



Local Authority Registers of Building Control Information Consultation

A consultation paper



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The Overview

The aim of the proposals is to make regulations under Section 91A of the Building Act 1984 (inserted by section 7 of Sustainable and Secure Building Act (SSBA)), in connection with the requirement for local authorities (LAs) to keep a register of prescribed information and documents concerning building control, including their own building control service. Under Section 56 of the Building Act 1984 and the regulations made under that section, the Building (Approved Inspectors etc) Regulations 2000¹, LAs are currently required to keep public registers containing information relating to the building control activities of Approved Inspectors, but they are not obliged to keep information or documentation which they receive or issue in their own capacity as building control bodies (including information and documentation from competent persons). The Department's view is that the LAs should have to keep and maintain public registers which will contain information and documentation which relates to their own building control functions (which includes receipt of information and documentation from competent persons) as well as that of Approved Inspectors. The purpose of the proposals is to provide LAs with a framework in which they can operate to achieve this requirement. Section 56 of the Building Act 1984 will be partially repealed by section 11(2) SSBA as a consequence of making regulations under section 91A of the Building Act 1984, as reproduced below:

“91A Registers to be kept by local authorities

- (1) A local authority shall keep in a register such information and documents as may be prescribed in connection with their functions, powers and duties conferred or imposed by or under this Act.
- (2) The information and documents that may be prescribed for the purposes of subsection (1) above include, in particular-
 - (a) documents that are given or issued to, or deposited with, a local authority in accordance with provision made by or under this Act, or copies of such documents;
 - (b) copies of documents that are given, made or issued by a local authority in accordance with provision so made;
 - (c) information with respect to documents of the kind mentioned in paragraph (a) or (b);
 - (d) information with respect to matters to which such documents relate.
- (3) Information and documents that are required to be kept in a register under subsection (1) above shall be so kept for the prescribed period.
- (4) A local authority-
 - (a) shall maintain the register required under subsection (1) above in the prescribed manner;
 - (b) shall ensure that the register is available for inspection by members of the public during prescribed periods;

¹ SI 2000/2532.

- (c) shall, in prescribed circumstances, provide to members of the public, on request, copies of information and documents kept in the register;
 - (d) may, in prescribed circumstances, charge a member of the public to whom they provide such copies a fee calculated in the prescribed manner.
- (5) In this section-
- “documents” includes notices, certificates, orders, consents, demands and plans;
 - “prescribed” means prescribed by regulations made by the Secretary of State under this section.
- (6) Regulations under this section may-
- (a) provide for a provision thereof to apply generally, or in a particular area;
 - (b) make different provision for different areas and generally different provision for different circumstances or cases;
 - (c) include such supplemental, transitional and incidental provisions as appear to the Secretary of State to be expedient.
- (7) The transitional provision that may be included in regulations under this section includes transitional provision in relation to information that, immediately before the coming into force of the regulations, was contained in registers kept by local authorities under section 56.
- (8) The power to make regulations under this section is exercisable by statutory instrument, which is subject to annulment in pursuance of a resolution of either House of Parliament.”

The proposal

- 1.1 Section 56 of the Building Act 1984 (56 BA) provides that every LA must keep a register containing information as is prescribed by the Secretary of State with respect to initial notices, amendment notices, section 51C notices (change of person intending to carry out work), plans certificates, final certificates, and public body's notices. The information that may be prescribed includes information as to whether such notices or certificates have been accepted or rejected, and with respect to an initial notice or amendment notice, information about the insurance cover provided with respect to the work to which the notice relates. Section 56 requires LAs to ensure that every register kept should be made available to members of the public during reasonable hours.
- 1.2 Regulation 30 of The Building (Approved Inspectors etc.) Regulations 2000 prescribes the information which LAs are currently required to keep in the public registers, with respect to the notices and certificates outlined above in paragraph 1.1. The information to be kept is as follows:
 - (i) the description of the work to which the notice or certificate relates and the location of the work;
 - (ii) the name and address of any person who signed the notice or certificate;
 - (iii) the name and address of the insurer who signed any declaration which accompanied the notice or certificate; and
 - (iv) the date on which the notice or certificate was accepted or was presumed to have been accepted.

The information prescribed above must be entered in the register as soon as practicable or within 14 days of the occurrence to which it relates. The register also must include an index which enables a person to trace any entry in the register by reference to the address of the land to which the notice or certificate relates.

- 1.3 The Department considers that to provide a level of consistency and to maintain an appropriate standard of service across LA boundaries, it is necessary for all LAs to maintain similar registers of information relating to their building control functions, powers and duties which will cover building control services by Approved Inspectors, Competent Person and LA itself. The Department's intention is to, without placing undue burdens on LAs, make use of the new power in section 91A of the Building Act 1984 (91A BA) to achieve this aim. The aim of the proposals in this consultation package therefore is to progress to a position where all LAs are required to maintain a publicly accessible register of information relating to their own building control functions and those of competent persons, as well as those of Approved Inspectors. It is intended that such a register must contain information (relating to the LA's own building control functions) that has been created from the date the new information register regulations come into force. Information which currently has to be kept by LAs on the public register as required under s56 BA (in connection with Approved Inspector functions) will be required to be transferred over into the new registers.

1.4 The Secretary of State has powers under section 91A BA to prescribe:

- (i) what information and documents in connection with local authority functions, powers and duties conferred or imposed by or under The Building Act must be kept in a register;
- (ii) the time period for which the information and documents must be kept;
- (iii) the manner in which the local authority must maintain the register;
- (iv) the circumstances in which copies of information and documents kept in the register must be provided by the local authority to members of the public;
- (v) the circumstances when a local authority may charge a member of the public, and to prescribe the manner in which the fee must be calculated.

Proposal 1: What information and documents should be kept in the public register

- 2.1 Once sections 7 and 11(2) of SSBA are commenced, under section 91A of the Building Act 1984, it will be a legal requirement for LAs to keep a register of such building control documents and information as is prescribed. The Department's intention is to prescribe that the information which should be kept in the register is that contained in the "information matrix" attached at Annex B. The proposed information includes information given to, issued by or deposited with the LA. The information is to be found in notices and certificates (including regularisation certificates, which certify that a local authority is satisfied that building work, which was first carried out without appropriate inspection, is in compliance with those requirements).
- 2.2 The competent person scheme allows certain building work to be the subject of "self-certification". The types of work and schemes currently authorised by the Secretary of State under Schedule 1, para 4(a) of the Building Act 1984 can be found in Annex C. This means that competent person companies present a certificate to a local authority that their work will either comply, or does comply with the Building Regulations. Local authorities are authorised by regulation to accept these certificates, as evidence that the Building Regulations have been complied with. The information proposed to be retained in relation to competent person schemes is specified in Annex C.
- 2.3 The Department's proposal is that LAs maintain information relating to their building control functions. These 'building control functions' include LAs' own building control activities, as well as their functions in receiving information from Approved Inspectors and competent persons about their respective building control activities. It is important to have a record of all these different building control activities, so that the public register can provide for the first time a truly comprehensive record of building control activities by all the building control bodies.
- 2.4 When considering the balance between placing an unreasonable burden on LAs and maintaining a comprehensive register, it should be noted that full plans, in particular, are very detailed and will generate a large number of drawings, particularly in cases where large developments such as office blocks and flats are involved. Also, a person is not obliged under the Regulations to build exactly in conformity with the plans

deposited as during the course of a project, changes are often made and plans may not represent what is actually built on site. Therefore, the Department does not propose that full plans should be kept.

Exemptions from disclosure

- 2.5 The Department is proposing that there should be exemptions from the requirement for information to be placed on the register, or copies made available to the public on request. The first category of information that the Department considers should be exempt is information which would affect national security if disclosed. The second category which it considered should be exempt is any information which relates to the security arrangements of any building. This is to prevent abuse of the availability of building control information in order to commit crimes such as burglary.

Proposal 2: How long must information be kept for

- 3.1 Records must be retained for an appropriate length of time, particularly as the statutory time limits on commencing legal action have to be taken into account. At present, Standard 7 of the Building Control Performance Standards handbook states that LAs should store all their building control records for a minimum of 15 years. Archiving records for such a long time will have benefits for both LAs and the public (see paragraph 10.1) and our proposal is therefore that retaining information for 15 years would become a regulatory requirement.

Proposal 3: Maintenance of the register

- 4.1 The Secretary of State has the power to prescribe the manner in which a LA will maintain a register. The Department is not proposing to prescribe what form the information should be retained in, ie whether it should be in paper or electronic form, or stored using another method, such as microfiche. This is because the Department is keen to give LAs the flexibility to use whatever system meets their individual requirements, e.g. magnitude of information to be stored, pre-existing systems and databases, etc. It is hoped that LAs adopt common electronic standards and systems that will permit information to be easily transferred and read.
- 4.2 For ease of reference and to be able to obtain the relevant information without searching through a large number of unrelated documents, LAs would be required to introduce and maintain, as appropriate, the following system for storing their documents:
- (i) Inclusion of an index, which would allow a search on a property by reference to the address (this mirrors the existing similar requirement for the register under section 56 BA).
 - (ii) Index description of projects which would include building work description; the dates of plans approved, rejected or pending; and completion certificates approved and issued.
 - (iii) Information as suggested and detailed in 2.3 and Annex B.

Proposal 4: When must copies be provided to members of the public

- 5.1 The Secretary of State has the power to prescribe the circumstances in which copies of information and documents kept in the register must be provided by LAs to members of the public. The Department proposes that members of the public should be entitled to copies of information and documents kept in the register simply on request (the request can be made in any form) and payment of the appropriate fee.

Proposal 5: When fees may be charged

- 6.1 The Secretary of State has power to prescribe the circumstances in which a LA may charge a member of the public for copies of information and documents kept in the register. Although access to and inspection of the register will be free, the Department considers that the public should have to pay a fee to obtain copies of information and documents in the register, in order to reduce the financial burden on LAs. Therefore, the Department's proposal is that whenever a request is made for copies of information or documents, the LA will be entitled to charge a fee.

Proposal 6: Calculation of fees for providing copies

- 7.1 The Secretary of State has power to prescribe the manner in which the fee for producing copies of information and documents to members of the public is to be calculated. The cost to the LA of providing the copies will vary depending on the time and resources LAs have spent on providing the copies, but prescribing the requirements for calculating the fee will ensure that all LAs will remain consistent in their approach. The Department is proposing that the fee charged should relate to the actual cost of producing the copies requested.
- 7.2 The Department considers that the costs that LAs will actually incur in providing copies can be broken down as follows:
- (i) staff time in locating and preparing the relevant information or documents from the register (including any time spent considering whether the information falls into the categories which are exempt from disclosure), in producing the copies of the information or documents, and in supplying the copies;
 - (ii) the cost of producing the copies, such as the cost of paper and photocopying charges; and
 - (iii) the cost of supplying the copies, such as postage costs or the costs of another form of transmission.
- 7.3 Before a buyer purchases a property, his solicitor or licensed conveyancer will conduct a local property search. The search is a series of standard questions addressed to the LA for the area, and are designed to give the buyer as much information as possible about the property before purchase. LAs and the Law Society of England and Wales have agreed a standard set of questions that should be included in a local property search. These questions are contained in the Law Society form "CON 29" (also known as the "Enquiries of Local Authorities Form"). Some of these

questions are used to find out what building work has been carried out and whether such work has been subject to, and carried out in compliance with, building control requirements.

- 7.4 The Office of Fair Trading noted² that the charges for the supply of CON 29 searches compiled by the LA itself varies widely between LAs. These charges do not always reflect the costs of providing the service and there is a lack of transparency about the costs that these charges reflect. These proposals will address these issues as far as obtaining copies of information relating to building control is concerned.

Copyright

- 8.1 The copyright in any material which is open to public inspection or on official registers is protected under the Copyright, Designs and Patents Act 1988.
- 8.2 Where material is on a register which is required to be kept by statute (as is the case for the register in this context), any copyright in the material as a literary work is not infringed by the copying of any of the material which contains factual information of any description, by or with the authority of (in this case) the LA³. That is the case if the copies are not for a purpose which involves the issuing of copies to the public, so copying of the material by the LA itself, for example, would not be breach of copyright.
- 8.3 Where material is open to public inspection because of a requirement in a statute, copyright is not infringed by copying or issuing to the public copies of the material by or with the authority of, in this case, the LA who is required to keep the register⁴. This is only the case so long as the purpose of the copies is to enable the material to be inspected at a more convenient time or place, or is otherwise connected to the purpose for which public access was given – in this context, the purpose for which access is being given is to allow the compliance of building works at properties with building control requirements to be checked. In the case of plans and drawings which are open to public inspection, this protection extends only to copies of the plan or drawing marked with certain precautionary words⁵.

² Property Searches – A Market Study: published by OFT September 2005.

³ Section 47(1) Copyright, Designs and Patents Act 1988.

⁴ Section 47(2) Copyright, Designs and Patents Act 1988.

⁵ For copies made on or after 15 August 1990, see article 2 of the Copyright (Material Open to Public Inspection) (Marking of Copies of Plans and Drawings) Order 1990, SI 1990/1427. The specified wording is: "This copy has been made by or with the authority of (insert the name of the person required to make the plan or drawing open to public inspection) pursuant to of the Copyright, Designs and Patents Act 1988. Unless that Act provides a relevant exception to copyright, the copy must not be copied without the prior permission of the copyright owner."

Data Protection

- 9.1 Information and documents which are to be kept in the register will constitute personal data (data means information) for the purposes of the Data Protection Act 1998, where a living individual can be identified from the data contained within that information or those documents. Where a name and/or address of any person form part of the information or documents, that test is clearly met. The information and documents would also constitute personal data where a living individual can be identified from that information or those documents and other information which is in the possession of, or is likely to come into the possession of, the LA. LAs may have in their possession other information, such as electoral roll information, which could enable them to identify a living individual from the information or documents kept in the register.
- 9.2 Personal data is sensitive if it consists of information which falls within the specified descriptions. In this context, the Department considers that the descriptions which might be relevant would be:
- (i) the racial or ethnic origin of the person;
 - (ii) his religious beliefs or other beliefs of a similar nature; and
 - (iii) his physical or mental health or condition.

This is on the basis that it is conceivable that it may be possible to determine from the information or documents kept in the register information about a person which falls within these descriptions – for example, if a homeowner has had adaptations to their home to make it more suitable for a disabled person, and building control was necessary in relation to the works, someone looking at the register might be able to deduce something about that person's physical health as a result. Similarly, building works which might relate to practices of people from a particularly racial/ethnic group, or of people possessing certain religious beliefs, could enable someone looking at the register to find out information about an individual.

- 9.3 The Department considers that it is very unlikely that building control information would lead to persons accessing the register finding out sensitive personal data, but consultees are invited to comment from the basis of their knowledge and experience as to the possibility and likelihood of this happening.
- 9.4 Processing of personal data (whether sensitive or not) is controlled by the Data Protection Act 1998. Processing includes obtaining, recording or holding information or data, or carrying out any operation on the information or data including organising, adapting or altering it, or disclosing, transmitting, disseminating or otherwise making it available. This clearly covers the activities of LAs in keeping the register, making it accessible to the public, and in making copies of information and documents contained in it.
- 9.5 The processing of personal data in building control information, including sensitive personal data, by being kept in publicly accessible registers as prescribed, would be lawful under the Data Protection Act 1998, as the processing would be carried out in

order to comply with statutory requirements⁶. However, there might still be human rights issues in relation to the right to respect for privacy, which the Department will need to consider further in the light of consultees' responses.

Proposal 7: Bringing the new proposed arrangements for the Building Control Register into force

- 10.1 There are benefits to be gained from this archiving system for both the LAs and the public. For example, the prescribed form for initial notices⁷ requires an Approved Inspector to obtain a declaration signed by the insurer that a named scheme of insurance approved by the Secretary of State applies in relation to the work described in the notice. Also, regularisation, completion, final and competent person certificates confirm that building work has been carried out to the satisfaction of an inspector. If LAs methodically retain these documents they can be produced on request to property-search and conveyance companies as documentary evidence that compliance with appropriate building regulation requirements have been checked. This will give assurances to potential building purchasers. Other benefits for LAs could be that in the event of potential legal cases, documentation/information may be needed as evidence, and with an efficient registration system, it will be less costly and time-consuming to locate and produce such documents.
- 10.2 The Home Information Pack (HIP) which is expected to come into effect in June 2007 will bring together all the information needed at the start of the home buying and selling process. The introduction of a comprehensive register, which will include information from documents such as completion certificates, initial notices, etc, should assist in the HIP administration process.
- 10.3 In summary, when considering making any response to this consultation it is important to bear in mind that:
- (i) many LAs are already undertaking good practice and have set up a register to include information relating to their own building control activities, as required by the Building Control Performance Standards;
 - (ii) it is in the general public interest for all LAs to maintain and make available the contents of a register; and
 - (iii) the proposal should assist the home buying and selling process, particularly when the HIP is introduced.
- 10.4 The Department's view is that there are strong justifications for commencing section 7 SSBA and making regulations under section 91A BA to bring into being a comprehensive publicly accessible register of building control information.
Consultees are asked to comment on whether or not they agree with this view.

⁶ See paragraph 3 of Schedule 2 (conditions relevant for the processing of any personal data) to, and paragraph 7(1)(b) of Schedule 3 (conditions relevant for the processing of sensitive personal data) to, the Data Protection Act 1998.

⁷ Prescribed form of initial notices is Form 1 of Schedule 2 to the Building (Approved Inspectors etc) Regulations 2000, SI 2000/2532.

Annex A: Regulatory Impact Assessment

Title of Proposal: Amendment to Section 56 of the Building Act 1984

1. Introduction and summary

- 1.1 This Regulatory Impact Assessment (RIA) is concerned with the impact of the commencement of certain amendments to the Building Act 1984, and proposals for regulations to be made under those provisions. Section 7 of the Sustainable and Secure Buildings Act (SSBA) inserts section 91A into the Building Act 1984, and section 11(2) partially repeals section 56 of that Act. Section 91A and the accompanying regulations which are proposed to be made under that section **will require local authorities (LAs) to maintain a register of information relating to their building control functions, powers and duties, which will cover building control services by Approved Inspectors, competent persons and the LA itself.** The LA will have to make the information available to the public at all reasonable hours. The amendments will replace the requirement under section 56 of the Building Act 1984 which currently requires every LA to keep a register containing information relating to Approved Inspector building control services only.
- 1.2 The RIA focuses on the significant changes in the requirement for LAs to maintain registers of information relating to their building control functions. This presumes that the requirements of section 91A will apply in full subject to any copyright, data protection restrictions, or security considerations being satisfied.
- 1.3 A consultation paper Sustainable and Secure Buildings Act 2004 has been prepared in consultation with the Building Regulations Advisory Committee (BRAC). These proposals may be viewed on the Department's web-site, www.communities.gov.uk.
- 1.4 This RIA addresses the proposed amendments to the Building Act 1984 and only focuses on the proposed significant changes:
 - The purpose and intended effect of the proposed amendments;
 - The options that have been considered;
 - The benefits that will result;
 - The compliance costs for local authorities
- 1.5 A summary of costs and benefits on which option to choose is given in **Appendix A, B and C** of this document.

Purpose and Intended effect of measure

2. The objective

- 2.1 The proposed amendments have an overall objective of ensuring that the public have easy access to key information about the building control process, providing LAs

with a uniform approach in recording information relating to their building control functions and improving standards of service in respect of providing such information to members of the public.

- 2.2 The main purpose of the proposed amendments is to commence section 91A BA so that LAs are legally required to keep a public register of information relating to their own building control functions and those of competent persons, as well as those of Approved Inspectors (“The Register”).

Overview of Proposals

3. Background

- 3.1 The Building Act 1984 and the Sustainable and Secure Buildings Act 2004 extend to England and Wales only.
- 3.2 The SSBA, which received Royal Assent on 16 September, amends the Building Act 1984. Section 7 of the SSBA inserts section 91A into the Building Act 1984. Section 91A permits new regulations to be made which will require LAs to set up, maintain and make publicly available a register of building control information relating to their functions, powers and duties under associated building control legislation.
- 3.3 LAs currently do not have a statutory duty to retain or disclose building plans or other documents which they receive or issue in their own capacity as building control bodies, only in relation to the activities of Approved Inspectors as building control bodies. Although most LAs have set up a register of information relating to their own building control activities (in compliance with the Building Control Performance Standards), some have not. This can result in poor quality and inconsistency in the delivery of their building control service. For example, in cases where not every item/information appears on the register, a CON29 form is used to request such information which is necessary to compile a local search for property transactions. A charge can be made by a LA, but the charges levied do not always reflect the costs of providing the service and they sometimes vary between LAs.
- 3.4 Section 56 of the Building Act 1984, and Regulation 30 of the Building (Approved Inspectors etc.) Regulations 2000, require that every LA should keep a register of certain information which relates to the building control functions carried out by Approved Inspectors (“the section 56 register”). Standard 7 of the Building Control Performance Standards handbook (“the Green Book”) already provides guidance on best practice for all building control bodies regarding archiving of records of their building control services. This guidance, which has been endorsed by the representatives of building control bodies in the public and private sectors, suggest that “records should be retained for an appropriate length of time having regard to the statutory time limits on legal action.”

The Proposal

4. Rationale for Government Intervention

- 4.1 The implementation of section 7 of the SSBA 2004 will make it a legal requirement for LAs to maintain public registers which will contain certain information about their

own building control functions and that of competent persons, as well as those of Approved Inspectors, and to make these available for inspection by the public “at all reasonable hours.” This would not only resolve the problems of inconsistency in the delivery of their services but it would also result in equitable treatment towards members of the public and property search companies, as all LAs would essentially be delivering the same level of service across LA boundaries. It would therefore ensure a more robust system for continuing public access to information.

- 4.2 The proposed changes fall into 2 main categories, (i) the keeping and maintaining of a register which relates to LAs’ and competent persons’ as well as Approved Inspectors’ building control activities and (ii) making the information available to members of the public “at reasonable times.”
- 4.3 The extent of the information to be kept will be finally decided after consideration of the consultation responses, but the absolute minimum would be to require information relating to notices, certificates, orders, consents, demands and plans to be retained. This requirement is already included as a standard in the “the Green Book” and indeed, many LAs already meet this requirement.
- 4.4 The principle recommended in “the Green Book” suggests that information should be stored for 15 years and it is intended to apply this standard under the regulations made under section 91A of the Building Act 1984. Under the new regulations LAs would be obliged to retain information which was previously required to be kept on the section 56 register, and to transfer it to The Register required under section 91A.
- 4.5 The proposal to provide copies of information to members of the public upon request is accompanied by a proposal that members of the public should pay a charge for the provision of those copies. This charge would be minimal as it is not meant to off-set the cost of providing a public service, and would be limited to the actual costs of providing the copies. These costs would be calculated on the basis proposed in the consultation paper.
- 4.6 Although the proposal to impose a statutory duty to maintain public registers would mainly affect LAs and householders, companies providing property-related information would also benefit from these proposals. This is because from June 2007, The Housing Act 2004 will require anyone marketing their home for sale must put together a Home Information Pack (HIP) for potential home buyers. Although it is not a requirement of that Act, the introduction of a comprehensive register relating to building control information will undoubtedly assist the administration of the HIP process. The pack will bring together all of the key information needed at the start of the home buying and selling process and property search organisations will have a major role to play in making this policy work. The efficiency of the house purchase process can also be improved through the government, LAs, mortgage lenders and the legal profession working together.

5. Risk Assessment

- 5.1 The risks to individuals, businesses, charities or voluntary organisations, if any, will be minimal and will be likely to include issues relating to copyright, data protection, security and liability. Any risks will mainly affect LAs and it is therefore considered that a full consultation and impact assessment is not required.

- 5.2 The main risk of the “do nothing” scenario is that by not specifying the requirements for maintaining a register and being prescriptive about how it should operate in practice, could lead to inconsistencies and inadequate procedures in how such information is retained across LA boundaries.

Options

6. The main options are:

- 6.1 **Option 1: do nothing.** This is based on the case scenario that no changes would be made to the current legislation. LAs would continue to be under a statutory duty to maintain a register of information concerning Approved Inspector building control activities, but the government would continue to rely on LAs keeping records of their own building control activities at their discretion, in accordance with the Building Control Performance Standards. The main risk would be to the public and to companies providing property-related information in that the public would not necessarily have easy access to the information they require and property search organisations would have to continue to contend with delays and other difficulties in obtaining relevant information.
- 6.2 **Option 2: make it a legal requirement for LAs to maintain a register of information of their own and competent persons’ building control functions as well as those of Approved Inspectors.** This would bring in line those LAs who currently do not have a system in place and improve the level of consistency across LA boundaries in respect of archiving records of building control functions across the board. With a legal requirement in place, all LAs would not only then be playing their part in providing a consistent standard of service to the general public but other potential users such as building control applicants and property conveyance agents, would also benefit from the system.

Costs and Benefits

7. Option 1:

- 7.1 There would be no expected benefits as those LAs who are not currently keeping a register are likely to continue to fail to do so. The persistent inconsistency across LA boundaries would therefore remain and LAs would be failing to provide a basic minimal standard level of service expected and required of them.

8. Option 2

- 8.1 This option would require that LAs set up a register of information which relate to their own and competent persons’ building control functions, as well as those of Approved Inspectors. The main beneficiaries would be the general public (businesses as well as individuals), property search and conveyance companies and other potential users. For these customers a register of information would provide easier access to evidence that building work has been carried out in accordance with the health, safety and energy efficiency etc standards required by law.

- 8.2 With an efficient registration system, documents or information could be retrieved more quickly and easily. This could be an advantage for users as well as LAs, for example, in legal cases where information may be needed as evidence, documents would be more readily accessible and could be retrieved quickly to be produced as evidence or to substantiate facts. In addition, LAs could invest in a registration system now rather than face the uncertainty of waiting for legal precedents to be set and risk having to make more costly and disruptive access improvements at a later date.
- 8.3 There will be an immediate and direct cost to set up and implement the register. Any initial cost will be reduced through the improvement in the quality of the system and the service, as in the longer-term an efficient system will be cost-effective, less time-consuming and will need less resources to operate it effectively.

9. Benefits Overview

- 9.1 Appendix A-D shows a summary of the expected benefits and potential costs to LAs to set up and maintain an effective system to register AIs as well as their own building control information. The proposals would primarily affect LAs, who would have to make any necessary adjustments to set up a registration system. The proposed minimal charge for copies of information requested by members of the public would not have a great impact on them. The benefits to the public as well as LAs would be:
- (i) An ability to quickly access and obtain the information required.
 - (ii) A higher level of service to members of the public.
 - (iii) Complement the requirement for a HIP.
 - (iv) Long-term saving on time, cost and resources.
 - (v) Consistency in how building control information is stored.
 - (vi) Promotes good practice amongst LAs.

10. Benefits to the public and external organisations

- (i) Information will be easily accessible and more readily available.
- (ii) The public will have knowledge of where and how to obtain and access building control information.
- (iii) It will assist property search organisations in retrieving information more easily.
- (iv) It will complement the HIP when it comes into effect in June 2007 and it will support the whole home buying process.

[Respondents are invited to comment on the benefits outlined above, indicate any other areas we might consider and offer any further details, including quantifications or suggestions as to how benefits might be quantified].

Breakdown of Costs

11. Option 1 - Do Nothing.

11.1 Under the “do nothing” option, there will be no new costs to LAs.

12. Option 2 - Make registers of information a legal requirement.

12.1 Under this option LAs who do not already maintain a register in accordance with what is proposed will have additional costs to either (i) convert the information stored on microfiche to an electronic format or (ii) to upgrade their computerise systems to a more efficient system. LAs who already maintain a register may also be affected by cost as well as they may need to up-grade their systems to comply with the new legislation. The initial setting-up cost to convert and upgrade a system would incur a financial cost which could be legitimately financed, as part of an effective building control system, from fees levied under The Building (Local Authority Charges) Regulations 1998. As there would be no requirement to maintain retrospective information, LAs could save on cost and resources in this area.

12.2 It is not easy to quantify the costs at this stage as it will depend on a number of factors referred to in Appendix C. However, some research into the costs demonstrated that the setting up cost could be between £40k -£100k for each local authority and that it could possibly take 2 years for the system to be up and running. In the short-term there would be significant training costs which are estimated to be around 5k for the first year. Long-term costs which includes licence costs, upgrades and replacement of PC is estimated at £10k a year. (see Appendix B-C)

[Consultees are invited to comment on the potential scale of these costs, or, if no quantification is possible on their potential significance in qualitative terms].

Extent of consultation

13.1 The proposals have been approved by the Building Regulations Advisory Committee (BRAC) appointed by the Secretary of State. The scope of the expected proposals to commence section 7 of the SSBA will include the list mentioned in paragraph 14.1.

Consultation with other organisations and individual bodies

14.1 The organisations and groups of people principally affected by these proposals are:

- Local authorities
- Approved Inspectors
- Home Inspectors
- Home Conveyance Agents

- Home owners and developers
- Property search organisations
- Estate Agents

Enforcement and Sanctions

15.1 Under section 116 of the Building Act 1984, where the Secretary of State is satisfied that a LA has failed to discharge their functions under the Act, in a case in which they ought to have discharged them, has power to make an order declaring them to be in default. She may also in that order direct the LA to discharge their functions in order to remove the default. If a local authority fail to comply with the order the Secretary of State may make an order transferring to herself functions of the LA, in order to remove the default. To ensure compliance with the Act, an initial monitoring exercise will be undertaken which will require LAs to produce, in the first instance, evidence that they have complied. This initial monitoring could be incorporated into the annual monitoring charges exercise and if necessary a separate follow-up exercise could be undertaken at a later date to ensure compliance of all LAs.

Who will enforce the proposals?

16.1 The Department will monitor the observance of LAs' register through a one off or periodic monitoring exercises and/or its regular liaison with LA representative bodies.

Will the proposals impose criminal sanctions for non-compliance?

17.1 No.

Monitor and review

18.1 We would intend to undertake a post implementation review 2 years after the change was introduced.

Consultation

19.1 We have taken the advice of the Building Regulations Advisory Committee. This consultation pack is being sent to, CoPSO, the LAs, and the Welsh Assembly Government.

19.2 Public Consultation: a list of all principal organisations being consulted is included in this consultation package.

Summary of pros and cons of each option

Appendix A

	Option 1: Do Nothing	Option 2: Make it a legal requirement to have a register of BC information.
Local Authority	<u>Expected costs:</u> None. <u>Expected benefits:</u> Would remain as they are now.	<u>Expected costs:</u> immediate costs to set-up or up-date register. <u>Expected benefits:</u> long-term cost effectiveness. Easier to access and retrieve documents. Promotes good practice.
Homeowners and property search companies.	<u>Expected costs:</u> Some to property search companies <u>Expected benefits:</u> Would remain as they are now.	<u>Expected costs:</u> a minimal fee in prescribed circumstances for requested documents. <u>Expected benefits:</u> a more consistent method of charging property search companies. A more efficient and time-reducing exercise in obtaining documents. Assist in the over-all home-buying process. Supports the HIP initiative.
Public and external organisations	<u>Expected costs:</u> None <u>Expected benefits:</u> Would remain as they are now.	<u>Expected cost:</u> a minimal fee in prescribed circumstances for requested documents. <u>Expected benefits:</u> knowledge of where to access and obtain information. Compliments the HIP.

Summary of Estimated Annual Setting-up, and Maintenance and Application Costs (based on costs obtained from 3 local authorities already running similar systems)

Appendix B

Local Authorities: Setting-up Costs**	Maintenance Costs**	Cost of processing applications*)
1 st Estimate: £30k	£2,500 – for software license fee	£20 – £45 per enquiry and 3,500 enquiries per year* = £70k ,– 157k.
2 nd Estimate: £40k (breakdown: £20k for software; £20k for training, technical support, etc.).	£5k – for training for the 1 st year. £10k – per year for maintenance cost (license fees, upgrades, replacing PCs, etc.)	£10-£15 per enquiry and 3,500 enquiries per year* = £35k ,– 53k. (Certification of applications by a technical officer, registration on data-base and acknowledgement of receipts – average time 15 minutes).
3 rd Estimate £100k	Estimated time of 2 years before it becomes operational.	None given.

* Assuming 1,300,000 property sales each year in around 370 local authorities with building control responsibilities in England and Wales.

** It should be borne in mind that the vast majority of local authorities are already keeping information registers and have therefore already invested the sort of capital and maintenance sums referred to above.

Summary of Estimated Setting-up Cost by the System Provider

Appendix C

System Provider	New System (BC only) Cost	NewSystem* (BC+ other service areas	Upgrade (BC only)
*Users: 5	£25 – £35k	£18 – £22k	£14 – £19k
*Users: 10	£34 – £39k	£20 – £25k	£15 – £20k
*Users: 25	£40 – 45k	£30 – £36k	£30 – £32k

* The cost is the proportion attributable to BC in a multi-service area procurement.

* Number of individuals given access to use the system within a local authority.

Estimated Annual Fee Benefits to the System Provider

Appendix D

Section 91A (4) (d) permits LAs to charge a fee for the provision of copies of the building control information they hold. This fee is calculated in a prescribed manner, which is described in paragraph 7.2 of the main consultation document, i.e. that the charge should reflect the actual cost to the local authority of providing the information. Therefore, based on the costs provided by local authorities (summarised above), the following fee benefits would be likely:

Range	Application Fee (£)	Annual Fee Income (£k)
Low charge	15.00	52
Middle charge	32.50	114
High charge	50.00	175

Some of the factors LAs would also need to consider are:

- Address index creation from Local Land and Property Gazetteers.
- Links to corporate Geographical Information Systems (GIS)
- Links to Document Management Systems (DMS).
- Data conversion costs from existing systems.
- Connectivity (web forms, Submit-a-Plan etc.)

Annex B: Information Matrix

		Information type		
		Description and address of the work.	Name and address of any person who signed the certificate or notice.	Date on which the notice or certificate was accepted.
Information relating to Approved Inspector functions	Initial Notice	•	•	•
	Amendment Notice	•	•	•
	Plans Cert	•	•	•
	Combined Initial Notice & Plans Cert	•	•	•
	Final Cert	•	•	•
	Notice of Cancellation by Approved Inspector, Person carrying out the Work or Local Authority	•	•	•
	Public Body's Notice	•	•	•
	Public Body's Plans Cert	•	•	•
	Combined Public Body's Notice & Plans Cert	•	•	•
	Change of person intending to carry out work Notice (Section 51C)	•	•	•
Information relating to Local Authority functions	Building Notice Application	•		
	Full Plans Application	•		
	Regularisation Application	•		
	Completion Cert	•	•	
	Regularisation Cert	•	•	
	"Section 36" Enforcement Notice	•	•	
	Competent Person's Cert	•		

Annex B (continued)		Information type		
		Date on which the notice or certificate was rejected.	Name and address of insurer who signed the certificate or notice.	Applicant's or agent's name and address.
Information relating to Approved Inspector functions	Initial Notice	•	•	
	Amendment Notice	•	•	
	Plans Cert	•	•	
	Combined Initial Notice & Plans Cert	•	•	
	Final Cert	•	•	
	Notice of Cancellation by Approved Inspector, Person carrying out the Work or Local Authority	•	•	
	Public Body's Notice	•	•	
	Public Body's Plans Cert	•	•	
	Combined Public Body's Notice & Plans Cert	•	•	
	Change of person intending to carry out work Notice (Section 51C)	•	•	
Information relating to Local Authority functions	Building Notice Application	•		•
	Full Plans Application	•		•
	Regularisation Application	•		•
	Completion Cert	•	•	
	Regularisation Cert	•	•	
	"Section 36" Enforcement Notice	•	•	
	Competent Person's Cert	•		

Annex B (continued)		Information type		
		Scheme member's name, registration number, and scheme name.	Date on which the application, notice or certificate was signed.	Date on which the notice was served.
Information relating to Approved Inspector functions	Initial Notice			
	Amendment Notice			
	Plans Cert			
	Combined Initial Notice & Plans Cert			
	Final Cert			
	Notice of Cancellation by Approved Inspector, Person carrying out the Work or Local Authority			
	Public Body's Notice			
	Public Body's Plans Cert			
	Combined Public Body's Notice & Plans Cert			
	Change of person intending to carry out work Notice (Section 51C)			
Information relating to Local Authority functions	Building Notice Application		•	
	Full Plans Application		•	
	Regularisation Application		•	
	Completion Cert		•	
	Regularisation Cert		•	
	"Section 36" Enforcement Notice			•
	Competent Person's Cert	•		

Annex B (continued)		Information type		
		Name and address to whom notice was served.	If applicable the date on which the notice appeared in court.	Date the work was completed..
Information relating to Approved Inspector functions	Initial Notice			
	Amendment Notice			
	Plans Cert			
	Combined Initial Notice & Plans Cert			
	Final Cert			•
	Notice of Cancellation by Approved Inspector, Person carrying out the Work or Local Authority			
	Public Body's Notice			
	Public Body's Plans Cert			
	Combined Public Body's Notice & Plans Cert			
	Change of person intending to carry out work Notice (Section 51C)			
Information relating to Local Authority functions	Building Notice Application			
	Full Plans Application			
	Regularisation Application			
	Completion Cert			•
	Regularisation Cert			•
	"Section 36" Enforcement Notice	•	•	
Competent Person's Cert	*•		•	

*For competence persons' schemes only the address of the work is provided.

Annex B (continued)		Information type		
		Name and address of local authority.		
Information relating to Approved Inspector functions	Initial Notice	•		
	Amendment Notice	•		
	Plans Cert			
	Combined Initial Notice & Plans Cert	•		
	Final Cert			
	Notice of Cancellation by Approved Inspector, Person carrying out the Work or Local Authority			
	Public Body's Notice	•		
	Public Body's Plans Cert	•		
	Combined Public Body's Notice & Plans Cert	•		
	Change of person intending to carry out work Notice (Section 51C)			
Information relating to Local Authority functions	Building Notice Application			
	Full Plans Application			
	Regularisation Application			
	Completion Cert	•		
	Regularisation Cert	•		
	"Section 36" Enforcement Notice	•		
	Competent Person's Cert			

Annex C: Competent Person Schemes

1. Combustion Appliances

1.1 Gas

A person registered under the following scheme

CORGI Services Limited

is allowed to self certify the installation of heating or hot water service system connected to a heat-producing gas appliance, or associated controls.

1.2 Oil

A person registered under the following schemes

APHC Certification limited

Building Engineering Services Competence Accreditation Limited (BESCA)

NAPIT Registration Limited

NICEIC Group Limited

Oil Firing Technical Association Limited (OFTEC)

is allowed to self certify the Installation of:

- (a) An oil-fired combustion appliance which has a rated heat output of 100 kilowatts or less and which is installed in a building with no more than 3 storeys (excluding any basement) or in a dwelling;
- (b) Oil storage tanks and the pipes connecting them to combustion appliances; or
- (c) Heating and hot water service systems connected to an oil-fired combustion appliance.

1.3 Solid Fuel

A person registered under the following schemes

APHC Certification limited

Building Engineering Services Competence Accreditation Limited (BESCA)

HETAS Limited

NAPIT Registration Limited

NICEIC Group Limited

is allowed to self certify the Installation of:

- (a) a solid fuel burning combustion appliance which has a rated heat output of 50 kilowatts or less which is installed in a building with no more than 3 storeys (excluding any basement); or
- (b) heating and hot water service systems connected to a solid fuel burning combustion appliance.

Plumbing work

2. Plumbing associated with but not including the installation of a combustion appliance

2.1 Heating appliance plumbing inside dwellings

A person registered under the following schemes

APHC Certification limited

Building Engineering Services Competence Accreditation Limited (BESCA)

CORGI Services Limited

NAPIT Registration Limited

NICEIC Group Limited

is allowed to self certify the Installation of a heating or hot water service system, or associated controls, in a dwelling.

2.2 Heating appliance plumbing inside buildings other than dwellings

A person registered under the following schemes

Building Engineering Services Competence Accreditation Limited (BESCA)

NICEIC Group Limited

is allowed to self certify the Installation of a heating, hot water service, mechanical ventilation or air conditioning system or associated controls in a building other than a dwelling

3. Sanitaryware

A person registered under the following schemes

APHC Certification limited

CORGI Services Limited

NAPIT Registration Limited

NICEIC Group Limited

is allowed to self certify the Installation of a sanitary convenience, washing facility or bathroom in a dwelling, which does not involve work on shared or underground drainage.

Air Conditioning and Ventilation

4. Domestic

A person registered under the following schemes

CORGI Services Limited

NAPIT Registration Limited

NICEIC Group Limited

is allowed to self certify the Installation of an air conditioning or ventilation system in an existing dwelling, which does not involve work on systems shared with other dwellings.

5. Commercial

A person registered under the following schemes

CORGI Services Limited

NICEIC Group Limited

is allowed to self certify the Installation of a commercial kitchen ventilation system which does not involve work on systems shared with parts of the building occupied separately.

6. Electrical including lighting heating and Part P

A person registered under the following schemes

Electrical Contractors Association Limited (ECA)

NICEIC Group Limited

is allowed to self certify the Installation of a lighting system or electric heating system, or associated electrical controls.

7. Full Competence Part P

A person registered under the following schemes

BRE Certification limited

British Standards Institution (BSI)

ELECSA Limited

NICEIC Group Limited

NAPIT Registration Limited

is allowed to self certify the Installation of fixed low or extra-low voltage electrical installations.

8. Defined Competence Part P

A person registered under the following schemes

APHC Certification limited

CORGI Services Limited

ELECSA Limited

NAPIT Registration Limited

NICEIC Group Limited

Oil Firing Technical Association Limited (OFTEC)

is allowed to self certify the Installation of fixed low or extra-low voltage electrical installations as a necessary adjunct to or arising out of other work being carried out by the registered person.

9. Replacement windows and doors in dwellings

A person registered under the following schemes

British Standards Institution (BSI)

CERTASS Limited

FENSA Limited

is allowed to self certify the Installation, as a replacement, of a window, rooflight, roof window or door (being a door which together with its frame has more than 50 per cent of its internal face area glazed) in an existing building.

10. Pressure Testing

A person registered under the following scheme is allowed to give notice to the local authority the results of the testing

BINDT Limited

11. CO₂ Emission Testing

A person registered under the following schemes is allowed to give the local authority a notice which specifies the target CO₂ emission rate for the building and the calculated CO₂ emission rate for the building as constructed

BRE Certification limited

FAERO Limited

Web Addresses for further information

www.fensa.org.uk

www.hetas.co.uk

www.oftec.org.uk

www.partp.co.uk

www.kitemarktoday.com

www.elecsa.org.uk

www.napit.org.uk

www.corgi-gas-safety.com

www.niceic.org.uk

www.competentperson.gov.uk

Annex D: The Response Form

BR Ref:CI 43/11/23

Response Form for the consultation package on:

Proposal to commence Section 7 and section 11(2) (in relation to section 56 of the Building Act 1984 only) of the SSBA. Section 7 inserts new section 91A into the Building Act 1984. Section 11(2) partially repeals section 56 of the Building Act 1984. Also proposals for the making of regulations under section 91A Building Act 1984.

Respondent Details

Please return by 15 June 2007 to:

Name:	Branch A6
Organisation:	Buildings Division Department for Communities and Local Government
Address:	Zone 4 Eland House Bressenden Place
Town/City:	London
County:	
Postcode:	SW1E 5DU
Telephone:	0207 944 5755
Fax:	0207 944 5719
Email:	enquiries.br@communities.gov.uk

A summary of responses to this consultation will be published by 14 September 2007 at www.communities.gov.uk. Paper copies will be available on request.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information

you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances; this will mean that your personal data will not be disclosed to third parties.

BR Ref: C1 43/11/23

Please use a **3** or an **X** in answering the following questions:

Organisation Type (tick 3 or X one box only)			
Approved Inspector		Insurer/Insurance Organisation	
Architects		Individual – professional (Solicitor)	
Building Control Body/Organisation		Local Authority - Building Control	
Charity		Other Local Authority	
Consultant		Other non-government organisation	
Developer – commercial		Owners and Occupiers	
Developer – dwellings		Property Search Company	
Housing Association		Other	
Conveyance Agent/Company			

Is your response confidential	Yes:	No:
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Please note that provision is made throughout this questionnaire for you to provide additional comments. If however, you wish to provide detailed comments on any aspect of the consultation, please append additional sheets to this document as necessary.

1) [Para 1.1–1.2 under “The Proposal”] What do you think are the most serious shortcomings with the current system for providing access to, and maintaining registers of, building control information?

	Yes:	No:	No View:
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Comments:

2) [Para 1.1 to 1.4 under “The Proposal”] Do you have any objections to the proposals which you would like to be taken into account?

	Yes:	No:	No View:
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Comments:

3) [Para 1.3 under “The Proposal”] Do you agree that to obtain an appropriate and consistent standard of service, all LAs should maintain a similar register?

	Yes:	No:	No View:
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Comments:

4) [Para 1.3 under “The Proposal”] Do you agree that LAs should retain information relating to their own building control service and that provided to them by competent persons, as well as documents relating to that provided by AIs?

	Yes:	No:	No View:
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Comments:

5) [Para 1.3 under “The Proposal”] Do you agree that information which is currently kept by LAs in registers as required by section 56 BA should be transferred onto the new registers?			
	Yes:	No:	No View:
Comments:			
6) [Para 2.1 under “Proposal 1” and the Information Matrix in Annex B] Do you agree with the proposed list of information that LAs will be required to retain and place on a register (including the proposal that full plans will not be required to be retained)?			
	Yes:	No:	No View:
Comments:			
7) [Para 2.1 under “Proposal 1” and the Information Matrix in Annex B] Do you agree that documents kept by the LAs will provide sufficient evidence that building works carried out meet the requirements of the building regulations?			
	Yes:	No:	No View:
Comments:			
8) [Para 2.4 under “Proposal 1”] Do you think that full plans should be excluded?			
	Yes:	No:	No View:
Comments:			
9) [Para 2.5 under “Proposal 1”] Do you agree with the proposed exemptions from disclosure?			
	Yes:	No:	No View:
Comments:			
10) [Para 2.5 under “Proposal 1”] Do you think there should be any other exemptions?			
	Yes:	No:	No View:
Comments:			
11) [Para 3.1 under “Proposal 2”] Do you agree with the proposal that information should be retained for 15 years?			
	Yes:	No:	No View:
Comments:			
12) [Para 4.1 under “Proposal 3”] Do you agree that the Department should not prescribe that information should be retained in a particular format, and that the decision should instead be for each LA to make?			
	Yes:	No:	No View:
Comments:			
13) [Para 4.2 under “Proposal 3”] Do you agree with the proposals in this paragraph relating to the manner in which the register should be maintained?			
	Yes:	No:	No View:
Comments:			

14) [Para 5.1 under "Proposal 4"] Do you agree that members of the public should be entitled to copies of information simply on request and payment of the appropriate fee?			
	Yes:	No:	No View:
Comments:			
15) [Para 6.1 under "Proposal 5"] Do you agree that LAs should be entitled to charge fees to members of the public whenever they request copies of information?			
	Yes:	No:	No View:
Comments:			
16) [Para 7.1 under "Proposal 6"] Do you agree that LAs should be entitled to recover the [estimated][actual] cost of providing copies to members of the public?			
	Yes:	No:	No View:
Comments:			
17) [Para 7.2 under "Proposal 6"] Do you agree with the suggested method for calculating the fee to be charged by LAs for providing copies to members of the public?			
	Yes:	No:	No View:
Comments:			
18) [Para 7.4 under "Proposal 6"] Do you agree that the proposals for charging will address the issues of inconsistency and lack of transparency in relation to the charges made by LAs for supplying information for CON 29 searches?			
	Yes:	No:	No View:
Comments:			
19) [Para 8.1 – 8.3 under "Copyright"] Do you agree that the position as described in relation to copyright offers adequate protection?			
	Yes:	No:	No View:
Comments:			
20) [Para 9.3 under "Data Protection"] Do you agree that it is very unlikely that building control information would lead to persons accessing the register finding out sensitive personal data?			
	Yes:	No:	No View:
Comments:			
21) [Para 10.1 – 10.2 under "Proposal 7"] Do you agree that the Department's proposals would deliver the listed benefits for both the public and LAs?			
	Yes:	No:	No View:
Comments:			
22) [Para 10.2 under "Proposal 7"] Do you agree that the LA register will have benefits for the Home Information Pack when it comes into effect in June 2007?			
	Yes:	No:	No View:

Comments:			
23) [Para 10.4 under "Proposal 7"] Do you agree that there are strong justifications for commencing section 7 SSBA and making regulations under section 91A BA to bring into being a comprehensive publicly accessible register of building control information?			
	Yes:	No:	No View:
Comments:			
24) Do you agree that it will be LAs who will be most affected by these proposals?			
	Yes:	No:	No View:
Comments:			
25) Are there any other individuals or organisations that you think will be affected by the proposals? If yes, please describe who and how you think they will be affected.			
	Yes:	No:	No View:
Comments:			

Annex E: The Criteria of the Code of Practice on Consultation

A revised edition of the Code of Practice on Consultation was issued by the Cabinet Office in January 2004, and applies to consultation processes running from April 2004. The criteria in the Code of Practice apply to all UK public consultations by government departments and agencies.

Though they have no legal force and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.

The Code of Practice calls for consultation documents to include the criteria, with an explanation of any departure, and confirmation that they have otherwise been followed. The criteria are set out below. Paragraph 6 of the “Letter to Consultee” letter states that in Department’s view the criteria have been or will be met in this case.

The six consultation criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department’s effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.”

If you have any complaints or comments about the way this consultation has been conducted please contact Albert Joyce, Communities and Local Government Consultation Co-ordinator, 6 H 10, Eland House, Bressenden London SW1E 5DU, e-mail Albert.Joyce@communities.gsi.gov.uk

Annex F: List of Organisations Formally Invited to Respond

All Local Authorities in England and Wales

Association of Consultant Approved Inspectors

Consumer Association

Construction Confederation

Council of Mortgage Lenders

Council of Property Search Organisations

Construction Industry Council

Local Government Association

Local Authority Building Control

National Association of Estate Agents