

The Future of Building Control

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March 2007
Department for Communities and Local Government

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1. Introduction

- 1.1 Over the years, the Building Control System has helped to deliver buildings which are safe, healthy and accessible for everyone who lives and works in and around them. The quality, variety and performance of buildings in this country are a testament to the past success of the system and the people that operate it. But the world is moving on. Today we are demanding ever more from Building Control. We ask it to ensure that our buildings are not only safe but that they are sustainable and make a direct contribution to tackling climate change. And we ask it to take account of ever more complex technologies whilst remaining easy to understand and comply with.
- 1.2 Over the last year, we have been talking to the people who operate and use the Building Control System day in and day out and we have been listening to their views on how it needs to change. The message is clear. The system is not broken but it has some serious failings and weaknesses that must be tackled if we are to ensure that it remains fit for purpose in today's world and in the future.
- 1.3 There are many differing views on how we should do this. It is not our intention here to accept or reject every point or idea that has been published on the subject. Our intention is to start the process of defining a more effective framework within which Building Control can develop into the future and taking practical actions to help the system operate more effectively now.
- 1.4 The decisions we have to make are complex and have far reaching implications so we will be publishing **a full consultation paper on the way forward later in the year**. In the meantime we have included here the ideas and suggestions that we have received which we think have the greatest potential to modernise and strengthen the Building Control System. This is not a formal consultation but it sets out the areas we are minded to develop further and invites any interested parties to contact us with their thoughts on these or other suggestions for how we might proceed.

2. Work to Date – Developing the Evidence Base

2.1 The first stage of this review has involved developing a clear understanding of the case for reform. Over the last year Ministers and officials have listened to stakeholder views and have gathered suggestions. Principal inputs so far have included:

- a major **Ministerial round table meeting** with the construction industry in June 2006, at which the strategic approach to this review was discussed;
- The '**Achieving Building Standards Study**' carried out by Science Applications International Corporation on behalf of the CLG, which has provided an insight into how the Building Control System is perceived by many stakeholders; how successfully building standards are being achieved; and barriers to improvement;
- A '**Review of Building Regulations and Options for Change**' conducted by a Task Group of construction industry professionals, which looked at the nature of the regulations themselves and how our approach to future regulation could be improved;
- A wide range of discussions with individual stakeholders to explore areas in which the building control system could be improved and building regulations simplified to make them easier to understand and more user-friendly.

2.2 The key messages we have drawn from these inputs are that:

- There is currently a lack of direction in terms of the future of building control – there is no clear and accepted **vision of the future** in terms of what building control is for (and what it's not for), what the roles and responsibilities are for different groups within it and how the system should operate;
- There is a degree of confusion around the interface between building control and **other relevant regulatory regimes** and a sense that they often duplicate and conflict rather than providing a clear end-to-end service over the whole life of a building;
- **Stakeholders** do not feel that they are consulted effectively, that their concerns are properly understood or that they have sufficient ability to influence the development of standards.
- There is a sense that the **regulations are too complex** and can sometimes be conflicting – there is scope for simplification to make them easier to understand and reduce the burden associated with compliance;
- Regulations are changed too frequently never allowing sufficient time for industry to adapt or plan ahead. There is a need for a clearly **planned programme of changes** with clear interim targets and planned pauses;

- **Compliance** with some parts of the regulations is low for a variety of reasons but principally a lack of understanding about what is required and a lack of resources within the building control profession to inspect everything all the time;
- Most **guidance** is highly technical and does not do enough to meet the needs of different types of audiences. Different types of guidance are needed for different types of users and different types of jobs if compliance levels are to be raised;
- **Enforcement** could be improved and sanctions are weak;
- Future **levels of resource** will make achieving good levels of compliance and enforcement even harder. The building control profession is aging and not attracting the recruits that it needs while at the same time rates of development are increasing and demanding greater capacity;
- There is a need to further improve **performance management** of the building control system, putting in place the processes needed to enable effective review and evidence based decision-making.

3. Next Steps – Aims and Objectives

3.1 Having listened to stakeholders' diagnosis of the problems, the aims of the next stages of this review are to:

- Identify key reforms that we believe have the potential to address the main weaknesses identified in the current system as quickly as possible;
- Develop and consult on our proposals for implementing these reforms taking full account of the costs and benefits to all those that are affected by the Building Control system;
- Set out a programme of change which will deliver a modernised and strengthened Building Control system within a clearly defined timeframe;
- Having addressed immediate weaknesses in the system, explore the need for further longer-term strands of work to address some of the structural issues around the building control system including current organisational roles and responsibilities and the interface with other regulatory regimes.

3.2 As we have made clear above, our focus in this stage of the review is on actions we can take within the system as it currently exists. We are reluctant to lose pace in identifying and implementing these changes by being drawn into a 'blank sheet' review of the organisation of building control and related regulatory systems. However, this does not mean that we do not recognise the issues and we would welcome views on our intended approach.

4. Options for reform

4.1 Having listened to stakeholders analysis of the current situation, we have concluded that we need to focus the next stages of this review on six key areas:

- A. The Future of Building Control – Establishing the Vision and Strategy for Future Delivery
- B. Modernising the System – Effective Risk Based Inspection and Enforcement
- C. New Routes to Compliance – Minimising the Burden
- D. A Customer-Centric Approach – Improving Guidance and Other Tools to Aid Individual Compliance
- E. Improving our Approach to Regulation – Stability and Forward Planning
- F. Performance Management and Future Capacity

4.2 Below we set out the issues of concern to stakeholders, as they have described them, and the suggestions that have been made which we think are worth further exploration. This is not a statement of intended government policy. It is simply a starting proposition for the work we intend to do, with the aid of stakeholders, over the coming months.

A. The Future of Building Control – Establishing the Vision and Strategy for Future Delivery

Issues of concern to stakeholders:

The management of Building Control needs a clear vision and also a clear strategy for future delivery; there is an apparent lack of joining up between different regulatory regimes and confusion over roles and responsibilities throughout the delivery chain. The public in particular has little sense of the purpose of Building Control or who is responsible for what.

Potential Actions:

Developing a clear vision for the future of Building Control

Work with stakeholders to articulate and communicate a clear vision for the Building Control System covering issues such as:

- high level purpose and objectives;
- roles and responsibilities within the system;
- how the interface with other regulatory regimes such as H & S, Planning, Housing Standards and Water should operate;
- approach to development of future Building Control standards and policies;
- approach to future stakeholder engagement including engagement with the public; and
- performance management mechanisms.

Much of this would emerge from the more detailed work highlighted below. However, the over-arching vision for Building Control would set the context and framework for future development of the System.

B. Modernising the System – Effective Risk Based Inspection and Enforcement

Issues of concern to stakeholders:

Levels of inspection and compliance particularly in areas which are perceived to be optional (i.e. those not directly related to health and safety) are lower than they should be; Building Control Bodies are under increasing resource pressure which is pushing levels of inspections down; enforcement options are limited and do not provide an effective mechanisms for dealing with serious problems or persistent offenders.

Potential Actions:

Build on the current Building Control Performance Standards to further develop an effective risk-based approach to inspection and enforcement.

Building on the recommendations of the Macrory Review and best practice developed in other regulatory regimes, develop and implement a clear risk-based compliance and enforcement strategy which would provide a framework to aid building control bodies in raising compliance levels. This could for example, help identify those organisations and/or projects that presented the greatest risk of non-compliance with one or more parts of the regulations; further develop and articulate a stepped approach to achieving compliance under different circumstances ranging from education and on site advice at one end to full inspection at the other; and provide for the use of a broader range of risk based sanctions (see below).

Develop a wider range of sanctions for non-compliance and greater powers of enforcement particularly against persistent offenders.

Although the majority of difficulties can be resolved by the type of early interventions referred to above, in a small number of cases sanctions are needed to ensure compliance. At present local authority enforcement powers in relation to Building Control are subject to restrictive time limits and financial penalties are often relatively minor, which can encourage evasion. The recent Macrory Review suggested the development of a wider range of sanctions, and we are looking into whether some of these may be appropriate for Building Control. Options could, for example, include powers to issue stop notices, powers to levy administrative penalties, powers to prevent occupation until compliance is achieved, and/or heavier fines linked to the cost of correcting non-compliant work.

C. New Routes to Compliance – Minimising the Burden

Issues of concern to stakeholders:

The processes by which Building Control is conducted are generally paper based and need to be updated and e-enabled; alternative routes to compliance should be encouraged and developed further, particularly in areas where self-certification is possible, so that cost and delay can be taken out of the system;

Potential Actions:

Review and extend the use of Competent Persons Schemes

Following completion of the current review of Competent Persons Schemes, consider extending the approach to allow competent building contractors with a proven track record in specific areas, to self-certify their work (works certified by Competent Persons are still subject to inspection and enforcement action by Building Control, but on an exceptions basis).

Activation of the Appointed Persons and certification of works powers

Consider the scope for developing the Appointed Persons scheme as envisaged in the Sustainable and Secure Buildings Act 2004 which would allow for a single individual, employed by the contractor, to take responsibility for assuring and/certifying compliance of the project with all Building Regulations. This is a broader approach to self-certification and only intended for larger non-domestic projects. We would also re-consider the scope for other forms of self (or third party) certification of work. As with Competent Persons Schemes, works certified by these means would still be subject to inspection and enforcement action by Building Control, but only on an exceptions basis.

E-enabling of building regulations

Lifting current requirements for wet-ink signatures which delay the process and necessitate the printing and physical movement and storage of large numbers of documents would be a significant step forward in the modernisation of the system. E-enabling of Building Control processes would also open up other opportunities as well such as the development of standard Building Regulations forms, provision of web-based guidance etc.

Modernising and simplifying dispute procedures

Consider options for introducing a formal fast-track system to help resolve disputes between people carrying out building work and building control bodies and streamlining the current dated statutory determination and appeal procedures. A similar procedure to the informal system which has developed in London could be built on for other regions.

D. A Customer-Centric Approach – Improving Guidance and Other Tools to Aid Individual Compliance

Issues of concern to stakeholders:

Approved Documents have a specialist audience but are too technical and complex for most small building contractors to follow; the distinction between the Approved Documents and Regulations needs clarification; guidance needs to be simplified and targeted to take account of the different needs of different types of projects and different types of users.

Potential Actions:

Review Approved Documents and other guidance

In the same way as has already been done for Parts B and L of the Building Regulations – consider the need for different more focussed versions of the Approved Documents for different target audiences (dwelling houses/others); and, for example, provide simpler/reduced texts for small house builders than for major commercial developers.

Extend the use of “pattern books”

At present there is one pattern book for Part E of the Building Regulations (noise insulation) which doesn't prescribe how things must be done but illustrates detailed ready-made ways of satisfying the Regulations. There is also industry led guidance on basements. Extending the use of pattern books for specific issues or guidance for certain standard projects such as loft conversions or single storey extensions, would provide a further option for providing simple customer-centric guidance.

Increase the use of Internet based resources and interactive technologies

Increase the use of internet based resources and interactive technologies, including XML tagged documents. For example, better use could be made of the “Interactive House” on the Planning Portal website to provide ready access to guidance with easy-use electronic cross-referencing so that users can select only those aspects which are relevant to their projects.

E. Improving our Approach to Regulation – Stability and Forward Planning

Issues of concern to stakeholders:

Piecemeal review of building regulations means that building contractors and the Building Control profession are subjected to frequent change and have difficulty keeping up; long lead times in the construction industry means regulations are sometimes updated before previous changes have been fully applied; without a clear and comprehensive forward plan of the changes ahead, the industry finds it difficult to plan and therefore harder to either prepare or innovate.

Potential Actions:

Fixed cycle of Building Regulation review with clear planned pauses

Move to a longer fixed cycle of building regulation review (for example, every four years) which addresses priority issues across the whole of the body of the regulations, sets a clear forward plan of changes to be made in future reviews and maintains clear, planned pauses during which no amendments will be made. We are currently consulting on our commitment to undertake a further review of Part L of the Building Regulations, by 2010, to implement further improvements in the energy efficiency of buildings. This could be an appropriate point to introduce a new approach to building regulation review, taking forward key changes across several parts of the Regulations and setting out our plans for the future. The Government would have to retain the right to make any essential amendments that may be required between fixed review points but would be committed to finding alternative approaches wherever possible.

Developing our consultation and stakeholder engagement procedures to make better regulations

Developing a more thorough and considered approach to identifying our key stakeholder groups and engaging with them on their specific areas of interest. Also applying a more consistent approach in how we engage with stakeholders, including the public, on policy changes and their implications: developing a paradigm that incorporates recent examples of best practice on consultation and dissemination and builds in effective implementation planning.

F. Performance Management and Future Capacity

Issues of concern to stakeholders:

An ageing profession which is finding it increasingly hard to recruit and retain staff; a sense that resources which are intended to support training and development tend to be used for other purposes; a clear concern that barriers to improved performance are not picked up because of the lack of performance information which also prevents the development of a clear feedback loop into the development of future policy.

Potential Actions:

Building Control charges

Review how local authorities set their Building Control fees. Local authorities are obliged under the regulations to set fees (by way of “schemes” of charges) at such a level that they cover, with certain exceptions, the costs directly or indirectly incurred by the LA in performing their functions under building regulations, which includes training and development costs. Anecdotally, there seems to be some concern that not all the revenue from charges for providing the Building Control service are being re-invested and that as a result capacity and capability is falling. Undertaking a review of this would be an important first step in understanding what is happening and reducing any existing funding inadequacies and significant surpluses.

Building Control profession

Work with relevant stakeholders to identify options for strengthening the Building Control Profession. Work with industry and building control bodies to explore the lessons learned from recent initiatives to recruit more graduates/trainees into the planning profession and identify approaches which will ensure that there are sufficient qualified Building Control professionals coming forward to deal with future demand.

Building Control performance indicators

Continue working with stakeholders to enable them to review the effectiveness of the Building Control performance indicators and develop robust monitoring based on regular peer reviews.

5. Next Steps

The options identified in this paper have all been put forward by stakeholders over the course of the last year. They constitute those ideas that the Government believes have the greatest potential in terms of achieving the short-medium change needed to ensure that the Building Control System is fit for purpose in meeting the demands that are likely to be placed on it in the future.

It is only a start and we now intend to work over the coming months to develop these proposals in more depth and prepare a full consultation paper for publication later in the year.

This is not a formal consultation but if you have any views on the options raised here or any thoughts on other options that should have been included we would like to hear from you. Please email your comments to:

Enquiries.BR@communities.gsi.gov.uk