

RATIONALISING THE ENTIRE FRAMEWORK OF BUILDING REGULATIONS, AND NATIONAL AND LOCAL HOUSING STANDARDS

Terms of reference for the review to rationalise the framework of building regulations, standards and guidance that apply during the house building process

1.0 Overall goal

1.1 To significantly rationalise the untenable forest of Codes, Standards, rules, regulations and guidance that add unnecessary cost and complexity to the house-building process, to report by Spring 2013. In doing so, the aim is to achieve tangible deregulation, to enable quality and sustainable housing developments to be brought forward more easily. The Review will not compromise essential safety and accessibility protections.

2.0 Scope

- all standards that can be applied in local planning policies or through planning conditions
- the Building Regulations themselves and the Approved Documents (Statutory guidance) that sit underneath them
- other regimes that may continue, and that may also place burdens on businesses during the house building process eg sustainable drainage and Energy Performance Certificate requirements.

3.0 Focus of the review

- Conduct a radical and fundamental review of the entire framework of Building Regulations and voluntary housing standards
- Consider opportunities for rationalisation, simplification and improvement of the Building Regulations themselves
- Look at how the requirements stemming from Building Regulations and/or local and national standards interact, overlap or conflict with other significant regulatory regimes applied through the planning system
- Deliver a mechanism, legislative or otherwise to ensure that additional rules and standards are not added on, beyond those left at the end of the review.

4.0 Structure of the review

4.1 The whole review process has two distinct but inter-related parts, each with a different scope, function, and list of participants. This document sets out the overarching objectives of the whole review, including key objectives for the Government alone, and appends the specific terms of reference for the two review groups.

The two groups making up the review are:

4.2 A local housing standards review group - This will be established and run by DCLG to build on the initial work on local housing standards conducted by the

Harman Group review of housing standards The purpose of the Group will be to:

- critically examine and rationalise all of the standards housing that Local Authorities can currently apply in local plan policies and through planning conditions, regardless of their ownership (for example, Lifetime Homes, Code for Sustainable Homes, London Housing Design Guide, Secured by Design, etc), as well as standards that are applied nationally via the affordable housing programme, such as the Housing Quality Indicators.

4.3 A “Contestable Policymaking Challenge Panel” (“the Panel”) – This small, independent group will also be assembled by DCLG. The purpose of the Panel will be to:

- Guarantee the level of ambition of the review, by taking on the role of a ‘critical friend’ with full opportunity to feed their views into the Housing Standards Review Group;
- Be given free rein, unconstrained, to consider and suggest innovative methods to deliver demonstrable deregulation to make home building easier.

4.4 The panel scope will be very wide ranging and will encompass reviewing the Building Regulations themselves and the Approved Documents (Statutory guidance) that sit underneath them, and the fit of these with any new standards set developed by the Housing Standards Review Group. The Challenge Panel will also consider any related rules and standards applied through the planning system, and how these fit together, and whether they are fit for purpose.

4.5 The Challenge Panel will not be constrained by previous or existing policy, the forthcoming proposed changes to the Building Regulations or the recommendations of the Review Group.

4.6 The Challenge Panel will be set up by the DCLG, in collaboration with the RTC team, but will comprise of genuinely independent external experts to guarantee the level of ambition of the whole review process.

4.7 Both Groups may draw on the Harman Standards Working Group test for formulating good standards.

4.8 In addition to the Panel and the Housing Standards Review Group, a **cross-Whitehall “contact group”** of other Government Departments will be established to track the work of both, and to act as a Governmental sounding board. This group will also ensure that the Review is suitably engaged with other related work streams, such as the separate review on Planning Guidance, that is to undertake a rationalisation of Government badged practice guidance documents.

5.0 Timing

5.1 The review was first announced as part of the Government’s housing and growth strategy on 6 September 2012. The Challenge Panel and Housing Standards Review Group will be formally launched in October.

5.2 The Review Group and Panel will submit their findings to Ministers by April 2013.

5.3 Ministers will consider both sets of the findings and will publish a clear plan of action and a consultation, about the policy framework by the late Spring.

ANNEX A

CLG-led Local Housing Standards Review Group

1.0 Overall objective

1.1 The Standards Review Group is one of two closely related groups making up the Review. The common overarching objective of both groups is to significantly rationalise the untenable forest of Codes, Standards, rules, regulations and guidance that add unnecessary cost and complexity to the house-building process by Spring 2013. The aim is to achieve tangible deregulation, to enable quality and sustainable housing developments to be brought forward more easily. .

2.0 Task of the Standards Review Group

2.1 The Standards Review Group will be tasked with:

- Considering how local and national standards can be streamlined to significantly reduce the burden on the house building process, so that new development is viable, while ensuring that it is sustainable, of a high standard, and the consumer is protected.
- producing a clear and simple framework of how the rationalised set of standards fit and interact with the Building Regulations and other regulatory requirements e.g. those on sustainable drainage;
- producing a rationalised and coherent 'menu' of costed, justified and internally consistent standards that local authorities may choose to apply locally according to their local needs, priorities and evidence;
- producing guidance for builders, local authorities and the consumer to navigate the new system. This will set out needs and evidence criteria for the application of each standard, including costings, and impact information that will inform Plan Inspectors at Examination. This should enable authorities to understand the implications and impact of deploying each standard, and the types of evidence authorities will need to provide to deploy particular standards;
- proposing who should "own" the standard set. This could be Government or sector-led, or a fusion of both;
- proposing a compliance regime to enable the discharge (and enforcement) of the standards that fits with the new system, prevents multiple inspections and reduces the overall burden;
- considering any proposals for future regulatory changes necessary (if any - eg minor changes to the Building Regulations) to help the effective implementation of the new framework.

3.0 Structure of the Standards Review Group:

3.1 The Standards Review Group will be Government led insofar as a senior DCLG official (Director level) will chair the group and DCLG will provide secretariat and analytical support and also make available technical support (where needed)

using existing DCLG technical support contracts. The group will comprise standards owners and members of key partner organisations listed at para 4.1.

3.2 The Standards Review Group will be responsible for delivering the tasks set out in para 2.1. In doing so it will commission, as appropriate, specific working groups to analyse and rationalise standards by thematic area, and review and sign off the output of these groups. The Standards Review Group will also act as a programme management board to ensure that the outputs are delivered in line with the agreed timetable.

3.3 The thematic working groups are likely to cover: energy; water; security; and accessibility, although others could be established as necessary (eg space). The steering group will decide the objectives for and membership of the working groups. The working groups will be supported by DCLG policy officials, together with DCLG technical support and costing information as necessary. Members of the working groups will be drawn from standards' owners and key representative organisations. Where appropriate, participants can be drawn from the existing working groups used for the 2013 Building Regulations review, but the group should have a wider representation than that alone.

3.4 The working groups will set out work plans which will enable outputs to be reviewed by the Standards Review Group and the Challenge Panel, to ensure the overall fit of all requirements in line with the overall timetable.

3.5 One of the roles of the Challenge Panel is to critique the outputs of the working groups and Standards Review Group. To enable this to happen, the Challenge Panel will have access to papers going to the Standards Review Group and the minutes of Standards Review Group meetings. The DCLG secretariat will seek to ensure timely distribution of papers so that the Challenge Panel can make inputs in advance of Standards Review Group meetings if it wishes and in all cases ensure that Challenge Panel views are fed into the Standards Review Group.

3.6 DCLG will ensure that both the Challenge Panel and the Housing Standards Review Group liaise with the separate review of additional planning guidance, which will be taking place simultaneously by providing updates and papers to the groups. The Planning Review is considering the rationalisation of a range of "Government badged" practice guidance documents. It is crucial that all this review work closely with the planning review to ensure effective cross links are established between their respective workstreams, to avoid duplication or contradiction.

3.7 In establishing a new set of standards, the Standards Review Group may utilise the Harman Standards Working Group test for formulating good standards (appended at C).

3.8 The outputs of the Standards Review Group will be addressed to DCLG Ministers.

4.0 Membership:

4.1 The Standards Review Group will be chaired by DCLG Director Jon Bright and will have the following members:

Association of Chief Police Officers
Building Control Alliance

Building Regulations Advisory Council
Building Research Establishment
Construction Products Association
Greater London Authority
Habinteg Housing Association
Home Builders Federation
Homes & Communities Agency
House Builders Association
Local Government Association
National House Builders Council
National Housing Federation
Planning Officers Society
Royal Institute for British Architects
UKGBC

5.0 Secretariat and analytical support:

5.1 DCLG will provide secretariat support for the Standards Review Group and supporting working groups. DCLG will also provide analytical support to cost each of the standards and enable an impact assessment to be undertaken of the outputs of the review, to assess the overall deregulatory saving. DCLG will also make use of existing technical support contracts to provide appropriate technical support if necessary.

ANNEX B

Contestable Policymaking Challenge Panel (“Challenge Panel”)

1.0 Overall objective

1.1 The Challenge Panel is one of two closely related groups making up the Review. The common overarching objective of both groups is to significantly rationalise the untenable forest of Codes, Standards, rules, regulations and guidance that add unnecessary cost and complexity to the house-building process by Spring 2013. The aim is to achieve tangible deregulation, to enable quality and sustainable housing developments to be brought forward more easily. .

1.2 In line with the Civil Service Reform Plan, the Government will be making use of a non-Civil Service “external Challenge Panel” to operate as a “critical friend” of the Housing Standards Review Group. The Challenge Panel will be asked to think freely, to probe and suggest innovative approaches to achieve significant deregulatory outcomes. The Challenge Panel should not feel constrained by previous or existing policy or the forthcoming proposed changes to the Building Regulations.

2.0 The Challenge Panel will have these main tasks:

- To consider opportunities for rationalisation, simplification and improvement of the Building Regulations themselves (including considering whether to add into Building Regulations, or related standards, requirements on broadband connectivity and on environmental protection, if this would improve these key policy outcomes);
- To consider how the requirements stemming from the Building Regulations and / or national or local standards interact, overlap, or conflict with other significant regulatory regimes that apply through the planning system (eg SUDS);
- To critique the outputs of the Standards Review Group and to give Ministers an independent view of those outputs;
- To propose a mechanism, legislative or otherwise to ensure that additional rules and standards are not added on, beyond those left at the end of the review.
- To consider whether there are opportunities for further deregulation for the house-building process which the Challenge Panel would recommend to Ministers.

2.1 To enable it to fulfil this role, the Challenge Panel will have access to Standards Review Group papers. The Challenge Panel can, if it chooses, submit its own papers to the Standards Review Group and/or Ministers at any stage.

2.2 Both the Challenge Panel and the Housing Standards Review Group will also need to liaise with a separate review of additional planning guidance, which will be taking place simultaneously. DCLG will ensure that the Challenge panel groups is kept aware of developments in the Planning Review. The review is considering the rationalisation of a range of “Government badged” practice guidance documents. It

is crucial that all three reviews work together and that effective cross links are established between their respective workstreams, to avoid duplication or contradiction.

3. Outputs of the Challenge Panel:

3.1 As well as commenting on the Standards Review Group papers, the Challenge Panel will be asked to submit a report to Ministers at the end of the process, in parallel with the Standards Review Group outputs. It is for the Panel to decide on the structure of the report they produce for early Spring 2013 but they may wish to:

- outline their findings including where they are different from the Standards Review Group and suggest innovative ideas to change the framework to deliver the overall aim of the review, if the Challenge Panel considers this necessary;
- highlight how quickly they think the changes should be made.

3.2 The Challenge Panel can also provide comments on the Standards Group draft report and suggest additional options for consultation in early Spring 2013 – if they consider that necessary.

3.3 The report will be addressed directly to DCLG and RTC Ministers and will not be for the Standards Review Group to consider first. Ministers will consider the Challenge Panel's report alongside the Standards Review Group outputs. It will be for Ministers to decide whether to accept the Challenge Panel's recommendations. Subject to Ministers' views, it is expected that the Challenge Panel's report will be published.

4.0 Membership:

4.1 The Challenge Panel will be made up of four experienced and innovative individuals from across the sector:

Kirk Archibald – developer
Andy von Bradsky – architect
David Clements – building control
Paul Watson - planner

5.0 Secretariat support

5.1 The Challenge Panel will agree their workplan at the outset of the work. Separate secretariat support for the Panel will be made available by DCLG. The Panel are not obliged to use the secretariat support and may prefer to use alternatives such as their own administrative support. In particular, as the review unfolds, if the Challenge Panel considers that significant areas are not being addressed, which require resources beyond those available from the DCLG secretariat, then it is open for the Challenge Panel to raise whether other support can be bought in.

5.2 The Challenge Panel can also call on the resource of the Red Tape Challenge team if required.

6.0 Additional support

6.1 Before commencing work the Challenge Panel will meet with the relevant DCLG and RTC Ministers to outline the aims of the Government's new contestable policy making approach and the remit of the Challenge Panel. During the review period the Challenge Panel can request additional meetings with DCLG and/or RTC Ministers or officials to discuss any concerns or questions on the progress of their work.

7.0 Funding

7.1 The Challenge Panel will not receive remuneration for their work but will be reimbursed for travel and subsistence.

Annex C - The Harman group test for formulating “good standards”

The following list represents the key attributes of credible standards established by the Harman Standards Working Group:

1. The need for the standard to exist must be clear and supported by robust evidence.
2. The standard should deliver value for money, ie. longer term costs should be proportionate to benefits (the assessment of which should include the consideration of all issues such as economic, social and environmental issues, as well as the consequences of not having a standard). However, there was a view that unless there is a selling price benefit, only the immediate capital cost impact is relevant since it is the immediate cost that impacts on the viability of development.
3. The standard should be aimed at achieving clear outcomes.
4. It should not conflict with or duplicate other standards.
5. The standard should be clear and easy to use.
6. Careful consideration should be given to setting the minimum level at which the standard should apply.
7. It should be easy to measure/quantify (this will assist in minimising subjectivity).
8. It is essential that a broad range of interests and organisations involved should have confidence in the standard.
9. Where an accreditation process is required, it is important that this be cost effective, proportionate and delivers benefit.

DCLG benchmark requirements

- Guidance and standards must not breach the terms of the Construction Products Directive and resultant Construction Product Regulations.
- Guidance and standards should be performance based in order to ensure that they do not fall foul of European Competition law.
- Guidance and standards should align wherever possible with existing baseline building regulations.