

FUTURE OF BUILDING CONTROL

IMPLEMENTATION PLAN





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MINISTERIAL FOREWORD

The building control industry and government have worked together for some time to create a new vision for building control.

The economic circumstances have altered during this time, but the demands over the coming decades will not change – climate change, demographic change and the demand for housing are all leading to a fundamental shift in the expectations placed on the building control service.

The purpose of this review – to make the building control system work better – still resonates in this difficult economic climate. Its success will be measured by even better compliance at a reduced cost on users of the system and a much better understanding of what building control does and does not do. I am confident that the building control industry will work with us to deliver these changes by developing a transparent performance management system by which they will be judged.

It is critical that the building control system is fit for purpose now and in the future because it is central to the Government's ability to deliver more and better homes and buildings, to address the challenge of climate change and sustainability, and because it performs such an important service for the public at large. This document sets out how we intend to do this: to limit changes to regulation to pre-published periodic review points; and set out our path as we move to a formal risk-based compliance mechanism – putting a stop to builders being subject to unnecessary inspections by focusing on areas of greatest risk.

These changes were first proposed in a pre-consultation paper in 2007, which set out the key areas for reform that we believed had the potential to address the main weaknesses in the system. This was followed by a comprehensive consultation issued in March 2008. A Review of Building Control working group was set up, representing the people who operate and use the building control system, to develop and test our proposals. This work and the other evidence we have gathered have culminated in this change programme.

We expect the building control service to play its part: to think creatively about how to target their resources to further raise compliance, tackle illegal construction and to strengthen their performance management systems to demonstrate the positive and added value they bring to building projects.



Lord Bill McKenzie of Luton
Parliamentary Under Secretary of State

VISION AND ROLES AND RESPONSIBILITIES

Our vision is for a building control system which ensures buildings are safe, healthy, accessible and sustainable for current and future generations

To deliver this vision the Building Control Alliance and Communities and Local Government want to see a building control system which:

- is based on objective and fair standards developed through consultation and supported by clear guidance to aid compliance in common building situations
- works with the customer to help them achieve a building project which meets both their expectations and building standards designed for the public good
- works hand-in-hand with other regulatory systems 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 continually improve their own performance and effectiveness
- is served by a professional, well-trained and managed building control service which uses resources effectively and efficiently
- offers an effective means of resolving disputes about compliance
- includes communication and awareness raising in respect of both its purpose and the roles, responsibilities and expectations of its stakeholders
- monitors building performance and compliance levels to demonstrate its impact on the delivery of compliant buildings.

We need to be clear with customers that the building control service will:

- provide a checking service to help achieve compliance with building standards
- support and advise customers on how to end up with the result they want, but will not be a substitute for professional design and construction advice
- help with aspects of quality (workmanship and materials) where these affect compliance with building standards, but not where they do not affect compliance
- ensure that all building standards which are set in the interests of the wider public good have been complied with at completion.

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

- be responsible for compliance – *that is the duty of the person carrying out the work*. If work is found not to comply with building standards the person responsible could be prosecuted and the owner of the building may be required to put the work right
- manage every stage of the construction process on-site – that is a matter for the contracts and arrangements between the client and builder
- address issues such as the finish and aesthetics of the final project where these are not relevant to compliance with building standards – these are a matter for designers, developers, builders and, to some extent, new home warranty providers
- deal with contractual problems between client and builder – this is a matter of contract law.

The roles and responsibilities of those involved in the building control system:

Local authority building control bodies – independent third-party check on compliance with Building Regulations through plans checking and inspections; carries out informal and formal enforcement where appropriate, advises customers at design stage and on-site, collects and acts on performance management information. Local authority building control departments are also often involved in dealing with other matters beyond the building control system itself, such as dealing with dangerous structures.

Approved inspectors – independent third-party check on compliance with Building Regulations through plans checking and inspections; carry out informal enforcement and refer to the local authority for formal enforcement, advise customers at design stage and on-site, collect and act on performance management information, authorised by the Construction Industry Council on behalf of the Secretary of State. Approved Inspectors also often offer other services beyond the building control system itself, such as carrying out fire risk assessments and health and safety services.

Communities and Local Government – sets objective and fair building standards, publishes statutory guidance on ways to meet building regulations, oversees and improves the functioning of the building control system and the statutory appeals system, and supports the building control service and others who use the system in their efforts to ensure compliance.

Competent person scheme operators (schemes whose members have been granted the right to self-certify that their work complies fully with the relevant requirements of the Building Regulations) – make sure members are competent to carry out the work they do and comply with building standards in every job.

Construction industry (architects, engineers, designers, surveyors, builders, construction companies, developers, representative bodies, etc) – designs and builds to meet the required standard, clear understanding of the building control system and its role (eg to notify the building control service at agreed stages).

Building owner (householder, landowner, property owner) – ultimately responsible for compliance of any building work undertaken, familiar with the aims of the building control system (to meet the needs of current and future users of the building, not just their own expectations).



1. A NEW FUTURE FOR BUILDING CONTROL



VISION AND DELIVERY STATEMENT

- 1.1 A shared vision between government, the building control service, the construction industry, design professions and the public is important to demonstrate that we understand what the building control system is for and how it should operate. The new vision on page 8 has been developed and refined through wide consultation and engagement. The Building Control Alliance (BCA) representing all building control providers, has signed up to the vision which articulates the kind of building control system we want to see.¹
- 1.2 We will now work together to promote more widely the new vision to those who come in direct and indirect contact with the building control system and, in particular, to those whose roles and responsibilities have been highlighted in the box on page 9. All building control bodies will be encouraged to sign up to this vision and incorporate it in their own statements.
- 1.3 In response to the *Future of Building Control* consultation, the vision has been revised to reflect more clearly that the building control service is responsible for ensuring delivery of safe, healthy, accessible and sustainable buildings, rather than being directly responsible for ensuring that building work complies with building regulations.² Such responsibility remains with the person carrying out the work and ultimately the building owner.
- 1.4 Three new objectives have been added to reflect the importance of:
- setting objective and fair building regulations together with guidance and support
 - communicating and raising awareness of the purpose of building regulations and the role of the building control service
 - having a much better understanding of compliance levels. This has been identified as an area for future work in Chapter 7.
- 1.5 Some of the original objectives consulted on have been refined to:
- explain what is meant by 'quality'
 - emphasise the importance of training
 - make explicit that building regulations and building control benefit the wider public good and not just the direct client.

¹ The Building Control Alliance represents the views of the building control providers. Its members are the Association of Building Engineers, Association of Consultant Approved Inspectors, LABC (the body that represents local authority building control departments), The Royal Institution of Chartered Surveyors and the Chartered Institute of Building.

² *The Future of Building Control* Consultation, March 2008
www.communities.gov.uk/publications/planningandbuilding/futurebuildingcontrol

- 1.6 Successful delivery will require the engagement of the broad range of all stakeholders in order to create this new culture of compliance, responsibility and understanding.
- 1.7 A new procedural handbook, explaining and clarifying the procedures set up by the Building Act 1984, will reinforce this vision. It will be published after the major changes of this reform programme have been realised. The entire implementation programme will be supported by communication and training activities by government, building control service providers and other stakeholder representative bodies. It will also be co-ordinated with future changes to the regulations as envisaged by the periodic review process.
- 1.8 In the interim, we have issued informal consolidated versions of the Building Regulations 2000 and the Building (Approved Inspectors etc.) Regulations 2000.³ We have also published a leaflet which explains to homeowners the importance of notifying the building control service and will consider other topics if there is demand.⁴

ACTIONS AND DELIVERABLES

What	Who	When
Publish new leaflet for the public and consider expanding this approach	CLG	First leaflet published in Autumn 2008
Publish vision and delivery statement	CLG	Now
Issue consolidated Building Regulations 2000 and Building (Approved Inspectors etc.) Regulations 2000	CLG	June 2009 (on-line)
Endorse vision and incorporate it in own working practices	Building control bodies	2009-10
New procedural handbook	CLG	2012

³ www.planningportal.gov.uk/england/professionals/en/1115314808708.html

⁴ *Building work, replacements and repairs to your home*
www.communities.gov.uk/publications/planningandbuilding/buildingworkleaflet



BUILDING CONTROL AND PLANNING: A SMOOTH INTERFACE

- 1.9** Although the planning and building control systems are complementary – focused on ensuring appropriate development and buildings are in the right place, and that these buildings are safe, accessible and sustainable – the consultation recognised that the lack of clarity and effective linkages between the two can cause problems and duplication.
- 1.10** We are committed to making it easier for the users to navigate between the two services. Opportunities should be exploited to work together better and many good examples exist – for instance, pre-submission meetings, joint training and seminars, and commenting on technical parts of planning applications. The Planning Portal, an on-line planning and building control information service, is an important tool to improve the exchange of information between the two services.
- 1.11** We also support the work of the local authority building control departments and the Health & Safety Executive (HSE), as part of HSE's Local Authority Construction Engagement (LACE) project to improve health and safety in construction. In particular we have taken action to improve the provision of construction safety information on the Planning Portal. An increasing number of local authority building control departments are also establishing website links to HSE's construction pages⁵ and issuing HSE information and leaflets to clients and others. Building on this good practice, the Building Control Alliance and HSE are developing a joint working protocol to formalise information sharing to reduce accidents and improve the safety of sites.
- 1.12** Any actions taken will need to reflect the differences between Approved Inspectors and local authorities and ensure that neither is unfairly advantaged or disadvantaged. Yet we do not want to lose out on the opportunity to streamline appropriately with planning and other regulators, such as health and safety, fire and heritage protection.
- 1.13** We are working with the Health and Safety Executive, the Department for Business, Innovation and Skills and the Better Regulation Executive to better understand the interface between building control and the other regulatory regimes. Once we have established in detail the issues which arise where these regimes cross over, and identified areas of duplication and inconsistency, we will work with government colleagues and other stakeholders to determine and take forward any appropriate actions.

ACTIONS AND DELIVERABLES

What	Who	When
Map regulatory regimes	CLG	October 2009

⁵ www.hse.gov.uk/construction/index.htm

AN INTEGRATED AND E-ENABLED BUILDING CONTROL SERVICE

- 1.14** The consultation recognised the importance of ‘right first time,’ seamless and accessible services and argued that e-enabling had the potential to deliver a faster building control service that is more integrated with planning. The large majority of respondents supported the aim to further e-enable, while recognising the need to provide for those without access to the Internet and the continuing need for paper plans for certain purposes.
- 1.15** From October 2008, the option exists to send or receive electronically much of the paperwork required by building control bodies. This reduces the costs associated with obtaining building control consent while also making it easier and faster to do so.⁶ In addition, many local authorities have created on-line publicly accessible registers to make it easier to access building control information on a property.
- 1.16** Currently, there are difficulties in the transfer of notifications from the competent person scheme (CPS) operators to local authorities. We have therefore provided a grant to LABC to investigate possible ways to resolve these difficulties, which would help to reduce the costs to local authorities and CPS operators. A hotline and arbitration service has been launched and further work is on-going.⁷
- 1.17** The Planning Portal continues to take an integrated approach, combining building control and planning content for advice on projects, homeowners’ responsibilities, case studies and the interactive house guides.⁸ Building control bodies are encouraged to link their websites to the guides and other building control information to reduce duplication in guidance and to provide consistent advice.

⁶ For example, building notices, full plans, commencement notices and completion certificates can now be sent electronically.

⁷ XML schema hotline and arbitration service - 0844 561 6136, xml@labc.uk.com

⁸ www.planningportal.gov.uk/house



- 1.18** The Planning Portal is being redesigned to improve the structure, navigation and content, covering both planning and building control for all users (builders, architects, surveyors, planning consultants and building owners). Understanding of the building control market has increased greatly, as designs are being tested by those who use the building control service and by building control surveyors themselves.
- 1.19** We will continue to look for opportunities for further e-enablement in order to enhance efficiency and reduce the administrative burden on building control bodies and other key stakeholders. For example, we will consider how the electronic communication of building control documents could be streamlined through a single channel, such as the standard national planning application system. We are also encouraging all building control bodies to explore how technology could enable them to deliver an efficient and professional service that is centred on their customers.

ACTIONS AND DELIVERABLES

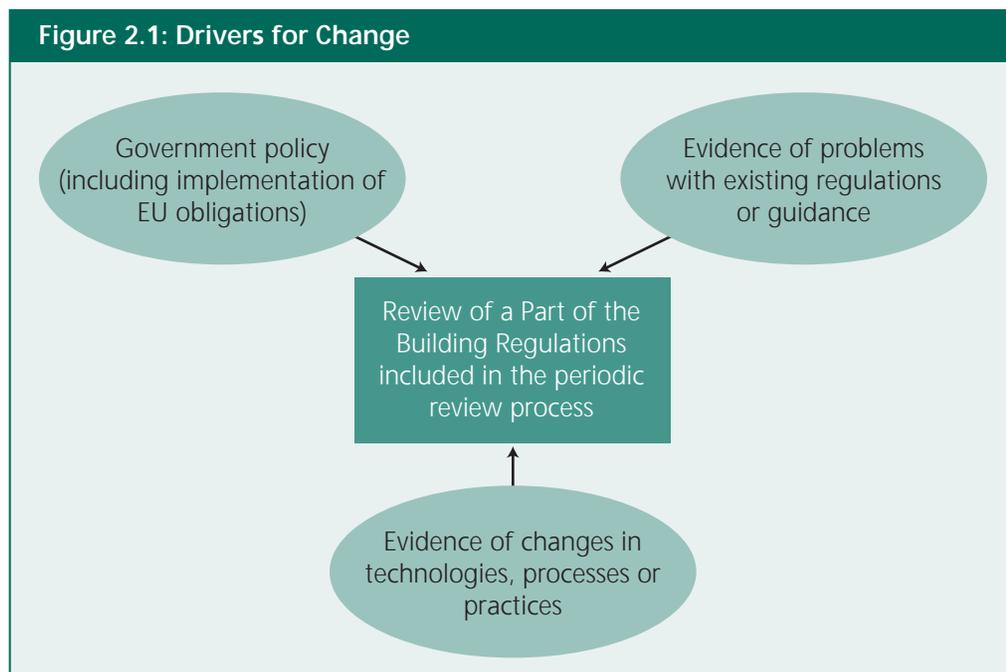
What	Who	When
Introducing electronic communication of key building control documents	CLG	1 October 2008
Link to Planning Portal guides and information	Building control bodies	On-going
Grant to LABC to address data transfer issues	LABC and CLG	Three-year project – ending October 2011
Launch of XML schema hotline and arbitration service	LABC	March 2009
Launch of new Planning Portal	Planning Portal	Early 2010

2. A BETTER APPROACH TO REGULATIONS AND GUIDANCE



THE PERIODIC REVIEW

- 2.1** The Government is committed to keeping the Building Regulations and the supporting guidance as up-to-date as is reasonably practicable while ensuring they do what is needed to support the delivery of truly sustainable, safe, healthy and accessible buildings. However, we recognise that the previous piecemeal way of reviewing the regulations made it difficult for industry and the building control service alike to keep abreast of the regulatory changes, often requiring them to undertake training regularly throughout the year just to cope with the frequent updates.
- 2.2** We are therefore introducing a new regular and systematic way of reviewing the Building Regulations, to be known as the periodic review process. Such an approach will reduce the previous burdens of change, and will help to ensure that the changes we introduce are proportionate, justified and visible. This new approach of less frequent changes with better co-ordination will make it easier for our stakeholders to plan for and adapt to the technical changes. It will also provide clear signposting of future planned changes.
- 2.3** The technical parts of the regulations will now be reviewed in three-yearly cycles, with revisions in 2010, 2013, 2016 and onwards. We intend that, unless there are exceptional and unavoidable reasons, none of the parts would be subject to change between these revision points or be reviewed in subsequent cycles. We will also outline, at each revision point, the reviews that we will carry out for the next revision point. We feel that such an approach will further assist our stakeholders in ensuring even higher levels of compliance.
- 2.4** We will revise those parts only where there is a clear and evidenced need for change. As set out in Figure 2.1, we will consider changes that are needed to address the following:
- government policy – where building regulations are a key delivery mechanism for specific policy ambitions, such as the move to zero carbon buildings, or in response to new EU obligations
 - evidence that current Building Regulations and guidance are not delivering as expected. We will evaluate the implementation and impacts of past changes at appropriate points and consider whether we need to take steps to improve compliance with existing requirements through amending the regulations, rather than through any other route (eg further training or targeted communications)
 - changes in technologies, environment, processes or practices that need to be reflected in the regulations or guidance.



- 2.5** We will explicitly consider the implications of changes to one part of the regulations on other parts - for example the impact of increasing air-tightness from Part L (Conservation of fuel and power) changes on the ventilation needs under Part F (Ventilation) and Part J (Combustion appliances). Where appropriate, we will review parts jointly or in parallel to ensure overall consistency. We will also consider, when undertaking reviews, whether merging parts or guidance would provide additional benefits.
- 2.6** We are establishing a clearer outline process for evaluating and reviewing the parts, with specific break-points at which decisions can be taken on whether or not to proceed further. This means that the case for making changes will be continuously tested throughout a process that can take around three years.

Table 2.1: Periodic Review Stages

evaluate	review	revise	implement
a regular cycle of assessing implementation of current regulations and evaluating any other technical developments that might require changes	gathering evidence, analysing options, determining the broad cost-benefit case for changes and considering alternative approaches	consult on proposed changes, determine final changes, make new regulations and publish new guidance	communicate changes, training and dissemination, roll-out of supporting tools
	break-point 1: decision to proceed	break-point 2: decision to proceed	

2.7 With the periodic review we are also introducing a ‘two-cycle rule’, which means that no part would normally be revised more frequently than once every two cycles, or six years. This will provide even more regulatory stability and further reduce the overall amount of change. There are currently only two planned exceptions, Part L (Conservation of fuel and power) and Part F (Ventilation), which we have already committed to revise in 2010, 2013 and 2016 on an established trajectory towards zero-carbon homes.

2.8 We will further aid those planning and preparing for changes by incorporating into the periodic review programme at least six months between the publication of new technical parts and their supporting guidance and their coming into force date wherever possible.

The initial periodic review

2.9 We have developed, in discussion with key stakeholders, the initial periodic review for the revision stages from 2010. This has been illustrated in Table 2.2.



Table 2.2: Illustration of the initial periodic review programme					
	Year				
	2009	2010	2011	2012	2013
Evaluation and review (assessment of current regulations, and the drivers for change prior to decision to embark on fuller review – gathering evidence and identifying the options including alternative approaches)	Parts A & C Parts F & L Part J	Part E Part H Part K Part M Part N Part P Regulation 7			Part B Part D
Revision activity (further investigations and development of options after agreement that revision is needed)			Parts A & C Parts F & L Part H <i>Part E</i> <i>Part K</i> <i>Part M</i> <i>Part N</i> <i>Part P</i> <i>Regulation 7</i>		
Public consultation	Parts F & L Part J			Parts A & C Parts F & L Part H <i>Part E</i> <i>Part K</i> <i>Part M</i> <i>Part N</i> <i>Part P</i> <i>Regulation 7</i>	
Introduce revised regulations and guidance	Part G	Parts F & L Part J			Parts A & C Parts F & L Part H <i>Part E</i> <i>Part K</i> <i>Part M</i> <i>Part N</i> <i>Part P</i> <i>Regulation 7</i>
Note: Italics indicate less firm plans which will be confirmed after evaluation in 2010.					

The planned 2010 changes to the technical parts and their guidance

- 2.10** We are currently consulting on options for revising Part L (Conservation of fuel and power) as we prepare revisions to deliver higher standards of energy efficiency. One outcome from this could be more air-tight buildings, and because of the potential implications this could have for indoor air quality we are reviewing Part F (Ventilation) and Part J (Combustion appliances) at the same time.

The planned 2013 changes to the technical parts and their guidance

- 2.11** In 2010 we will confirm our planned reviews for the 2013 revisions of the parts and guidance, and the drivers for these reviews. The following describes our current plans, although these, with the exception of Parts F and L, are merely 'minded to' at this time and different parts might be added or removed as we look at relevant research and drivers.
- 2.12** We will review Parts F and L and look to revise these again in 2013, as we seek to raise energy efficiency standards further as we move towards zero carbon homes. We expect to review Part H (Drainage and waste disposal) and its guidance with the expectation that we may want to introduce revisions in 2013, reflecting changes in sewer and drainage laws and practices and to reflect any implications from the new water efficiency requirements in Part G (Hygiene).
- 2.13** As part of the first periodic review we have been evaluating Building Regulations Part A (Structure) and Part C (Resistance to contaminants and moisture). We have identified a number of issues that Parts A and C will need to reflect, in particular a recent Health Protection Agency consultation on radon protection in buildings and the latest UK Climate Change Projections. The full implications of these will not become clear until next year at the earliest and so will not be in time to inform changes in 2010. We have concluded, therefore, that we should continue our work looking at Parts A and C, and what changes might be appropriate for the next periodic review in 2013. We will provide further information to our stakeholders on these particular evaluations later in the year.



- 2.14** We will be considering reviews looking at whether we need to revise in 2013:
- Part E (Resistance to the passage of sound), having evaluated the impact of the changes made in 2003 and 2004.
 - Part M (Access to and use of buildings). This will be informed by our review in 2010 of the accessibility and adaptability of new dwellings and of the adoption of Lifetime Homes standards.
 - Part K (Protection from falling, collisions and impacts) and Part N (Glazing – safety in relation to impact, opening and cleaning), which work closely with elements of Part M and will be due for review to check how well they are delivering.
 - Part P (Electrical safety – dwellings), having evaluated its impact since its introduction in 2005.
- 2.15** We will also be considering a review of the Approved Document in support of Regulation 7 (Materials and workmanship). We might need to make changes to this in 2013 to reflect the current review of the European Construction Products Directive and work on the sustainability of buildings and construction materials.

2016 and 2019 changes to the technical parts and their guidance

- 2.16** Alongside the revisions in 2013 we will also confirm the reviews we will be undertaking for anticipated changes in 2016 and indicate our thinking for 2019.
- 2.17** We currently expect to review Part F and Part L after 2013 in anticipation that they may need to be modified further to support the achievement of the Government's ambition for zero carbon buildings from 2016 (new homes) and 2019 (new non-domestic buildings). We will also be considering a review of the 2010 Part J (Combustion appliances) changes, particularly in respect of measures to address the airtightness aspects of Part F and Part L.
- 2.18** We also expect to be evaluating Part B (Fire safety) and Part D (Toxic substances) to consider whether there is a case to review any of these for 2016.

Communication of changes

- 2.19** We recognise that effective communication with stakeholders is vital to the successful implementation of changes. We will aim to confirm our plans for the next reviews as early as possible and report on progress on changes previously introduced. We will also use the opportunity of the co-ordination of the periodic review cycle to join up messages about different changes, to make it easier for people to keep fully up-to-date with the regulatory requirements.

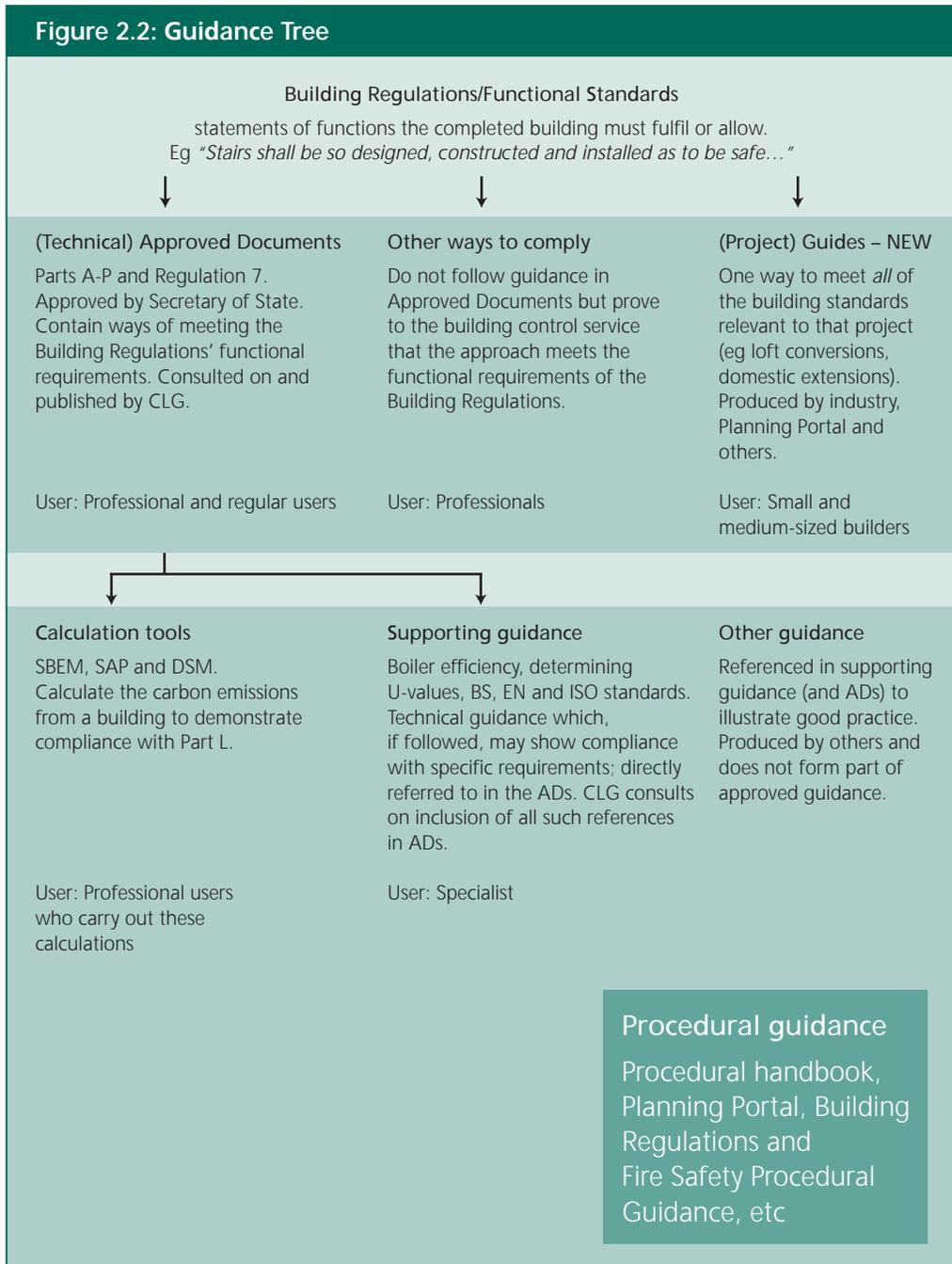
ACTIONS AND DELIVERABLES

What	Who	When
Confirm initial periodic review programme	CLG	Now
Publish second periodic review (identifying key issues and reviews planned for 2010-2013 and outlining plans to 2016)	CLG	2010
Publish third periodic review (identifying key issues and reviews planned for 2013-2016 and outlining plans to 2019)	CLG	2013

BETTER GUIDANCE

- 2.20** There was strong support for some of our proposals to improve the guidance available to aid compliance – to apply a consistent style and structure to the current suite of Approved Documents and to introduce and encourage project guides. The project guides will help those carrying out smaller projects to have a much clearer picture of what they need to do to comply across the suite of building regulations.
- 2.21** Figure 2.2 sets out the different types of guidance and how they link together. The current Approved Documents were felt to be very valuable for many, including professionals and designers working on more complex buildings and those familiar with the building standards. The consultation showed that the construction industry and the building control service were reluctant to see too much change to a set of guidance that is well understood, though there was broad agreement that the style could be more consistent across the Approved Documents.





Approved Documents

- 2.22** We will, by 2010, develop new and improved ways of presenting the Approved Documents. These will include:
- reviewing how the Approved Documents present information, such as how they are split according to building type
 - increasing the use of standard English to aid clarity without introducing technical ambiguity
 - making it crystal clear in the Approved Documents that they illustrate ways of complying with the functional requirements of the regulations, but these are not necessarily the only ways of complying
 - ensuring, wherever possible, that readers can follow the guidance in the Approved Documents without needing to consult other documents
 - utilising more of the opportunities provided by communications technology to aid the users of the Approved Documents
 - exploring opportunities to merge some Approved Documents, when being reviewed for other reasons, to improve clarity and aid compliance
 - introducing a style guide to which Approved Documents must adhere when next up for review.
- 2.23** Much of this work will draw on the many suggestions and comments collected during the consultation to improve presentation and usability.

Supporting guidance

- 2.24** Although the ideal is for Approved Documents to be self-contained, it is not possible to include the level of detail needed by all users. While over 80 per cent found signposts in Approved Documents to other guidance documents invaluable, there is frustration that some references are difficult to locate, some can be costly and some may just repeat what is said in the Approved Document. We intend to reduce, where possible, references to other documents, and where this is not possible we will look to make improvements such as including hyperlinks and look at the feasibility of setting up a one-stop shop to references via dedicated pages on the Planning Portal.
- 2.25** We will also make clear the status of the references in the Approved Documents. Certain supporting guidance will have an elevated status, such as guidance on boiler efficiency and calculation tools (SBEM, SAP, DSM) which stipulates that compliance with specific aspects of the regulatory requirements will be met if guidance is followed. We will need to be satisfied that these, if not produced by Communities and Local Government, undergo appropriate consultation, are commercially unbiased, and do not favour one product or process over another.



- 2.26** There will be a programme of rationalising and categorising references in each Approved Document that comes up for revision in the Periodic Review. Decisions on whether to include a reference in an Approved Document will now be judged against the following criteria:
- how it aids compliance
 - how easy it is to obtain – eg on Planning Portal
 - whether it is available free or at a reasonable cost.

ACTIONS AND DELIVERABLES

What	Who	When
Adopt style guide for Approved Documents	CLG	Summer 2010
New policy on referencing, making references easy to find	CLG	Within periodic review
New look Approved Documents published	CLG	From 2013 within the periodic review cycle

NEW PROJECT GUIDES

- 2.27** A large majority of respondents supported the development of project-specific guides for some of the more common types of project such as loft conversions and domestic extensions. Nearly half a million properties each year in England are being extended or having lofts converted and it is believed that this is where compliance with the Building Regulations can be problematic. Straightforward guidance should make a difference and we will work with partners on such guides.
- 2.28** These guides will help builders better understand what is required, and will support building control in their job by reducing the need for ‘hand-holding’ on sites. The guides should complement the guidance provided in Approved Documents, and building control would be able to accept them as *one* way of showing compliance with the Building Regulations – thus giving certainty as well as practical help.

- 2.29** It is not the intention for these guides to become prescriptive as, while the guides illustrate solutions, they can only cover some of the possible building designs, and users always have the choice of using alternative approaches other than those described in the Approved Documents. It would still be for building control to use their professional judgement on-site as to the suitability of a solution from a project guide.
- 2.30** We will support industry producing the first guides on loft conversions and domestic extensions as a matter of priority. An industry working group, involving six key industry stakeholders, consulted on a loft conversion project guide and intend to publish the full guide in October.⁹ It is hoped that work will commence shortly on a sister guide for domestic extensions.
- 2.31** Responses to the consultation and the survey of building control showed appetite for other guides such as the removal of chimney breasts, low-rise housing, and garage conversions.¹⁰ In the interim we will continue the development of high-level project guidance covering these types of work on the Planning Portal and would like to explore with industry and building control how this could be developed further.¹¹

ACTIONS AND DELIVERABLES

What	Who	When
Project-specific guidance on the Planning Portal	Planning Portal	Now
Consult on draft loft conversion guide	Industry Working Group, convened by CPA	February 2009
Publish loft conversion guide	CPA	October 2009
Publish domestic extensions guide	Industry Working Group, to be established	2010-11

⁹ The final guide will be available at www.constructionproducts.org.uk. The six stakeholders are: Construction Products Association, National House-Building Council, Association of Consultant Approved Inspectors, Energy Saving Trust, Local Authority Building Control, Federation of Master Builders.

¹⁰ Survey of Building Control Bodies www.communities.gov.uk/publications/planningandbuilding/surveybuildingcontrolrpt

¹¹ www.planningportal.gov.uk/england/genpub/en/1



3. MODERNISING INSPECTION AND ENFORCEMENT



- 3.1 We need an inspection and enforcement regime that is efficient, delivers the highest levels of compliance and is robust so it can deal effectively with the rising demands placed on the building control system. The *Future of Building Control* consultation put forward a number of reforms to the processes that would enable the achievement of this. These are detailed below.

NEW APPROACH TO RISK ASSESSMENT

- 3.2 Our goal is for an inspection regime to operate effectively and deliver high levels of compliance by concentrating building control resources on the projects at greatest risk of non-compliance. The statutory notification stages, which some consider to be statutory inspections, and the current inflexibilities in local authority charging are impediments to this.
- 3.3 Most building control officers already use their professional judgement to assess risk in order to focus on the projects and areas of higher risk. However, many in building control (64-81 per cent) want more help and support for risk assessment. This, in turn, will improve consistency of standards and interpretation across local boundaries and between local authorities and Approved Inspectors.

Risk assessment guidance

- 3.4 We have already started work with stakeholders on a practical tool that will guide the building control service through the risk assessment process. To be published in October, the tool and procedure will be clear and simple to use and suitable for all projects and for big building control departments as well as small. All building control bodies, including Approved Inspectors, will be encouraged to make use of this guidance and it should also meet the needs of the other stakeholders.

Changing the way local authorities can charge

- 3.5 The inflexibility of how local authorities can charge for carrying out their building control services is a barrier to introducing risk assessment. The current charging scheme which requires pre-fixed charges based on a limited number of factors with no flexibility for adjustment where necessary makes it difficult to set charges that reflect the actual cost of doing the work. The result is that resources are not being used effectively and the charging system can be unfair to those paying. Local authorities should focus their energy and resources on higher-risk projects and adopt a lighter touch approach to low-risk projects, such as those following a project guide, and should be able to set their charges accordingly.

- 3.6** We have published a consultation paper on local authority building control charges which proposes to:
- introduce more flexibility, accuracy and discretion so that individual charges reflect the true cost of plans checking and inspections
 - introduce more transparency with a view to safeguarding income
 - further improve the environment within which local authorities and Approved Inspectors compete with each other¹²
- 3.7** The consultation has now closed and the results will be made available later this year. If supported by the consultation, we intend to make the necessary changes to local authority charges and accounting guidance by the end of this year.

Replace statutory notification stages with service plans

- 3.8** The current set of statutory notification stages does not encourage a flexible inspection regime. Once the risk assessment guidance is embedded and proved, we will look to remove these stages. In return for additional flexibility, we are considering imposing the condition that the service plan should have at least one mandatory inspection stage, but making it clear that this is indeed the absolute minimum and not the norm. Further work is needed as to whether at least one stage (ie completion) needs specifying and whether Approved Inspectors should also be subject to this requirement to ensure a level playing field.
- 3.9** Local authorities will be required to draw up a service plan which details the likely stages of inspection following a risk assessment of relevant factors. The recipients of the plan would be legally bound to contact the local authority so these inspections can be undertaken. The plan should simplify rather than complicate and meet the needs of all those involved – not just building control – by setting out the vision and delivery statement and how it fits with other regulatory requirements. However, the practicalities of how the service plan will work and whether the requirement should extend to Approved Inspectors will need further exploration.
- 3.10** A detailed and broad consultation is planned for late 2010 on these and other changes to the building control system which will include a full analysis of the costs and benefits of the proposed changes and their interrelationships.

¹² www.communities.gov.uk/publications/planningandbuilding/lachargingregimeconsult



IMPROVEMENTS TO THE BUILDING NOTICE SYSTEM

- 3.11** The proposal to require full plans rather than building notices on a range of domestic project types, such as new housing, extensions and conversions, was supported by all sectors, including the construction industry. The removal of the building notice option will improve consumer protection, free-up local authority resources by reducing the need for inspections and on-site design, and ultimately improve compliance.
- 3.12** The building notice mini-survey publicised by local authorities revealed that 77 per cent of homeowners 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. The Federation of Master Builders surveyed its members and found that 85 per cent agreed that new housing should require full plans. Opinion is more mixed on other types of projects, whether the right areas have been identified, and the knock-on implications such as increasing the likelihood of unauthorised work and the shifting of resources for local authorities from inspections to plans checking and processing.
- 3.13** We are convinced that the building notice route is not appropriate for new housing. It is difficult to build a house that can comply without full plans. For example, building control is not able to check until the house is near completion whether the requirement for a toilet on the ground floor will be satisfied. At this stage, the developer will face additional costs and may find it difficult to design it in.
- 3.14** Given the complexities and difference of opinion, the Government will carry out an in-depth review of the building notice system and make recommendations and changes to improve the efficiency of the system. Further work will be undertaken to collect evidence of how building notices are being used for the different types of project (new house, domestic extensions) in order to pinpoint where the highest risks occur.
- 3.15** We will also explore the alternatives to tightening up the regulation, such as better communication of the risks associated with using building notices for more complex jobs; varying the fees to account for the extra and more time-consuming inspections required by building control surveyors; and reviewing the project information that is required to be submitted with a building notice.
- 3.16** Further analysis of the wider implications of any further restriction of building notices will also be carried out – for example the impact on illegal construction and resource implications for local authorities in handling plans applications. Any proposed changes will be part of the wider consultation on the building control system planned for late 2010.

MAKING COMPLETION CERTIFICATES MANDATORY

- 3.17** We want building control bodies to continue to provide a high-quality service to their customers and believe that making completion certificates mandatory is a crucial step. This is already the case for most commercial work and work carried out by Approved Inspectors. The only area where they are not required (except if requested before the project begins) are where building work is carried out on houses and flats which do not share a communal area (ie those buildings not covered by the Regulatory Reform (Fire Safety) Order 2005).
- 3.18** Completion certificates are already being demanded by lawyers during conveyancing and in home information packs. The Survey of Building Control Bodies told us that 97 per cent of local authorities already automatically make them available. The cost of issuing them is minimal and it is really about simplifying the system.
- 3.19** We will include proposed revisions to the completion certificate requirements as part of the wider building control changes planned. The issuing of completion certificates may need to be aligned with the mandatory inspection requirements in paragraph 3.8 because a local authority completion certificate without an inspection of the work could be viewed as a lesser form of assurance that the work complied. In addition, we will consider whether there should be circumstances where a completion certificate should not be required. We also intend to consider whether the provisions regulating the issuing and status of completion certificates should be made the same as those applying to final notices issued by Approved Inspectors.



APPROVED INSPECTOR REVIEW

- 3.20** Although there are variances between public and private building control bodies, all are working ultimately towards the same aim – that each building and building project meets the required standard. To create a more level playing field, we will use the building control consultation to improve the efficiency of the system with regard to how the Approved Inspectors function and interact with local authorities.
- 3.21** In the *Future of Building Control* consultation we put forward a number of suggestions which received considerable support. For example, to establish a single class of Approved Inspector and to clarify Regulation 10 of the Approved Inspectors Regulations, to ensure there is always a third-party check for compliance with the Building Regulations. It was also suggested by some respondents that local authorities should not need to approve or reject notices, but simply to register them.
- 3.22** These and other proposed procedural changes need to be considered further and will be part of the wider building control system consultation due out in 2010. To create a more level playing field we may also consider introducing the same measures for Approved Inspectors and local authorities to ensure consistency of approach and application, but only where appropriate. An example of this is the risk assessment guidance and approach which will be applicable to all building control bodies. In addition, we will also consider:
- the requirements and procedure for the issuing of service plans and whether Approved Inspectors should be subject to an equivalent arrangement; and
 - the impact of restricting building notices further on local authorities competing with Approved Inspectors. Some have suggested that Approved Inspectors should be subject to the issuing of plans certificates or an equivalent to bring them in line with the requirement on local authorities to approve full plans.

ACTIONS AND DELIVERABLES

What	Who	When
Consultation on local authority charges	CLG	April 2009
Publish risk-assessment tool and guidance approach	CLG	October 2009
Publish changes to local authority charges and accounting guidance	CLG	End 2009
Pilot risk-assessment tool	BCA	Late 2009 – mid 2010
Changes to LA charges take effect	CLG	April 2010
Consult on changes to the building control system, including: <ul style="list-style-type: none"> • removal of statutory notification stages • service plan requirement • changes to the building notice system • mandatory completion certificates • regulations concerning Approved Inspectors 	CLG	Late 2010



NEW AND EXTENDED ENFORCEMENT POWERS

- 3.23** The Government wants to ensure sufficiently robust and flexible powers of enforcement are in place to stop those who flagrantly or persistently do not meet the required standard. We have already extended the time limit for prosecution for breaches of the Building Regulations to two years.
- 3.24** A common misinterpretation of the meaning of ‘enforcement’ is that it is only about the number of prosecutions. The preferred enforcement model, as confirmed by the Macrory Review, is for enforcers to have a flexible set of sanctioning tools consistent with the risk-based approach proposed in the Hampton Review. A recent snapshot survey by LABC demonstrates that the building control surveyors’ preferred way to enforce is to help and guide builders, architects and others to comply with the building regulations.¹³ These informal actions or interventions can be made by telephone, email or site visits. Only after all informal avenues have failed to gain compliance would formal legal enforcement need to be used.
- 3.25** Proposals for stop notices, and to a lesser extent, monetary penalties, were generally welcomed by those who responded to the *Future of Building Control* consultation but further details were needed as to how and when they could be applied. LABC proposed that they be introduced to other areas covered by the Building Act 1984, in particular, dangerous structures and demolition.
- 3.26** We have launched a study to examine how the use of a new suite of civil sanctions, such as stop notices and monetary penalties, made available under the Regulatory Enforcement and Sanctions Act 2008, could be used by local authority building control bodies. It will be crucial to demonstrate that local authority building control enforcement and sanctions are risk-based, consistent, proportionate and effective.
- 3.27** Local authority building control departments will also need to demonstrate that they meet the Regulators’ Compliance Code before accessing these extra powers. The Code binds building control to “comprehensive risk assessment” and that “no inspection should take place without a reason”, which we are looking to implement through the risk-assessment guidance and the introduction of the service plan.¹⁴

¹³ www.labc.uk.com

¹⁴ Regulators Compliance Code, December 2007 www.berr.gov.uk/files/file45019.pdf

- 3.28** We will need to work on the details of how the new sanctions could and would be used in practice, including issues of proportionality, consistency and fairness, before issuing detailed proposals on new and extended enforcement powers. This could also include strengthening section 35 powers to allow the courts to require that work is brought up to standard, increasing the maximum penalty so that it is better tailored to the nature of the offence and the size of firm, and aligning the time limit for the use of section 36 notices to two years.

ACTIONS AND DELIVERABLES

What	Who	When
Extend time limit for prosecutions to two years	CLG	September 2008
Issue enforcement powers consultation	CLG	Summer 2010
Publish summary of responses and policy statement	CLG	Late 2010
(if supported) Introduce new powers	CLG	2011



4. REFORM OF DISPUTES AND COMPLAINTS



- 4.1 Effective dispute resolution mechanisms are an important part of any regulatory system and are essential in supporting high levels of compliance. It would appear that most disputes arising between people carrying out building work and the building control bodies about building regulations compliance are currently settled either between the parties themselves or by the use of alternative dispute resolution (ADR) schemes. We know that very few cases are referred to the Secretary of State. We also know that very few complaints about the building control service are processed by the Construction Industry Council or the Local Government Ombudsman.
- 4.2 Nevertheless, it is important to have a modern dispute resolution system for users of the building control system to be able to resolve differences in opinion about the compliance of their building project in an effective way. It should also be particularly helpful for innovative or unique projects – challenging the misconception held by some that the Approved Documents are the only way to comply – by being able to demonstrate other innovative means of compliance.
- 4.3 A large majority of respondents to the *Future of Building Control* consultation agreed that the current statutory determination and appeal provisions were in need of reform. A number of options were presented but over three-quarters wanted continued recourse to the Secretary of State to resolve disputes.

ALTERNATIVE DISPUTE RESOLUTION SCHEMES

- 4.4 Respondents from all categories were very supportive of any improvements in the dispute resolution process and agreed that a recognised fast-track alternative dispute resolution (ADR) service would be welcomed. It is essential for the construction industry and other stakeholders to have faith and confidence in the building control process, and it was suggested that the ADR system should build on the success of local schemes and other similar mechanisms.
- 4.5 There was little support for industry to run the ADR service, some citing that government might be better placed than industry to ensure its independence. Others suggested that schemes should stay at the local or regional level. The LABC county and regional technical panels have ensured that disputes are resolved locally and at a reasonable cost.

- 4.6** The Building Control Alliance relaunched its internal mediation scheme in April, replacing the former ACAI/LABC scheme for handling procedural disputes between Approved Inspectors and local authorities. The Alliance will now consider whether this scheme might provide a model for a more general mediation procedure for resolving disputes between developers and building control on compliance with the building regulations, and will be talking to bodies such as the Royal Institute of British Architects (RIBA) and the Chartered Institute of Architectural Technologists (CIAT) to ensure that any scheme has the backing of the construction industry more generally. We continue to believe that the Alliance could be well placed to run such a scheme because of the technical expertise of its members.
- 4.7** In order to understand the impact of local and regional ADR schemes and their success, we intend to gather evidence and experience to determine the practices and conditions that make local schemes successful; whether they make a difference to the levels of compliance and the quality of service provided by building control, and whether they have contributed to the reduction in the number of cases brought to the Secretary of State.
- 4.8** This knowledge, together with the further development of options as to how the current statutory process may be improved, and the on-going development of the Alliance's scheme will help government take a view as to what its role should be in the future regarding dispute resolution.

REFORM OF STATUTORY PROCEDURES

- 4.9** In parallel, we will be evaluating the current statutory dispute provisions¹⁵ as set out in Table 4.1. This work will provide us with the evidence of how well the current statutory system is working and possible options for reform. We will also consider other statutory dispute resolution systems used by other regulatory systems which could be used as a model for building regulations.
- 4.10** Acting on this evidence, we will consider the options for reforming and/or replacing the current statutory determinations and appeals provisions. Many respondents to the consultation supported the option to simplify the process by having one appeal procedure relating to compliance. This would replace the current determinations and appeals provisions and would cover both Approved Inspectors and local authorities.

¹⁵ Sections 16(10), 50(2) and 39 of the Building Act 1984.



- 4.11 We also propose to take this opportunity to evaluate all other appeal provisions in the 1984 Act related to building regulations. In doing so, we intend to determine their purpose, use and case for continuance, reform or repeal, including those made to the magistrates' court.
- 4.12 Once this work has been completed, we will take stock and consider the next steps for further reform.

Table 4.1: Main stages of procedures

	Determination	Relaxation (leading to an appeal)	Dispensation (leading to an appeal)
Client/customer position	That plans comply with the applicable requirement(s) in the Building Regulations which may or may not reflect the guidance in the relevant AD.	The requirement is too onerous and there are good reasons for not complying with an aspect of it in a particular project.	The requirement is inappropriate, or unreasonable, in a particular project.
Action	Discuss with building control body then seek local authority 'full plans' approval, or a 'plans certificate' from an Approved Inspector.	Discuss with building control body, then, if appropriate, apply to the <i>LA only</i> for a relaxation.	Discuss with the building control body, and, if appropriate, apply to the <i>LA only</i> for a dispensation.
Outcome	Building control body disagrees and may issue a formal rejection (LA) or withhold the plans certificate (AI).	LA refuses your application.	LA refuses your application.
Further action	Apply for a determination to the Secretary of State after plans are submitted to <i>LA/AI</i> but before work in question has commenced .	Appeal to the Secretary of State against the decision within one month of receiving the decision (at any stage in the work).	Appeal to the Secretary of State against the decision within one month of receiving the decision (at any stage in the work).

Notes: The building control body is the local authority (LA) or the Approved Inspector (AI). Applications for a relaxation or dispensation can only be made to the LA (not the AI). Determination applications and appeals are made to the Secretary of State.

ACTIONS AND DELIVERABLES

What	Who	When
Launch of BCA's mediation scheme	BCA	April 2009
Evaluate existing statutory procedures and ADR schemes	CLG	Early 2010
Decision on options for reform	CLG	Mid/Late 2010

HANDLING OF COMPLAINTS

- 4.13** The responses to the *Future of Building Control* consultation showed that many believed the complaints procedures for Approved Inspectors and local authorities is not adequate. Currently, the Construction Industry Council (CIC) administers a formal investigation system dealing with complaints from customers about the service they receive from Approved Inspectors. All local authorities operate their own internal complaints procedure and cases can be escalated to the Local Government Ombudsman in cases of maladministration. Competent person schemes are required to have a robust complaints procedure in order to be authorised by government.
- 4.14** Many suggested that there should be one system dealing with complaints relating to building control for both Approved Inspectors and local authorities to ensure a level playing field. This is not achievable at this time as it does not recognise their fundamentally different governance and accountabilities. Local authorities are public bodies and subject to public scrutiny, local democratic accountability and the Local Government Ombudsman, whereas Approved Inspectors are private entities and subject to contract law. In many cases, local authorities have common complaints procedures covering all services, including building control. The commitment to further strengthening the performance management system for all building control bodies will be a good opportunity to gain better insight into the parallels between the two complaints avenues and to ensure that performance standards are being maintained.



- 4.15** The Building Control Performance Standards Advisory Group (BCPSAG) has also been tasked to consider complaints from building control bodies and others in order to advise how this information can be used to prevent non-compliance.
- 4.16** We will work with CIC to ensure that its complaints procedure is robust, transparent and does not favour its members. Likewise we will encourage LABC to work with local authorities to ensure that their complaints systems are robust, clear and well-publicised and we will ask Competent Persons Schemes to do the same.

ACTIONS AND DELIVERABLES

What	Who	When
Work with CIC/LABC/LGA/CPS to improve complaints procedures	CIC, CPS, LABC/LGA	2009-10
Ensure performance management system considers complaints	CLG, BCA and BCPSAG	2010

5. ALTERNATIVE WAYS TO COMPLY



- 5.1 There are a number of paths that can be followed in the building control system to demonstrate that a building project is compliant with the relevant building regulations. Besides the traditional route of engaging an Approved Inspector or submitting an application or building notice to the local authority, for certain types of work a competent person can be used, or one can follow a pattern book, such as the one registered by Robust Details Ltd, to meet noise insulation requirements.
- 5.2 The Government is committed to improving and extending these approaches where there is a clear case to do so, and to explore other possibilities and mechanisms. For example, to allow for the engagement of an appointed person to encourage developers to take more responsibility for building regulation compliance.

COMPETENT PERSON SCHEMES

- 5.3 Competent person schemes – whose members are considered competent to self-certify that their work complies with the relevant requirements – continue to be a good way to achieve compliance cost-effectively for appropriate types of work. They have been beneficial in achieving compliance where there are discrete installations (eg new boilers, replacement of windows) where the incidence of risk is low and, owing to the high volume, a great deal of building control time is demanded.
- 5.4 We are committed to improving and strengthening the schemes as they will continue to be a key mechanism to meet the required standards set by building regulations in the future. We have published a leaflet aimed at householders on the importance of notifying building work and the benefits of using an installer who is registered with a competent person scheme.¹⁶
- 5.5 The system has been generally effective, but we are aware of some practical difficulties which need to be addressed. There has been a gradual evolution of schemes over the last six years covering a wide range of work.

¹⁶ *Building work, replacements and repairs to your home*
www.communities.gov.uk/publications/planningandbuilding/buildingworkleaflet

- 5.6 We have completed a review of our administration of the schemes which aims to ensure a consistent and cohesive approach, good administration, and provide a fair basis on which existing schemes can work and new schemes can develop in the future. It will also ensure that the authorisation of the schemes meets the requirements of the EU Services Directive. Separate monitoring reports have been published which analyse the performance of individual schemes.¹⁷
- 5.7 The conclusions of this review will be presented in a forthcoming consultation on the proposed changes to how competent person schemes are administered. Proposals will relate to improving the application process, the scheme authorisation criteria and quality assurance arrangements to address weak performance management. It will result in all schemes operating under consistent rules and conditions. A number of changes will be implemented by the end of 2009 to meet the requirements of the EU Services Directive. We aim to implement the remainder by April 2010.
- 5.8 We recognise that there are currently some difficulties with the transfer of data between the scheme operators and local authorities which are being investigated by LABC with our support. Resolving these issues will reduce the administrative burden on local authorities, for example, by setting up a LABC helpline to resolve problems.¹⁸

Extending the coverage of competent person schemes

- 5.9 Competent person schemes have generally been authorised in areas where the level and incidence of risk is low. The consultation suggested that government should consider authorising schemes into new appropriate areas, except for structure, fire safety and underground drainage. A significant minority of local authorities disagreed, believing that further expansion will risk loss of control. In contrast, others, particularly professional groups, felt that the Government should not exclude the use of such schemes for areas such as structure.
- 5.10 We remain committed that competent person schemes can offer an alternative way to demonstrate compliance and will continue to consider the extension of schemes generally. Extension specifically into the areas of structure, fire and drainage will only be considered within the periodic review process.

¹⁷ *Report on Competent Person Schemes in 2003*, www.communities.gov.uk/publications/planningandbuilding/reportcompetent; *Monitoring of Electrical Safety Competent Person Self-certification Schemes*, BD 2612, www.communities.gov.uk/publications/planningandbuilding/monitoringelectricalsafety

¹⁸ XML schema hotline and arbitration service - 0844 561 6136, xml@labc.uk.com

Other forms of certification

- 5.11** The Government continues to believe there is a role for an independent building control service to ensure that buildings are safe, accessible and sustainable. We note that the proposal to consider *whole building certification* – ie to not have any independent third-party check for compliance – was met with strong opposition from all sectors. At this time we do not intend to pursue whole building certification.
- 5.12** The Government will keep under review the suggestion that the competent person scheme approach could be widened to cover *third-party certification* for areas of the regulations that require a certain level of specialist knowledge or where the buildings are particularly complex. Further debate is needed to identify potential specialist areas that would be appropriate, such as certifying structural designs, large and complex heating and ventilation systems and thermal insulation. Further information on the possible efficiency and compliance gains will be gathered when the relevant regulations are reviewed as part of the periodic review programme. In introducing any third-party certification scheme we will seek to avoid creating another tier of building control.

ACTIONS AND DELIVERABLES

What	Who	When
Grant to LABC to address data transfer issues	LABC and CLG	October 2008-2011
Consult on competent person schemes administrative review	CLG	September 2009
Implement recommendations of competent person schemes administrative review	Scheme operators and CLG	By April 2010



PATTERN BOOK (ROBUST DETAILS) SCHEME

- 5.13** Many recognised the success of the pattern book or Robust Details approach for Part E (Noise) but raised questions as to whether it could be replicated in other areas. This should not be confused with the project guides – see chapter 2 – which set out detailed guidance on how to satisfy the Building Regulations for a particular project such as a loft conversion or domestic extension. These project guides were previously known by some as the ‘deemed to satisfy’ guides.
- 5.14** By pattern book approach we mean the system of registering with a company to receive detailed designs on a particular aspect of building work, and in return that aspect of work will not be subject to the regular building control check by either an Approved Inspector or local authority.
- 5.15** Although the success for Part E is widely recognised, the conditions that helped this success cannot be readily identified in other areas of the regulations, for example, the exemption from pre-completion sound testing and the willingness of housebuilders to pay. We will continue to consider the application of the pattern book or Robust Details approach within the regular reviews as set out by the periodic review programme.
- 5.16** For example, we want to build upon the generic and freely available accredited construction details which were designed to help the construction industry achieve the performance standards required to demonstrate compliance with the energy efficiency requirements of the Building Regulations. As part of the Part L consultation launched on 18 June 2009, we are consulting on whether to introduce a scheme of checking and sample inspections, and/or to allow higher values to be used in the energy performance calculation when they are submitted by a suitably qualified person.

APPOINTED PERSONS

- 5.17** The Sustainable and Secure Buildings Act 2004 allowed for the appointment of a single person – an appointed person – to act as an interface between building control and the developer who would be responsible for facilitating Building Regulations compliance on-site. Building control bodies have said that this would be helpful on medium to large construction projects where there is a lack of responsibility on-site for Building Regulations compliance. Having an appointed person from project inception to consider building regulations issues, such as is currently done with the construction design management (CDM) co-ordinator for health and safety, will help to ensure that building regulations issues are fully integrated in the design process from project inception.

- 5.18** A significant minority of building control (20 per cent local authority, 36 per cent Approved Inspectors) wanted to regulate for the appointment of appointed persons for the above reasons but understood the difficulties in introducing what could be an additional perceived burden on industry. There was clear consensus that it would not be suitable for all types of development. Many large developments already have a professional on-site in this role and it would not be cost-effective in smaller developments, but it could make a real difference on sites where building control bodies find it difficult to find the right person or documentation. Others were worried about the further fragmentation of an already complicated regulatory framework.
- 5.19** We do not intend to use the powers available to us to regulate for appointed persons at this time. However, we do strongly believe that the role of an appointed person as the main contact for building control on-site should be supported and promoted for appropriate development schemes, if only to reinforce the responsibility of the client and to promote an understanding of the regulations.
- 5.20** There are synergies between the aims of the appointed person and those of the construction design management co-ordinator which could potentially be linked, and we will be watching closely the upcoming review of the CDM co-ordinator role.
- 5.21** We will also work with the Royal Institute of British Architects (RIBA) and the Royal Institution of Chartered Surveyors (RICS) to ensure that practice notes and guidance on general design and project management of construction projects covers the benefits of assigning someone upfront to be responsible for information relating to Building Regulations compliance.
- 5.22** The issue of regulation may well be worth revisiting in the light of experience gained from an initial voluntary approach and we will be interested in real examples/collect more evidence on this and what types of project are the most suitable.



6. STRENGTHENING PERFORMANCE MANAGEMENT



- 6.1** The Government is under increasing pressure to be able to demonstrate that the standards it sets in the Building Regulations are actually delivered, in full, on the ground, and that the powers that it has given to building control bodies are being used appropriately. It is also in the interests of others for building control bodies to demonstrate their added value and for industry and developers to ensure that any further action to improve compliance is suitably targeted.
- 6.2** There are many elements to improving compliance – most of which are addressed by the various parts of this implementation plan. However, objective performance management of the building control industry is critical to ensure that the system is effective in meeting its overarching aim to ‘ensure buildings are safe, healthy, accessible and sustainable’.
- 6.3** Publication of the Building Control Performance Standards and Indicators by the industry-led and independent Building Control Performance Standards Advisory Group (BCPSAG) has laid the foundation of the principle of collecting comparable performance data from every building control body. This data will be used to improve the quality of service on offer by building control bodies.
- 6.4** We are encouraged that local authorities and Approved Inspectors strongly supported the proposal in the *Future of Building Control* consultation to strengthen the performance management system and the continuing use of performance indicators and added that the importance of training should not be overlooked. Many argued that it was essential for standards to be applied and monitored consistently across providers in both sectors.
- 6.5** Competition amongst building control bodies makes performance management even more important. We need to be satisfied that meeting the required standard will continue to be the central aim for the building control service while also improving efficiency and levels of customer service.
- 6.6** To support building control bodies to uphold the standards in this competitive environment, the Government will continue to ensure a level playing field where possible and appropriate, and to help drive out inefficiencies in the building control system.

NEXT STEPS – DEVELOPING A PERFORMANCE SYSTEM

- 6.7** The Government does not wish to stipulate and impose reporting requirements on the building control service. It is for the service to demonstrate its own effectiveness and manage its own performance. The lack of robust performance data undermines industry and public confidence in the building control system generally.
- 6.8** Building control bodies need to work together to find a way of self-regulating – of collecting and analysing independent and verifiable performance information to show that they are delivering their functions effectively and that their high standards are not being compromised because of competition.
- 6.9** The Government's view is that a credible system will need to:
- set appropriate indicators
 - collect and analyse the performance data, including auditing and benchmarking
 - publish or disseminate the results
 - measure continual improvement.
- 6.10** We believe that an industry-led approach is the right one and we will continue to support industry in finding the right mix of tools. Any approach taken should work within the wider local authority performance framework and the Construction Industry Council's conditions of authorisation for Approved Inspectors. However, the Government will be under increasing pressure to demonstrate that we are meeting our targets, for example, carbon savings in buildings as this is one of the key strands for delivering climate change targets. If industry is not able to show that it can self-regulate in this respect then we may be forced to rethink.
- 6.11** We welcome the Building Control Alliance's commitment to this agenda, and we look forward to working with it and BCPSAG to meet the agreed target to have an expanded and improved set of indicators agreed by April 2010 for piloting and a fully functioning performance system in place by April 2011. To support this activity, we will work with BCPSAG to strengthen its capacity on delivering an improved performance management system and its role to ensure that wider stakeholder interests are being considered.



CURRENT PERFORMANCE INDICATORS

- 6.12** The set of seven voluntary performance indicators produced by BCPSAG were designed to assist building control bodies to assess the quality of service they provide to their customers. The indicators cover a wide range of issues, such as training undertaken by staff, levels of customer satisfaction and number of hours spent on-site.
- 6.13** In the first year, 2007-08, 150 building control bodies submitted a return, and a report covering the analysis of these returns was published by BCPSAG in June.¹⁹ BCPSAG will continue to collect these data for 2008-09 and intends to publish its report in October of this year.
- 6.14** There is concern that there are not sufficient outcome-based performance standards. The Government agrees that they could be developed further to better reflect the vision of building control and to demonstrate the building control services' positive impact on compliance. The indicators are not just a management tool, but a means to report to citizens and customers, demonstrating the value added by building control.
- 6.15** BCPSAG and the Building Control Alliance (BCA) are publicly committed to introducing a new set of indicators to take account of these criticisms. The existing indicators focus on what building control professionals put in to the regulatory process and not how successful they are in ensuring that there is compliance with the Building Regulations. BCPSAG intends to review the existing indicators and data with the aim of including the relevant ones in the new set of indicators, which will cover the information needs of not only the building control service but also of other stakeholder groups, namely the wider public and the consumer.
- 6.16** Given the time needed for developing, testing and consulting on a new set of indicators, the new indicator set will not be fully functioning until April 2011. In order not to lose momentum or allow a gap in data, BCPSAG is committed to reporting on the current set of indicators until the new system is up and running.

SYSTEM OF BENCHMARKING AND PEER REVIEW

- 6.17** To support the new indicators, there needs to be a system of processing and validating this information. It is clear that benchmarking or some kind of peer review or audit is needed to ensure that information is fed back into the system and performance is improved.
- 6.18** Respondents were divided as to what tools would be appropriate. There were reservations about a peer review system but they believed an independent system, with neutral assessors, would achieve the same result. Although industry will 'own' the indicators, we agree that independent review and validation are built into this new system. BCPSAG will ensure the wider stakeholder view is properly accounted for.

ACTIONS AND DELIVERABLES

What	Who	When
BCPSAG publishes report analysing the returns from 2007-08 indicators	BCPSAG	June 2009
BCPSAG publishes report analysing the returns from 2008-09 indicators	BCPSAG	October 2009
BCPSAG publishes report analysing the returns from 2009-10 indicators	BCPSAG	October 2010
Building Control Performance Standards Advisory Group: Revised Memorandum of Understanding to reflect new performance management work	BCPSAG	September 2009
Outline proposal from BCPSAG and BCA setting out new outcome indicators and proposals for a new performance management system	BCA/ BCPSAG	Late 2009
Pilot new and revised indicators and system	BCA/ BCPSAG	2010
Introduce new indicators and performance management system for all building control bodies	BCA/ BCPSAG	April 2011



TRAINING

- 6.19** Although not directly addressed in the *Future of Building Control*, training is an important element in the system of performance management. Indeed, the number of training days is one of the key performance indicators.
- 6.20** It is felt that building control bodies understand the importance of training. Most building control surveyors are professionally accredited to an institution such as the Association of Building Engineers (ABE), the Chartered Institute of Building (CIOB) or the Royal Institution of Chartered Surveyors (RICS), or are working towards such a qualification. The Construction Industry Council requires that all Approved Inspectors must be a member of ABE, RICS or equivalent. LABC recently set up a new training division to ensure that local authority building control surveyors are kept informed of change to the Building Regulations and the building control system.
- 6.21** Good examples of co-operation and practice exist in providing a modern building control service:
- exchange visits between Birmingham City Council building control and BAA Building Control service
 - joint training of trainee staff between London Borough of Southwark and Butler and Young.
- 6.22** The Government is aware that training and the dissemination of regulatory changes play a crucial part in delivering building regulations compliance. We are currently consulting on a training and dissemination strategy for the upcoming changes to Part L and F and we intend to extend this approach to the periodic review programme and other planned procedural changes.²⁰

²⁰ 'Chapter 4: Training and Dissemination Strategy',
Part L consultation Volume 1: Proposals for amending Part L and F of the Building Regulations
www.communities.gov.uk/documents/planningandbuilding/pdf/partlf2010consultationvol1.pdf

7. EVIDENCE OF COMPLIANCE



- 7.1 We need to have a much clearer picture of the numbers of buildings and projects that are complying with the regulations. Levels of compliance with the Building Regulations will be subject to continued and increased scrutiny as this rises up the political and public agenda, owing to the increasing reality of climate change and the important role that building control plays in delivering carbon savings.
- 7.2 Communities and Local Government will be developing a more comprehensive programme of evaluation of all parts of the Building Regulations, including levels of compliance. This will provide evidence to underpin the development of any further changes – either to the Regulations and guidance themselves as part of the periodic review programme, or other actions such as targeted communications, further training, and changes to the building control system.
- 7.3 We will have a clearer understanding of compliance through the periodic review process – the backward look which examines whether the standards are being met and the latest changes are being followed. In recognition of the need for better evidence, we have surveyed a sample of new homes to see if they comply with Part L 2006 and studied the levels of compliance for non-domestic buildings and work to existing buildings.
- 7.4 The other key part will be through the performance management of the building control service itself. Given the drivers for increased performance standards in this area, we expect this to be an iterative process and can see a case for continued monitoring.
- 7.5 The Part L review set up a working party to look at issues surrounding compliance and recommended that the scrutiny of compliance needs to continue beyond the current Part L work. We are seeking views on our proposals to improve compliance with the energy efficiency requirements of the Building Regulations and in particular whether there is a need for a steering group to develop and coordinate a strategy aimed at closing the performance gap by 2016.²¹

²¹ 'Chapter 2: Proposals for Improving Compliance and Building Performance', *Part L consultation Volume 1: Proposals for amending Part L and F of the Building Regulations* www.communities.gov.uk/documents/planningandbuilding/pdf/partlf2010consultationvol1.pdf

- 7.6** Reflecting on the results of the Part L consultation, we intend to set up a wider task force on compliance with membership drawn from industry, the supply chain, consumers and government. It will build upon the Part L work and look at compliance across all the Parts to better understand whether compliance is lower with those areas being recently controlled by the Building Regulations, and whether it varies around the country.
- 7.7** The remit will be to collect evidence of levels of compliance and to understand the underlying causes of non-compliance, for example, whether it is wilful non-compliance, a lack of understanding, poor workmanship, a difference between design versus actual performance, etc.
- 7.8** We will conclude these studies and, in the light of the evidence obtained, will decide upon a proportionate response in our proposed measures for improving compliance and reform of the building control system. Stronger enforcement of the regulations where there is non-compliance and better communication and engagement could form part of the solution.

8. WAY FORWARD



- 8.1** A priority of Communities and Local Government's Sustainable Buildings Division will be to implement this programme of reform. We are confident that this programme has highlighted the areas which will make the greatest difference in terms of increasing compliance and reducing burdens. The consultation process generated many fresh ideas and approaches and we wish to continue this dialogue.
- 8.2** We are continuing to develop the package of procedural changes that were originally put forward in the *Future of Building Control* consultation. This work will culminate in further consultations on new and extended enforcement powers and on building control procedures in 2010 which will be detailed enough to allow for full implementation to immediately follow.
- 8.3** You will see a more gradual evolution to a fully functioning periodic review programme, supplemented by clear and concise Approved Documents as the various parts are reviewed and streamlined. As part of this, we also expect building control bodies to think creatively about how they can meet the challenge to deliver buildings that reach the high standards that are demanded of them, and provide a strong customer-focused service.
- 8.4** We intend to review the effectiveness of this programme two to three years after implementation. In particular, we will be looking at the adequacy of the performance management system and whether it meets the needs of wider stakeholders. At this time we will consider what further changes may be required and whether more fundamental structural changes are needed, in order that all building control bodies uphold the same standards.
- 8.5** For this programme of reform to be a success it is vital that the building control profession and all stakeholders continue to be fully involved.

IMPLEMENTATION PLAN MILESTONE MAP - Delivering improvements to the Building Control System to raise compliance, reduce burden and enhance customer service

Proposal	2009				2010		2011	2012	2013 (and beyond)
Chapter 1 - A New Future for Building Control									
Vision and delivery statement	Publish <i>Building work, replacements and repairs to your home</i>	Issue consolidated Building Regulations 2000 and Building (Approved Inspectors etc.) Regulations 2000 (June)	Publish vision and delivery statement (July)		Building control bodies endorse vision (2009/10)			Publish new procedural handbook	
Building control and planning - A smooth interface			Produce project-specific maps on interface between building control, planning and other regulatory regimes (October)						
An Integrated and e-enabled building control service	3-year grant to LABC to address data transfer issues between CPs and LAs	Launch XML schema hotline and arbitration service (Mar 2009)			Launch of new Planning Portal (early 2010)	Building control bodies link to Planning Portal guides and information (on-going)	Completion of LABC work to address data transfer issues		
Chapter 2 - A Better Approach to Regulation and Guidance									
Periodic review - A new way of updating the guidance			Confirm initial periodic review programme (Aug)		Publish 2nd periodic review - key issues and reviews planned for 2010-2013 and outlining plans to 2016				Publish 3rd periodic review programme
The periodic review	Consult on changes to Parts L&F (June)	Consult on changes to Part J	Part G changes come into force (Oct)		Evaluate and review Part E, Part H, Part K, Part M, Part N, Part P and Regulation 7	Introduce revised regulations and guidance for Parts F&L and Part J	Make decision to revise Parts A&C, Part E, Part K, Part M, Part N, Part P and/or Regulation 7	Consult on Parts A&C, Parts F&L and Part H. Possibly consult on Part E, Part K, Part M, Part N, Part P and/or Regulation 7	Introduce revised regulations and guidance for Parts A&C, Parts F&L and Part H. Possible revision of Part E, Part K, Part M, Part N, Part P and Regulation 7
Better guidance and new project guides	Project specific guidance available on the Planning Portal	Publish loft conversion guide (Oct)			Adopt style guide for approved documents (Summer)	New policy on referencing in approved documents (on-going, within periodic review)	Publish domestic extensions guide	Publish new procedural handbook	New style of ADs published in line with periodic review
Chapter 3 - Modernising Inspection and Enforcement									
New approach to risk assessment and improvements to the building control system	Consultation on changes to LA charges to introduce flexibility, accuracy and transparency (April)	Publish risk assessment tool and guidance for building control bodies	Publish changes to LA charges and accounting guidance		Pilot risk-assessment tool	Publish building control consultation (replacing statutory notification stages with service plans, building notices, completion certificates and Approved Inspector regulations)	Publish summary of responses and policy statement	Changes to the building control system come into force	
New and extended enforcement powers					Issue enforcement powers consultation	Publish summary of responses and policy statement	(if supported by consultation) Introduce new powers		
Chapter 4 - Reform of Disputes and Complaints									
Alternative dispute resolution schemes and reform of statutory procedures	Launch of Building Control Alliance's mediation scheme					Evaluate existing statutory procedures and local schemes	Decision on options to reform	Possible further consultation on reforms to the dispute process	
Handling of complaints			Work with CIC/LABC/LGA/CPS to improve complaints procedures (2009/10)		BCA/BCPSAG to ensure performance management system considers complaints				
Chapter 5 - Alternative Ways to Comply									
Competent person scheme	3-year grant to LABC to address data transfer issues between CPs and LAs	Consult on competent person schemes administrative review (Sept)			Implement review recommendations (April)		Completion of LABC work to address data transfer issues		
Chapter 6 - Strengthening Performance Management									
Developing and delivering a performance system	BCPSAG publishes 2007/08 indicators report (June)	Revised MoU to reflect new performance management work (Sept)	BCPSAG publishes 2008/09 indicators report (Oct)	BCPSAG/BCA proposals to strengthen the indicators and create a new performance management system	Pilot new and revised indicators and system	BCPSAG publishes 2009/10 indicators report	Introduce new indicators and performance management system (April)		

Our vision is for a building control system which ensures buildings are safe, healthy, accessible and sustainable for current and future generations

To deliver this vision the Building Control Alliance and Communities and Local Government want to see a building control system which:

- is based on objective and fair standards developed through consultation and supported by clear guidance to aid compliance in common building situations
- works with the customer to help them achieve a building project which meets both their expectations and building standards designed for the public good
- works hand-in-hand with other regulatory systems 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 continually improve their own performance and effectiveness
- is served by a professional, well-trained and managed building control service which uses resources effectively and efficiently
- offers an effective means of resolving disputes about compliance
- includes communication and awareness raising in respect of both its purpose and the roles, responsibilities and expectations of its stakeholders
- monitors building performance and compliance levels to demonstrate its impact on the delivery of compliant buildings.

We need to be clear with customers that the building control service will:

- provide a checking service to help achieve compliance with building standards
- support and advise customers on how to end up with the result they want, but will not be a substitute for professional design and construction advice
- help with aspects of quality (workmanship and materials) where these affect compliance with building standards, but not where they do not affect compliance
- ensure that all building standards which are set in the interests of the wider public good have been complied with at completion.

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

- be responsible for compliance – *that is the duty of the person carrying out the work*. If work is found not to comply with building standards the person responsible could be prosecuted and the owner of the building may be required to put the work right
- manage every stage of the construction process on-site – that is a matter for the contracts and arrangements between the client and builder
- address issues such as the finish and aesthetics of the final project where these are not relevant to compliance with building standards – these are a matter for designers, developers, builders and, to some extent, new home warranty providers
- deal with contractual problems between client and builder – this is a matter of contract law.

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