'dutch auctioning' or 'bartering' that is reputed to exist when developers / developers agents / designers / builders / etc enquire of Building Control Bodies to provide their building control services. i.e. the accusation that developers shop around for the best practical and economic solution for building regulation compliance for their proposed project.

5.18 It would instil the need to consider the implications of the building regulation a little earlier in the design process. One of the major issues the government found of concern when compiling this consultative document.

ESTABLISHING A BETTER APPROACH TO THE WAY WE DELIVER REGULATIONS AND GUIDANCE

5.19 Building Regulations exist to ensure that our buildings are safe, healthy, sustainable and accessible for everyone who uses them or lives or works in or around them. (A fuller explanation is provided in Appendix A)

5.20 The Government is committed to reviewing and amending the regulations and the corresponding Approved Documents (AD's) over time in order to ensure they are up to date and achieving the right standards. Changes to regulations and ADs can also be driven by Government priorities, outside events such as a major fire or structural collapse, European legal obligations and significant technical advances.

5.21 Construction projects can have long lead-in times and the industry needs certainty in terms of what to expect. Government has been told that the current frequency of changes to the regulations and accompanying ADs hinders compliance because industry finds it difficult to prepare and plan ahead and Building Control Bodies (BCB's) continually need to get up to speed with new technical requirements. There is a general consensus within the industry that a lack of overall strategy and direction makes it difficult for them to plan their own activities over a reasonable period of, say five years².

5.22 The existing system tends to review individual Parts of the regulations. Changes to one Part can have knock-on effects for others, particularly the more detailed technical guidance in the ADs. This is not easily dealt with in the existing system and there is an increased risk of creating confusing and conflicting advice.

5.23 The government has some proposals to correctly address these issues and these are briefly discussed below

Introduce a periodic system of review

5.24 This would mean that in the majority of cases, no one aspect of the Building Regulations would be the subject of change more than once every six years. The government would however retain the right to make any essential amendments which may be required between the reviews in order to respond to critical issues and to the Government's requirement to implement EU legal obligations by the date set by the European Union, so these obligations will often fall outside this commitment.

Introduce a standstill period between reviews

5.25 This would allow for a period of six months from the publication of new legislation and its date of Implementation. This would be acknowledging the considerable criticism from the Construction Industry as a whole, including from the regulation implementers. None more so, than evidenced in the recent Part L Introduction for requirements on the conservation of fuel and energy.

Rename, revise and reduce Approved Documents

- 5.26 After discussing some options In the document the government has come to the conclusion that It might be best to not have a wholesale review of the Approved Documents but to just present the guidance in as clear and as comprehensive as possible.
- 5.27 There is a view that the description 'Approved Document' is mis-leading and the government wants to give clear guidance on what is 'regulation' and what is 'guidance' to help achieving regulation compliance. They have requested Ideas for their rename and we suggest it is 'Guides for Building Regulation Compliance'.

Production of specific project guides

- 5.28 This is considered a perceptive step that we believe would have tremendous value to help developers, builders and the building control body on these projects. This type of guide would be most valuable for the jobs, which around the country are most repetitive. The government has suggested loft conversions and domestic extensions. We also believe a guide for garage conversions would fall well into this category. These guides would also be useful for general training, education and college courses.
- 5.29 We also believe this form of project guidance could be extended to help consumers improve their sustainability and ecological requirements, examples are:
- installing solar panels,
 - installing grey water re-cycling,
 - installation of wind turbines,
 - installing combined heat and power,
 - heat recovery system installation,
 - construction of reed bed treatment systems
 - surface water attenuation systems.

Make the best use of the planning portal

- 5.30 The government has acknowledged that the inclusion of Building Regulations into the planning portal has compounded the confusion over the relationship between Building Regulations and planning. Indeed there is evidence including from our own experience that some people think building regulation is part of planning permission approval. The government has proposed to re-brand the planning portal to reflect the role and importance of the Building Regulations. We therefore suggest that as well as a planning portal the government initiates a building regulation portal and that there are links connecting the two independent portals together.

MODERNISING INSPECTION AND ENFORCEMENT

- 5.31 The government's aim is to help create an inspection and enforcement regime to meet rising demands on the building control system and help achieve good levels of compliance with the regulations.
- 5.32 In particular, the Government is concerned about compliance in areas such as energy efficiency. Stakeholders suggest that Building Control Bodies (BCBs) tend to focus on issues that are critical to safety (ie structure and fire) at the expense of newer regulations (e.g. those relating to sound insulation, air tightness and energy

efficiency) because of pressure on resources, a lack of understanding and because they do not have enough up-front information about the project. It is also acknowledged that the public tends to be more concerned about life safety issues than energy efficiency.

- 5.33 SDDC has already introduced an Inspection Notification Plan procedure for all new jobs. It is based on the guidance, which has been published for all BCBs in the *Building Control Performance Standards*.³ (This document sets out the policy approach all BCBs should take to delivering their service and gives guidance on how to do so). It will be mentioned again later in this report and is likely to become a template for the benchmarking of all Building Control services be they LA (public) or AI (private)
- 5.34 Enforcement is carried out in most Local Authorities, and within South Derbyshire, by persuasion, negotiation and informal notices of non-compliance, with the clear understanding that a completion certificate will not be issued while the non-compliance is still existing.
- 5.35 This process works for the majority of projects and the need to take formal enforcement action is very rare, however we agree with the government findings that when it is required as the last resort, the present system provides an ineffective mechanism due to its cumbersome, time consuming and the time restrictions involved.
- 5.36 The government has come up with proposals under seven headings for modernising the inspection and enforcement procedure, which are discuss in turn below.

Specific guidance on risk assessing projects

- 5.37 This is likely to be more important for complex major building projects, which do not present themselves in South Derbyshire too often. Having said that any guidance on how to risk assess projects, even to the small domestic project market, to create a consistent approach should be welcomed.

Remove statutory notification stages for local authorities and replace with a risk-based approach to inspection (a Service Plan)

- 5.38 The statutory notification stages have been around since the Victorian era when building technology and construction was considerably simpler and very traditional.
- 5.39 Most Building Control Surveyors, as a matter of course, have discussions with the builder to agree the next required notification/inspection stage without following the statutory stages. This is due to the statutory system of notification for inspection being outdated. Having taken the sensible lead and instructing the builder when the next inspection is required, it can be understood why the statutory notifications can now be perceived to be statutory inspections.

Make the issuing of Completion Certificates by local authorities mandatory

³ Building Control Performance Standards, BCPSAG, June 2006 www.planningportal.gov.uk/uploads/br/bcpi/building-control-performance-standards_june06.pdf

- 5.40 It may come as a surprise that completion certificates are not already mandatory. Theoretically it is only mandatory to issue them in two situations:
- for work where the Regulatory Reform (Fire Safety) Order applies (non-domestic properties and the common parts of blocks of flats), where the BCB has to consult with the local fire authority and
 - if requested by the customer when Full Plans applications are submitted to the LA. This has historically been a tick box question on the application form.
- 5.41 For other work, some LAs issue them as a matter of course while others do not. South Derbyshire issue them as a matter of course for all Full Plans applications (whether requested or not by the customer), but charge a fee for the provision of a completion certificate when work is carried out under a Building Notice.
- 5.42 If it was to be made mandatory to issue completion certificates there would be a minor reduction in fee income but having said that the number of Building Notices will reduce anyway due to the proposals to limit their usage.

Limit Building Notices to minor work.

- 5.43 It is thought that Building Notices were introduced to make it easier for the homeowner to carry out small works. Building Notices save builders and local authorities' unnecessary time and cost on the approval process for a large number of straightforward building projects. This is still the case for over half of Building Notices submitted.
- 5.44 The concept was originally meant to help technically knowledgeable builders including major house builders, but over the years has been corrupted by the un-knowledgeable and 'cowboys' of the industry to save on designer's fees and to carry out works without any form of protection to their customer. The Building Notice route, due to the role of building control being widely misunderstood by customers, often leads to situations whereby some small builders, those undertaking DIY projects relying on their building control for detailed advice on how to comply. Whilst this is preferable to a situation whereby a builder makes costly mistakes or risks formal enforcement action against the building owner, this level of advice does have the effect of discouraging developers and builders from taking responsibility for compliance. It can lead to a situation whereby the BCB is seen to assume, quite inappropriately, the role of a 'Clerk of Works'. That is not an efficient use of either the skills or the resources of BCBs.
- 5.45 The consultations Impact Assessment in summary, as expressed in Section 153 for limiting the use of Building Notices is considered a reasonable assessment but there is a very important issue to consider which the government, does not appear to have recognised.
- 5.46 The desired aim of protecting the customer and achieving better Building Regulation compliance by requesting full plans applications, and hence checking proposed drawings and specifications, will be lost if the work starts on site prior to approval. All of the issues and difficulties that are recognised as being caused by building notices are issues that occur when Full Plan applications start before approval.

- 5.47 There can be no value or effectiveness in stopping the Building Notice route if the Full Plans route can be so easily be corrupted to be like the existing Building Notice route with all of the same concerns and problems. The aim is to have upfront information to fully assess the risks involved in the inspection process before work starts on site.
- 5.48 It is suggested that a system similar to that used in Scotland where no work is permitted to start until a Building Warrant is issued be introduced.
- 5.49 It is also suggested that not only should the use of Building Notices be limited but the type of work that requires Full Plans should be required to attain approval before work is permitted to start on site.
- 5.50 The types of projects requiring Full Plans applications should be extended to include:
- the erection of new dwelling units or heated detached annexe buildings
 - the erection of extensions to dwelling units or heated detached annexe buildings
 - the conversion of buildings into dwelling units
 - the conversion of unheated buildings into heated buildings
 - loft, cellar and garage conversions
- 5.51 These type of applications would be open to LA or AI BCB's to carry out the building control service but if the application requires to be via the LA's Full Plans application route then the AI must be statutorily obliged to lodge a plans certificate with the LA prior to any work starting on site.
- 5.52 This should make it clear that the AI had approved the proposals and decided on the inspection plan, as would be the requirement when going through the suggested LA's Full Plans procedure.
- 5.53 The overriding factor should be that to create a robust building control system that will (as mentioned in the opening section of the document) 'address the weaknesses in the existing system and to improve compliance with the regulations'.
- 5.54 To do this without creating the opportunity for corruption then the LA and AI route for building control should be effectively the same.

Allow local authorities to issue stop notices

- 5.55 The introduction of a procedure to allow LA BCB's to issue stop notices would be a further step in meeting the government's desire for a robust building control system. The procedure would need to be underpinned with full authority, guidance and training if it is to be employed efficiently and effectively. It does however give a further indication to the industry and the public that Building Regulations are important. This would be a great tool for the enforcement and administering of the building control system when informal routes to compliance have been ignored. The principle is fully supported.

Allow local authorities to issue fixed monetary penalties

5.56 Fixed monetary penalties are another interesting tool for showing the industry and the public that Building Regulations are important, and in principle this is fully supported. However, if used in an uncontrolled way it could create long-term problems with local builders and building control staff as it could become a divisive instrument on the requirement to create the 'level playing field' between LA and AI BCB's and may prove to be an unutilised tool.

Extending time limits for prosecution

5.57 Any provision to make the enforcement action time limits longer is welcome. Two years has recently been brought in for energy efficient non-compliance but to avoid confusion the prosecution time limitations should be the same for all aspects of the regulations.

PROVIDING ALTERNATIVE ROUTES TO COMPLIANCE ENABLING

5.58 There are a number of options available to demonstrate compliance with the Building Regulations, which complement the traditional route of engaging the services of LABCs or AIs. These include, for certain building works, using a Competent Persons scheme or the application of a Pattern Book approach, such as the one provided for sound insulation by Robust Details Ltd.

5.59 The government believes that one way to make the Industry realise that it is responsible for ensuring that work complies with the regulations is to provide further opportunities for industry to regulate itself such as in the following examples:

- Other forms of self certification - whole building or part of buildings
- Extend the Pattern Book Approach - gives detailed guidance on designs that are likely to satisfy some specific requirement(s) of a Part of the Building Regulations.
- Appointed Persons - the appointment of a single person to act as an interface between the BCB and the developer.
- to establish a recognised fast-track dispute resolution scheme and to modernise the statutory system.

5.60 Competent Persons schemes are schemes whose members have been granted the right to self-certify that their work complies fully with all relevant requirements in the Building Regulations. Persons wishing to join a scheme must demonstrate appropriate qualifications, knowledge and experience to be able to comply.

5.61 Schemes are run by organisations, which have shown that they have the necessary technical, managerial and financial ability to secure compliance by their Competent Persons schemes are now major players in the building control market. Today there are 14 Competent Persons scheme operators providing 45 schemes, such as electrical, window and heating installations. For schemes covering electrics, there

are over 33,000 registered members who carried out over 1.2 million notified jobs in 2006/07.

- 5.62 The government wants to establish a recognised fast-track dispute resolution scheme and to modernise the statutory system. The fast track dispute resolution service would in their eyes become a speedy review by independent experts without any legal binding, of which their findings could be used as evidence if not resolved at this stage. They believe this system would bring about better levels of compliance with, and more consistent interpretation of the Building Regulations by BCBs. This does sound a good idea to investigate further but the determination and appeal route to the Secretary of State should always be kept as a last resort.

ENABLING IMPROVED PERFORMANCE AND CAPACITY

- 5.63 The government informs us that stakeholders have a clear concern that barriers to improved performance are not picked up because of a lack of performance information. In the absence of specific objective evidence it is difficult to communicate what building control is for and uphold the added value of the profession.
- 5.64 The government also wants to look at ways to strengthen the performance management system, to address the accusation that the presence of competition in the building control system acts as a barrier to delivering a quality service and to consider the issue of local authority building control resources and charging. It also discusses further areas of action we could pursue to strengthen the building control profession.
- 5.65 The documents Proposal 5.1 is to embed and develop the building control performance indicators to enable review and monitor its effectiveness. In 1999 the Building Control Performance Standards handbook was first published, being applicable to building control bodies in both the local authority and private sectors. In 2000 the Building Control Performance Standards Advisory Group (BCPSAG) was developed to keep the 1999 document under review, with the aim to promote higher standards of service delivery on the part of all building control bodies. In 2006 BCPSAG, and others with an interest in building control, produced a revised edition of the handbook and a set of seven performance indicators.
- 5.66 More recently the group has asked all local authorities and Approved Inspectors to submit returns against the new indicators in order to assess the comparative performance of the service being delivered by individual BCBs. This helps to provide the means for BCBs to identify any areas where improvements could be made in their delivery of a quality service. The building control section in South Derbyshire District Council has only very recently been considering these performance indicators.
- 5.67 The government also comments that while building control is self financing,⁴ they have anecdotal evidence that not all the revenue received from building control charges for providing the service – in particular, any surpluses arising – is being

⁴ This excludes enforcement and non-regulatory functions such as work relating to Dangerous Structures.

reinvested in the service as it is required to be and that this situation is contributing to shortfalls in long-term maintenance and development of capacity and capability. This is largely to do with increasing pressures on resources from other parts of local government. For this reason many have called for LA building control charges to be safeguarded for the on-going provision of the service.

5.68 The government is proposing a review of the LA building control charges regime with the aim to introduce more flexibility and accuracy, ie reviewing what LAs charge for and how they set their charges, and better matching charges with full costs of functions so that the LA building control service is properly resourced. These proposals include the possibility of:

- introducing a system for quotations for charges for building control services in relation to major schemes;
- introducing a range of different factors for LAs to base their charges on and removing the restrictions relating to charging according to estimated cost of the work and floor area;
- removing the link between charges for Full Plans, Building Notices and other prescribed functions, and considering whether LAs should charge for other functions;
- more discretion to make reductions and refunds, including for green/sustainable projects and those using Competent Person Schemes;
- clarification of the exemption relating to work for disabled people.

5.69 During this review it will also be their intention to introduce more transparency so that it is clear that charges income, including surpluses, is used to cover the cost of providing building control only. They are proposing to do this by:

- amending the accounting requirements in the charges regulations;
- issuing accounting guidance; and
- clarifying the requirement for details of building control income and expenditure to be clearly indicated in LA accounts, which auditors and others can monitor.

5.70 The government anticipates that these changes will allow LAs to compete on a more level playing field with AIs and to provide better value for the public. The government says that it is currently discussing the detailed proposals with the LABC, following earlier consultation with the Building Regulations Advisory Committee and that a separate, more detailed consultation paper on charges will be issued in 2008.

6.0 Financial Implications

6.1 The proposal to issue completion certificates mandatory will result in a loss of Income amounting to circa £2000, being the sum received annually for providing completion certificates on Building Notice applications when requested.

6.2 The following Issues could affect the financing of the building control section to a greater extent by;

- amending the accounting requirements in the charges regulations

- issuing accounting guidance
- clarifying the requirement for details of building control income and expenditure to be clearly indicated in LA accounts, which auditors and others can monitor.
- The possibility of requiring more resources to address the performance monitoring and reporting; and
- improving the building control section to be more quality assured to recognised business standards

7.0 Corporate Implications

none

8.0 Community Implications

8.1 The proposals will improve the environment by driving up the compliance of national Building Regulations to deliver safer, healthier, better accessed and more sustainable buildings for the current and future generations of South Derbyshire.

9.0 Conclusions

9.1 The system for compliance with the Building Regulations has been extended, modified and added to over the last 20 to 25 years on a very ad-hoc basis. This has resulted in repetition, perceived inconsistencies and contradictions

9.2 We have also had the introduction of private building control bodies, the addition of new sections, such as Access and Electrical work. This along with the government's new impetus for energy conservation and sustainability warrants the wholesale review of the system.

9.3 The issues that have been raised and the recommendations put forward should only be the start of a much needed overview of the entire regime for providing buildings that will be safe, healthy, sustainable and accessible for everyone who uses them or lives or works in or around them.

10.0 Background Papers

10.1 The government has over the last 18 months listened to stakeholders views and gathered suggestions as well as testing their proposals on those that use the system on a day to day basis. The principal inputs are listed in the consultative document itself.

