



Department for  
Communities and  
Local Government

# Changes to the Building Control System: Introduction of Risk-Based Service Plans for Local Authorities and Removal of the Warranty Link Rule

Impact assessment

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<b>Title:</b> Changes to the building control system including introduction of risk-based service plans for local authorities and removal of the Warranty Link Rule  <b>IA No:</b> DCLG/0089  <b>Lead department or agency:</b> Department for Communities and Local Government (DCLG)  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 17/12/2012
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary legislation
	<b>Contact for enquiries:</b> Ian Drummond or Sandra Simoni

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> Validated by RPC
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present	Net cost to business per year (EANCB on	In scope of One-In, One-	Measure qualifies as
£21.7m	£18.2m	-£1.96m	Yes	OUT

**What is the problem under consideration? Why is government intervention necessary?**  
Informal consultation with external partners has shown that the statutory building control regime is generally fit for purpose but improvements to make it more effective and less burdensome are possible and desirable. It is also possible to further level the playing field between Local Authorities and private sector Approved Inspectors which is another policy goal to improve competition. As the system is a statutory one Government intervention is needed to make the changes to the regulations.

**What are the policy objectives and the intended effects?**  
To introduce changes to the building control system to reduce burdens and improve compliance with the Building Regulations. The proposals aim to reduce costs affecting building control bodies and those carrying out building work by removing, simplifying or improving processes. The effect would be a more effective and efficient building control regime. The intended effect of removing the Warranty Link Rule is to foster competition between local authorities and Approved Inspectors as for the rest of the buliding control market.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
**Option 0 – Do Nothing**  
**Option 1 – Make changes to the building control system including introduction of service plans for local authorities and removal of the Warranty Link Rule**  
Informal consultation has shown overwhelming support from industry and others for retaining the current regulatory system of Building Regulations and building control but recognised that some improvements could be made to reduce burdens and improve compliance. This final impact assessment deals with two elements of the consultation proposals: (i) improving Local Authority building control processes; (ii) improving private sector Approved Inspector arrangements, including removing the Warranty Link Rule. In due course further impact assessments will be brought forward to deal with the remaining consultation proposals.

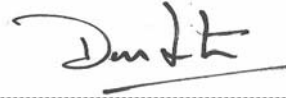
**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 06/2017

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes

What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> 0	<b>Non-traded:</b> 0
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***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible Minister:



Date: 17 December 12

**Buildings Regulations Minister**

**Rt Hon Don Foster MP**

## FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 15.6	High: 52.5	Best Estimate: 21.7

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition)	Total Cost (Present Value)
Low	0.1	0.04	0.5
High	0.4	0.10	1.3
Best Estimate	0.2	0.07	0.9

### Description and scale of key monetised costs by 'main affected groups'

There will be transitional costs to local authorities to establish service plans (staff costs of £0.2m). Minor costs for Approved Inspectors of supplying insurance information to the Construction Industry Council have also been monetised (<£0.005m present value). Requiring local authorities to issue completion certificates might at a total PV cost of £0.13m, although they will already have charged customers for this. There is a *transfer payment* due to increasing competition – a £0.5m total PV cost to local authority building control but a benefit to consumers.

### Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	2.0	16.9
High	Optional	6.2	53.0
Best Estimate	0	2.6	22.5

### Description and scale of key monetised benefits by 'main affected groups'

The major saving comes from the removal of the Warranty Link Rule which is estimated to save £14.2m in reduced warranty costs and a further £1.5m in avoiding the reversion of work to the local authority which is a costly process. Changes to the Approved Inspector Regulations generate savings of £5m. There is a *transfer payment* effect of increased competition, a benefit to consumers of around £0.5m. The benefits of service plans are uncertain but will lead to fewer inspections in some cases (£1.4m).

**Other key non-monetised benefits by 'main affected groups'**

Non-compliant work that is identified earlier as a result of service plan approach will be easier to rectify which would reduce costs for builders.. We expect householders to benefit from having a completion certificate in all cases and from clarity over the status of the certificate both when transaction property and when pursuing claims in the small claims court. Competition should encourage efficient behaviour in the building control market and could help to drive real resource savings.

**Key assumptions/sensitivities/risks****Discount rate**

3.5

The move to the proposed model service plans will have no impact on building regulations compliance. Since local authority building control already exercise discretion in choosing when to inspect and will continue to do so the quality of the building control process should remain the same. The monetised costs rely in part on estimates of the cost of staff time.

**BUSINESS ASSESSMENT (Option 1)**

<b>Direct impact on business (Equivalent Annual) £m:</b>	<b>In scope of</b>	<b>Measure</b>
<b>Costs: -£0.0</b>   <b>Benefits: +£2.1</b>   <b>Net: +£2.1</b>	Yes	OUT

# Evidence Base (for summary sheets)

## General Introduction

The Building Regulations 2010 are made under powers contained in the Building Act 1984, as amended. They set out what is controlled building work, typically the erection, extension or alteration of a building, or the provision of a controlled service or fitting, as well as in respect of certain changes of use (eg from a non-domestic building to a dwelling). They set minimum standards for the design and construction of buildings, primarily for the purposes of the health and safety of people, energy efficiency and accessibility. These standards are performance based, in terms of what is reasonable, adequate or appropriate. Statutory guidance on ways of complying with these technical requirements is set out in a series of 'Approved Documents', although it does not have to be followed provided the required level of performance can be achieved in a different way. Compliance with the regulations is the responsibility of the person carrying out the work.

The building control system helps to ensure that the required level of performance has been met. The role of building control, either the Local Authority or a private sector Approved Inspector, is to act as an independent third party check to help achieve compliance, which is usually carried out through plan checking and/or onsite inspections. Competition in the provision of building control was introduced in 1985 primarily to drive efficiency but also to enable those builders who operate across different local authority areas to be able to deal with a single building control provider if they wished to do so.

Although their functions are broadly the same (the key difference being that only Local Authorities can take formal legal enforcement action), the procedures for the two types of building control body differ due to the basis on which they operate. The Building Act places a statutory duty on Local Authorities to provide a building control service. Because of this, the Act and the supporting regulations prescribe a number of procedural matters e.g. a Local Authority must approve or reject a full plans application within a specified time limit. For Approved Inspectors, there is no statutory duty to provide a building control service; the relationship between the Approved Inspector and the person carrying out the work is governed by their contract. The statutory provisions in the Act and supporting regulations (primarily the Building (Approved Inspectors, etc) Regulations 2010) largely cover the approval and functions of Approved Inspectors and their relationship with Local Authorities.

It should be noted that the power to make Building Regulations was devolved to Wales from 31 December 2011 and is already devolved to Scotland and Northern Ireland. This Impact Assessment therefore only covers changes proposed for England.

## **Problem under consideration, rationale for intervention and policy objectives**

In 2010 the Department informally invited external partners to submit ideas and evidence on possible changes to the Building Regulations and to the building control system that supports them. The emphasis was on areas where we could deregulate and/or reduce burdens, whilst delivering high levels of compliance. We also sought views on measures to help the Government meet its climate change commitments and to address known health and safety risks. As part of this exercise we also asked for views on possible alternative approaches, such as abolishing the building control system and relying on a system based on insurance or builder registration.

A key theme to emerge was that the building control system was considered to be generally fit for purpose but could benefit from some improvements to make it more efficient and less burdensome. There was also support for measures to improve compliance and to help level the playing field between public and private sector building control bodies. However, there was very little support for any fundamental changes to the regime, particularly as an alternative approach would be likely to have similar costs, as well as significant transitional costs of moving to a new system in the current economic climate.

This impact assessment therefore considers two changes to the building control system which were supported in the public consultation with the aim of reducing burdens, improving compliance and encouraging industry to take greater responsibility for its actions. The changes will reduce costs affecting both building control bodies and those carrying out building work by removing, simplifying or improving processes. Removal of the Warranty Link Rule is being taken forward to remove a barrier to further competition in the building control market.

There are two sections in the impact assessment which each set out the costs and benefits of policies for improving local authority building control processes:

- improving Local Authority building control processes;
- improving private sector Approved Inspector arrangements, including removing the Warranty Link Rule.

### **Summary Table for 2013 Changes to the Building Control System Impact Assessment**

	Present Value Cost	Present Value Benefit	Present Value OIOO cost to business	Present Value OIOO benefit to business
Local Authority Processes	£0.9m	£2.5m	£0m	£0m
Approved Inspectors	£0.005m	£19.6m	£0m	£18.2m
<b>Total</b>	<b>£0.9m</b>	<b>£22.5m</b>	<b>£0m</b>	<b>£18.2m</b>

Note: £0.5m PV benefit to consumers



# Local Authority Building Control Processes: Completion Certificates and Removal of Some of the Statutory Notifications Required at Certain Stages of Work

## Background

### Completion certificates

Completion certificates are issued by the Local Authority once it has been notified that the building work has been completed and, having taken all reasonable steps, it is satisfied that the work complies with the regulations. At present completion certificates are only required to be issued where the building is in scope of the Regulatory Reform (Fire Safety) Order 2005 (ie non-domestic buildings and blocks of flats) or, in respect of work on houses, where the applicant has requested a completion certificate at the time of submitting full plans. Where work is carried out on a house under a building notice or where a certificate was not requested at the time of submission of full plans there is no requirement for the Local Authority to issue a completion certificate.

Where an Approved Inspector is the building control body the equivalent is a final certificate which must be issued in all cases. Competent Person scheme members must issue a certificate of compliance for all work that they carry out under their scheme. These certificates have the same effect as a Local Authority completion certificate.

Completion certificates are evidence, but not conclusive proof, of compliance with the Building Regulations (ie they are not a guarantee of compliance) as building control is only a spot-checking process intended to help the person carrying out the work to comply.

### Statutory notification stages

Where the Local Authority is providing the building control function, the regulations place a requirement on the person carrying out building work to notify the Local Authority that the work has reached certain stages in the building process. There are referred to as “statutory notifications” and trigger the Local Authority to decide whether it needs to inspect the work. The person carrying out the work will not know whether the Local Authority will wish to inspect, but should wait up to two days to allow it time to inspect should it decide to do so. There is no requirement on the Local Authority to inspect after each notification; whether to do so will be a matter of judgement for the Local Authority, generally based on the risk.

The nine current statutory notification stages are:

1. Intention to start work,
2. Intention to commence work which will cover up any excavation for a foundation
3. Intention to commence work which will cover up any foundation
4. Intention to commence work which will cover up any damp- proof course
5. Intention to commence work which will cover up any concrete or other material laid over a site
6. Intention to commence work which will cover up any drain or sewer to which the Regulations apply

7. Completion of work which involved laying, haunching or covering any drain or sewer in relation to where a requirement is imposed by the drainage and waste disposal requirement of the Regulations
8. Intention to occupy a building or part of a building before completion
9. Completion of the work.

Notification would of course be required only where the notification applied to work being carried out. For example, if the project involved no work on drains, stages 6 and 7 would not apply.

## Problem under consideration

### Completion certificates

As explained above, there is no statutory requirement for a Local Authority to issue a completion certificate where work is carried out under a building notice (which accounts for the vast majority of work carried out on houses) or for work on houses where the applicant chose to use the full plans route but did not request a completion certificate at the time the plans were submitted. Where such a request is not made it may be because the householder lacks the information on the benefits of a completion certificate, however, the choice of whether to use a building notice or full plans is driven by other factors such as the need to prepare detailed plans up front.

Where a completion certificate has not been issued simply because there is no requirement on the Local Authority to do so, evidence, from correspondence, enquiries etc, shows that problems can arise when selling the property, as it is not clear to the purchaser whether the building work complied with the regulations or not. The absence of a completion certificate can therefore result in a reduced purchase price, delays, or even loss of the sale. This has only become an issue in recent years as the introduction of Home Information Packs (HIPs) in 2007 placed a requirement for such certificates to be provided as part of the conveyancing process. Although the need for a HIP has since been removed, solicitors and purchasers still expect completion certificates in relation to building work to be provided during conveyancing.

In circumstances where there is no statutory entitlement to a completion certificate, building owners however can and frequently do request a certificate from the Local Authority either on completion of the work or at a later date (eg when a problem arises on sale of the property), Although Local Authorities are not required to do so, evidence from a recent survey by the Building Control Alliance suggests that completion certificates are issued by local authorities in the vast majority of cases where work complies, irrespective of whether there is a requirement on them to do so as they recognise that this is at minimal cost to them and brings benefits to the householder. However, there are a few cases (around 3%) where the Local Authorities do not do so because they have no specific incentive and a policy of not going beyond the statutory requirements, which can have a significant impact on the householder.

Conversely, where certificates have been issued and it later comes to light that the work did not in fact fully comply, the building owner may have difficulties in getting redress. There have been cases where the civil courts have dismissed claims by the building owner against the person who carried out the work on the basis that a certificate had been issued at the time of completion, even though it was later found that the work did not comply. This probably results from a misunderstanding by the civil courts of the effect of a completion certificate ie that it is not conclusive proof of compliance.

## Statutory notifications

The current statutory notification stages are not relevant to all types of work. Where a person carrying out building work notifies the Local Authority of a statutory notification stage they are in most cases required to wait 2 days in case the Local Authority wishes to inspect. However, the person carrying out the work has no indication of whether the Local Authority will inspect. This delay may therefore be unnecessary and involve wasted time.

On the other hand, there are some stages in building work where the Local Authority might wish to be notified as it wishes to inspect, but no statutory notification stage is in place; for example, work involving energy efficiency, much of which tends to be carried out at later stages of the project. Many Local Authorities will currently ask to be notified when work has reached such stages as they operate a risk-based approach to inspections but these notifications do not have statutory force and some applicants do not therefore notify building control at the appropriate time. Many authorities are also already using a formal service/inspection plan approach but these cannot exclude the statutory notifications as they are required by law and therefore, where the Local Authority does not desire a notification at a statutory stage, this poses unnecessary burdens on the person carrying out the work.

Statutory notifications are not required when an Approved Inspector is the building control body. Instead the Approved Inspector will agree in their contract with the customer the stages where they wish to be notified on a risk assessed basis according to the type of building work.

Following the Future of Building Control review in 2008, which showed strong support for the development of a risk-based approach, the Department commissioned research to develop a risk assessment decision making tool for building control bodies<sup>1</sup>. The research showed that those building control bodies which piloted the tool found it a practical and useful approach as it took a reasonable amount of time to complete and owners and builders found the generation of service schedules a means of making decisions more transparent and better communicating notification needs. The tool produced as a result of this project published as guidance which building control bodies may adopt if they wish and includes an example of a service plan<sup>2</sup>.

## Rationale for intervention

### Completion certificates

Although local authority building control do tend to issue completion certificates as a matter of course, making them mandatory will help householders in the small minority of cases where local authorities do not currently issue a completion certificate. Government intervention is necessary to ensure that completion certificates are issued in 100% of cases.

Amending the wording on completion certificates will ensure that a wider audience is able to understand the status of the completion certificate. Government intervention can help remove uncertainty about their status, at no cost, and this will help to ensure the most appropriate outcomes during proceedings in small claims courts.

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<sup>1</sup> DCLG, 2012 Consultation on Changes to the Building Regulations Section 4, 2012  
<http://www.communities.gov.uk/publications/planningandbuilding/brconsultationsection4>

<sup>2</sup> Greenstreet Bernham, Risk Assessment Decision Making Tool for Local Authorities, 2012  
<http://www.communities.gov.uk/publications/planningandbuilding/riskassessmentguidance>

## **Statutory notifications**

The current statutory notification requirements do not address the stages which for most building projects would provide local authorities with the information needed to target inspections at the areas of greatest risk. Allowing local authorities on a project by project basis to decide when notifications are necessary would target areas of risk and remove areas where the risk was not significant.

## **Policy objective**

The primary policy objective is to ensure that the procedural requirements of the Building Regulations are clear and simple, to achieve the maximum level of compliance with minimum burden on those carrying out the building work or on Local Authorities.

## **Results of the Public Consultation**

Ninety-six per cent of those with a view agreed that completion certificates should be made mandatory. The vast majority of respondents from local authority building control indicated that issue of a completion certificate was standard practice in their own and other authorities. Respondents from Approved Inspectors noted that it would mirror the requirements for them to issue a final certificate in all cases where work complied and provide consistency across the building control sector. Of those that objected this was either because they thought that imposing a timeframe was unreasonable or because ensuring compliance with all aspects of the Building Regulations might be very costly and difficult to ensure.

Ninety-eight per cent of those with a view agreed with the proposed changes to the wording to be included on the completion certificates, pointing out that this would be of benefit to the general public in understanding the status of the completion certificate (in particular that such a certificate is not a warranty or guarantee).

The introduction of a service plan in place of certain statutory notifications was supported in the consultation by 82% of respondents with a view on the proposals. Respondents noted that service plans would 'create necessary local flexibility and allow for the appropriate use of risk assessment'. The NHBC fully supported 'the removal of the majority of statutory notifications as a positive move as this practice is out of touch with modern construction'. Other respondents noted that removing the statutory notifications would reduce the burden to industry. Of those that disagreed the primary reason was that removing statutory notification stages make it even more difficult to ensure builders adhered to the requirements to notify building control at particular stages of work, meaning work might not be inspected when fully uncovered.

Many respondents noted that local authorities already had approach similar to a service plan that took into account the risk attached to the building work in question.

## **Policy options considered**

### **Option 0 – 'Do Nothing'**

This option would fail to formalise the service plan arrangement which aims to deliver building inspections proportionate to the risk attached to the building project in question. This option is the counterfactual in this impact assessment.

Completion certificates would continue to be issued without an appropriate clarification of their status (except where local authorities voluntarily choose to accompany the certificate with a letter of explanation).

Issuance of a completion certificate, although standard practice and occurring in 90%+ of cases, would not be mandatory with potential adverse impacts on householders selling properties. This is particularly important as the general public might not be aware of the existence and the need for a completion certificate on alteration or extension works and might not ensure they have obtained a copy.

***Option 1 - a) Make changes to the current building control processes to keep only commencement and completion (and occupation before completion for buildings subject to the Regulatory Reform (Fire Safety) Order) as named statutory notification stages and replace the others with a “service plan” where the Local Authority and the person carrying out the work will agree the stages to be notified on a risk assessment basis***

***b) Make issuance of a completion certificate a mandatory requirement and amend the standard wording on completion certificates to make clear their status***

This is the chosen policy option. It will formalise service plan arrangements which have been adopted by many local authority building control bodies already and was supported in the consultation. It will help ensure that members of the public are aware of the status of completion certificates and will help to avoid any minority of cases where the absence of a completion certificate can delay or complicate a house purchase.

## **Additional research to inform the final stage impact assessment**

To strengthen the analysis in the consultation stage impact assessment EC Harris in conjunction with PRP Architects were commissioned to review the proposals for completion certificates and for risk-assessed service plans.

On completion certificates the work involved interviews with six building control bodies, six estate agents and one legal firm. The results of the research suggested that probably 90-99% of projects were eventually accompanied by a completion certificate. The interviews with estate agents suggested that most purchasers would not be disturbed from their purchase by the absence of a completion certificate nor would they attempt to reduce the price of the sale. The legal firm thought that it was quite common for a survey or homebuyers report to question the building control status of an extension or alteration (perhaps 30% of transactions) although only 10% of buyers might push for insurance or a reduced purchase price on such a basis.

Interviews with building control bodies identified that a house purchase could be delayed by the absence of a completion certificate and building control might arrange inspections to issue a completion certificate (although this was identified as more likely where the work was not notified to building control). Absence of minor certificates or electrical certificates seemed to be the most common reason that a completion certificate was not issued.

Work on statutory notification stages included a piece of work by PRP Architects comparing the number of inspections advised by the example risk-assessed inspection plans with the number of statutory notification stages and the actual number of inspections carried out in practice for a sample of different projects, across a number of building control bodies. Eleven projects were analysed, covering a range of different project types, with projects considered from two local authority building control departments and two Approved Inspectors (all in the South East of England). Although the results should be treated with caution given the small sample size they appear to support the view that following the recommendations of the published risk assessed service plan might slightly reduce the number of inspections compared to current practice. In particular savings might be possible for typical smaller projects such as extensions, with the service plan templates recommending one or two less inspections than currently undertaken.

**Table 1** – Comparison of inspections conducted with the number of statutory notification stages and the number of inspections advised in proposed model service plans

Case	Project type	Actual number of Inspections Conducted	Statutory Notification Stages	Inspections advised in proposed model service plan (low)	Inspections advised in proposed model service plan (central)	Inspections advised in proposed model service plan (high)
1	Extension	10	9	6	7	8
2	Block of flats	24	9		30	
3	Block of flats	28	9		26	
4	Loft conversion	6	2	4	5	6
5	Extension	10	9	6	7	8
6	Extension	6	7	6	7	8
7	Extension	9	9	6	7	8
8	Commercial change of use	12	9		19	
9	Nursing home	85	9		35	
10	New housing estate	277	261	203	247	290
11	Public building	26	9		19	

EC Harris also analysed the potential savings from removing inspections at statutory notification stages; this work suggested that one inspection (namely the inspection of the damp proof caused) could be removed from small project and up to two inspections might be removed for a medium sized project. This would deliver a significant saving to the construction firm as it would help to avoid construction workers losing time on site whilst waiting for and attending inspections.

## Costs and benefits of Policy Option 1

- i. To make the issuing of completion certificates mandatory for Local Authorities, where they have been informed that the work has been completed and are satisfied it complies***

### COSTS

A cost could arise where an inspection is needed in order for the Local Authority to be able to issue a completion certificate where one would not have ordinarily been carried out. However, Local Authority Building Control confirm that for the vast majority of building work a completion certificate is currently issued (even when there is no requirement to do so) and that the work would therefore have been inspected at a stage where the Local Authority could form a view on compliance. This was also confirmed by the respondents to the consultation none of whom indicated that it would generate a requirement for additional inspections. Respondents from local authority building control overwhelmingly indicated that it was already standard practice to issue a completion certificate. We therefore conclude that the number of additional inspections arising from making completion certificates mandatory would be very small.

Minor costs of printing and sending completion certificates where they would not have been otherwise would fall on the local authority, although local authorities indicated that this would already have formed part of the charge to the householder so doesn't represent an unfunded cost to them. Assuming 300,000 residential applications per year<sup>3</sup>, of which estimates suggest 1-3% might not see the issuance of a completion certificate currently. Assuming that the sending out the completion certificate takes two minutes of a building control officer's time (ranging from £25/hour to £60/hour, midpoint of £43/hour) and printing and posting the completion certificate costs £1, this gives annual recurring cost ranging from £5,500 to £27,000 per annum with a central estimate of £14,600 per annum. This gives a present value cost over ten years of £0.23m.

Estimates of hourly costs are based on two sources, the EC Harris database of professional fees or building control charge out rates and the Annual Survey of Hours and Earnings 2011<sup>4</sup>. Hourly rates have been calculated for the central case by attaching a 50% weighting to wage rates from the EC Harris professional fees database (or average charges in the case of building control officers) and a 50% weight to wage rates derived from the Annual Survey of Hours and Earnings.

The EC Harris database has been used as a source of evidence on the cost for workers in the construction industry. This reflects the value by the market of a professional including wage, on-costs and other business costs to the organisation. This approach is widely used in the construction industry. However, there is a risk that this may overstate the cost savings. For instance in some situations, the saving may result in the professional being employed for fewer hours and delivering less than the full business cost savings assumed in the charge out rates. We have therefore also used the Standard Cost Model to estimate costs based upon the Annual Survey of Hours and Earnings (ASHE) plus an additional estimate of 30% for additional overheads such as pension contributions and national insurance contributions. It is our assessment that this approach underestimates typical benefits of time for professionals in the construction industry.

So for our central estimate we have assumed an hourly rate half way between the EC Harris industry estimate and the ASHE plus 30% approach<sup>5</sup>. We feel this estimate reasonably reflects that some time savings of key professionals have a high value reflected in the charge out rate for carrying out other priorities while in other situations the business cost saving might be more constrained.

In the low scenario hourly rates are based on the Annual Survey of Hours and Earnings and for the high scenario hourly wage rates have been based on the EC Harris professional fees database.

As it is already a requirement for the person carrying out the work to notify the Local Authority that the work has been completed, there is no additional cost for the person carrying out the work to trigger the issue of a completion certificate.

## **BENEFITS**

The benefit would be to the householder who might not realise the importance of obtaining a completion certificate to demonstrate that building control inspections have been carried out. They would have fewer problems in trying to sell their house and would in many cases sell it at a higher price, or sooner, than if they did not have a completion certificate. However, the research conducted by EC Harris found that most estate agents and legal firms thought that the chance of a sale falling through because of a missing completion certificate would be extremely small. The completion certificate will also provide purchasers with greater confidence that they will not need to bear the

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<sup>3</sup> DCLG, Survey of Building Control, 2008, <http://www.communities.gov.uk/publications/planningandbuilding/surveybuildingcontrolrpt>

<sup>4</sup> ONS, ASHE, 2012, <http://www.ons.gov.uk/ons/rel/ashes/annual-survey-of-hours-and-earnings/ashes-results-2011/ashes-statistical-bulletin-2011.htm>

<sup>5</sup> Estimates from the ASHE have been up-rated by 30% to allow for pensions, national insurance contributions and other variable costs of labour employment (see Standard Cost Model, BERR, 2005, <http://www.berr.gov.uk/files/file44503.pdf>)

cost of putting right any non-compliant work that might be discovered only after the purchase of a property.

The research carried out by EC Harris indicated that indemnity insurance where a completion certificate was not produced might cost around £100-£500 (average estimate £320). However, estate agents and the legal firm interviewed indicated an expectation that only rarely would a buyer insist on such insurance. Obtaining a completion certificate would remove the need for this insurance and reduce costs in such transactions.

- ii. **To amend the wording on the completion certificates, final certificates and competent person building regulations compliance certificates to reflect better the status of these certificates**

## **COSTS**

Costs to the Local Authority, Approved Inspector or competent person scheme operator would be negligible as there would be only a very minor one-off cost of adding a small amount of text to the existing certificate templates which are usually generated electronically on demand (so there is no cost in wasted out of date versions). Our estimate is that the total cost is less than £500 and so is treated as *de minimis* for this assessment.

## **BENEFITS**

The benefit would be to the building owner. When bringing a claim in the civil courts they would be more likely to get compensation for the cost of putting right non-compliant work from the person who carried out the work if the courts better understood that the completion certificate was not a guarantee of compliance.

98% of respondents with a view supported this change and thought it would be helpful for the general public to have a clearer understanding of the status of a completion certificate.

- iii. **To keep only commencement, occupation before completion for buildings subject to the Regulatory Reform (Fire Safety) Order and completion as named statutory notification stages, and replace the others with a “service plan” where the Local Authority and the person carrying out the work will agree the stages to be notified on a risk assessment basis**

## **COSTS**

Of those responding to the consultation who had a view on the costs and benefits presented in the consultation impact assessment 74% agreed with the estimates presented. Of those who disagreed, a number of respondents suggested that costs did not accurately reflect building control costs in London but it seems likely that this is mainly the result of building control bodies comparing their own costs with the national average figures in the IA and only raising this as an issue where they seemed too low.

## **TRANSITION COSTS**

*For the Local Authority:*

From discussions with LABC, it seems very likely that Local Authorities would approach this matter by drawing up service plan templates for different sorts of buildings. The initial cost of



drawing up templates will fall to the Local Authority, not to person carrying out the work. The template could be used, and modified where necessary, in respect of individual building applications. These cost estimates use an hourly rate of £43 per hour (£25/hr in the low scenario and £60/hr in the high scenario).

300 Local Authorities (based on the number of building control departments including those operating joint partnerships), the initial cost in drawing up service plan templates is estimated as follows:

- large block of flats would take 3 to 5 hours giving a total cost of **£22,500 – £90,000**
- for a house would be take 30 minutes to 1 hour giving a total cost of **£3,750 - £18,000**
- an office block or other commercial buildings would take 3 to 5 hours giving a total cost of **£22,500 - £90,000**
- In total this gives a total cost of drawing up service plans ranging from £48,750 to £198,000, with a midpoint of £123,375

It appears that some Local Authorities are already, in effect, operating a risk-based inspections system and service plan approach and so would bear little or no new costs as a result of this change. Furthermore, if LABC drew up model templates that could be adopted by individual Local Authorities, these costs could be greatly reduced, probably to little more than the cost to a single Local Authority as they would only have to adapt the templates.

There might also be familiarisation costs for building control officers who would wish to understand the service plan templates and the changes to the process in order to explain the implications for clients. For 3,300 local authority building control officers<sup>6</sup> we estimate that this might take 30-60 minutes per person for familiarisation, giving a further transition cost of £41,250 to £198,000.

This gives a central estimate for one-off costs to Local Authorities (drawing up service plans and familiarisation costs) of **£243,000** (£123,375 for establishing service plans and £119,625 in familiarisation costs) with a total range of £90,000 to £396,000)

## **ONGOING COSTS**

*For the person/business carrying out the work:*

Local authorities are already required to estimate the amount of time they expect to spend on a job in order to set the building control charge and so are already making an assessment of the number of inspections they expect to carry out. The additional cost in expanding this to cover the stages at which the inspections will be carried out using the templates described above would therefore be minimal. As this is part of dealing with the application, the costs of this process would be borne by the person carrying out the building work as part of the building control charge itself. They are estimated as follows:

- a large block of flats is estimated to take 15-30 minutes of the Local Authority's time at £60 per hour and therefore be charged to the client as between **£15 - £30 per building application.**
- a house is estimated to take 15 minutes of Local Authority's time at £60 per hour and therefore be charged to the client as approximately **£15 per building application**

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<sup>6</sup> Figure of 3,500 has been provided by LABC and adjusted to reflect the fact that this also includes Welsh building control authorities

- an office block or other commercial building is estimated to take 15 -30 minutes of a Local Authority's time at £60 per hour and therefore be charged to the client as **between £15-£30 per building application.**

There will also be a cost on the person carrying out the work in receiving, reading and agreeing a service plan. For most standard projects this will be very similar to current process and any additional cost will be negligible; most service plans for typical projects will be produced according to standard templates and therefore should be thought of as a transition cost rather than an ongoing cost.

It is unlikely that Local Authorities will be able to draw up templates for service plans for many industrial buildings, as they differ so much one from another. It is likely that the cost of individual service plans would be similar to the cost of drawing up the initial templates, ie £180-£300 per application although this may be offset by the time currently spent on calculating the building control charge. For more complex projects a service plan approach is effectively already governing the stages at which inspection takes place so the cost difference compared to current practice will be small.

LABC do not anticipate that the changes will result in a significant decrease in the number of notifications for stages of work over what is currently required by the statutory notification system. However, research into the potential for greater use of risk assessment when determining building control inspections suggests that the number of inspections based on risk should fall. As notifications in a service plan should be triggered by risk-based inspections they too should be fewer than at present. Even where the number of inspections remains the same as at present, the changes may mean that for some work the notifications will be made at different stages of the building work than required under the current statutory notifications.

If the number of notifications required under a service plan is the same as or fewer than under the present statutory notification system there would be no additional cost (and could be a saving). In any event, almost all notifications are now made by e-mail, text or telephone so such costs are minimal. Therefore we do not believe there are any ongoing costs relating to this part of the policy.

## **BENEFITS**

Moving to a risk-based system of inspection and notification will in some cases mean that there are fewer notifications required and fewer inspections carried out. There would be a decrease in building control charges for these reasons. Based on research conducted by EC Harris and PRP Architects we have estimated the potential for the move to risk based inspection service plans to deliver savings although there remains significant uncertainty.

Where there are fewer inspections there would be a saving of 30-60 minutes for each inspection not carried out. At an hourly rate of £43/hr this is a saving of £32 on average.

Business would perceive this benefit at £60/hr as this is the average cost that building control inspections are charged at (this reflects the fact that the building control body must recover all the costs of running the building control service over the year – i.e. is the average cost of an inspection rather than the marginal cost).

To understand further the impact of service plans PRP Architects and EC Harris were commissioned to review the proposals. PRP reviewed a sample of 11 real-life projects, comparing the number of notifications recommended in the example service plans with the number of statutory notifications and the actual number of inspections that had been carried out by building control. This work suggests that following the risk-based assessment inspection programme in full might save one inspection on small projects such as extensions or loft conversions. However, how much of this saving might be realisable is uncertain and depends

on current practice across local authority building control - the extent to which they are already following a risk-assessment process as well as how they decide to implement the new guidance on service plans. Local authority building control departments already have flexibility and take a risk-based approach to the number of inspections they deem necessary to verify compliance.

EC Harris have attempted to cost the delay to works by looking at the statutory notification processes and working out which stages might not be required in the service plan approach. This indicates that there could be savings of one inspection of the damp proof course, which is perceived as low risk or could be inspected alongside other stages. To the business carrying out the work this would save the cost of the inspection (1 hour @ £60/hr) and one admin unit (of one hour at £25/hour<sup>7</sup>) as well as potentially helping to avoid delay on site. The delay is assumed to affect two skilled manual labourers (£19<sup>8</sup>/hr) for four hours and its avoidance therefore delivers a saving of £152. The total saving is there estimated to be £237 per project.

For medium-sized projects EC Harris estimate that the savings could be larger, potentially two inspections (2 hours @ £60/hr) and an avoided delay of eight hours affecting four workers (saving £608), a total saving of £728.

There might potentially be some savings for larger projects as well, although because such developments will vary so considerably it has not been possible to estimate the magnitude of this impact. Since intermediate inspections already form the majority of inspections for large scale projects, current practice is probably already similar to an approach following the service plan templates. These figures were provided are not included in our assessment of the benefits due to the uncertainty of the effects.

Therefore both the case study review performed by PRP Architects and the work by EC Harris consistently suggest that risk-assessed service plans have the potential to deliver savings for small projects. Based on the results of the survey of building control we estimate that there might be around 150,000 loft conversions and extensions per year<sup>9</sup>. Should each project require one less minor inspection as a result of the change the total benefit to business would range from £1.88m<sup>10</sup> to £4.5m<sup>11</sup>, with a midpoint of £3.23m<sup>12</sup>. However, some building control bodies will already be following a service plan approach or may make no material changes to their current approach following the formal introduction of service plans, so the extent to which this saving is realisable is uncertain. The results of the public consultation suggested that most local authority building control bodies already operate a risk-based system of inspections, receiving all statutory notifications but choosing whether to inspect at these stages, and usually agreeing at one inspection at what point they wish to be notified in order to inspect again. As a result, although we think there is potential in some cases to reduce the cost of inspection programme by following the risk-assessed service plan, in many cases current practice will already reflect the local authority's view of the risk of the project and so there may not be a reduction in the number of visits. There remains uncertainty due to varying practice across building control bodies so we have taken a cautious estimate for the central case by using a range for the wage rate. To be cautious we have not included this as part of the calculations for the EANCB OUT to business.

Some local authorities expressed a preference for continuing with the current statutory notification stages, since confusion between the practice of different local authority building control bodies could be challenging for small builders. However, we believe that since smaller

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<sup>7</sup> ONS, ASHE, 2012, <http://www.ons.gov.uk/ons/rel/ashes/annual-survey-of-hours-and-earnings/ashes-results-2011/ashes-statistical-bulletin-2011.htm>

<sup>8</sup> Average of estimates from the Annual Survey of Hours and Earnings, uprated 30%, and estimates from the EC Harris fees database.

<sup>9</sup> DCLG, Survey of Building Control, 2008, <http://www.communities.gov.uk/publications/planningandbuilding/surveybuildingcontrolrpt>. Results in the survey have been scaled up for non-respondents and adjusted to give an estimate for England only rather than England and Wales.

<sup>10</sup> Using a low wage rate of £25 per hour using the Annual Survey of Hours and Earnings, uprated 30%

<sup>11</sup> Based on the average building control fee of £60/hr as quoted in CIPFA guidance

<sup>12</sup> Based on an hourly wage of £43, which is the midpoint of the 2 wage rates.

projects would follow a fairly standard service plan and LABC are likely to develop model service plans, this risk can be mitigated.

Removing all statutory notification stages except commencement, occupation for buildings subject to the Fire Safety RRO and completion of work would also have the effect of removing the statutory up to 2 day period which the notification must be made before starting the type of work. Local authorities will be able to set any advance notification period relevant to the work in the service plan. This will mean that in some cases the person carrying out the work will not lose up to 2 days of construction time during which they currently have to wait in case the Local Authority wishes to inspect (but often does not). This will help to reduce construction time and construction costs on many building projects, particularly where the nature of the project is such that workers cannot be redeployed to other tasks during the waiting period.

As service plan will contain notifications at those stages where Local Authorities consider that the risk justifies inspections rather than at fixed points, it is likely that building control will pick up non-compliant work earlier and more often than at present. The earlier non-compliant work is identified by the Local Authority, the less expensive it is likely to be to put right for the person carrying out the work. Overall it is likely to give a benefit of a higher level of compliance with the Building Regulations with buildings which perform better and have lower operating costs, and will therefore have a higher rental or sale value.

In the low scenario we have assumed that *all* local authorities are currently operating inspection schedules with a similar profile to the proposed model service plans and there will be no reduction in the number of inspections.

To illustrate the upper end magnitude of the potential savings the high scenario assumes that one minor inspection taking 30 minutes is saved for the 150,000 minor extension and conversion type projects per annum.<sup>13</sup> Again, the wage rate is based on two sources, the EC Harris database of professional fees or building control charge out rates and the Annual Survey of Hours and Earnings 2011<sup>14</sup>. Hourly rates have been calculated for the central case by attaching a 50% weighting to wage rates from the EC Harris professional fees database (or average charges in the case of building control officers) and a 50% weight to wage rates derived from the Annual Survey of Hours and Earnings.

This high estimate is unlikely in practice so in the central scenario we have assumed that in 95% of cases no savings are achieved since inspections are already being carried out based on an assessment of the risk but there is scope for the proposed model service plans to ensure efficient practice.

**Table 2 - Summary table of costs and benefits**

Costs	low	central	high
Transition cost	£396,000	£243,000	£90,000
Annual cost	£27,000	£14,600	£5,500
PV Cost (10 years)	£628,408	£368,672	£137,342
Benefits	low	central	high
Annual Benefits	£0	£161,250	£3,225,000
PV Benefit (10 years)	£0	£1,387,989	£27,759,789
NPV	low	central	high
NPV (10 years)	-£628,408	£1,019,317	£27,622,447

<sup>13</sup> 150,000 \* £43 \* 0.5 = £3.225,000

<sup>14</sup> ONS, ASHE, 2012, <http://www.ons.gov.uk/ons/rel/ashes/annual-survey-of-hours-and-earnings/ashes-results-2011/ashes-statistical-bulletin-2011.htm>

# **APPROVED INSPECTOR REGULATIONS AND THE REMOVAL OF THE WARRANTY LINK RULE**

## **Background**

### **APPROVED INSPECTOR REGULATIONS**

The Building (Approved Inspectors etc) Regulations 2010 supplement the Building Regulations and expand upon many of the procedural requirements for Approved Inspectors covered in the Building Act. They largely govern the relationship between Approved Inspectors and Local Authorities (the relationship between an Approved Inspector and their client is covered by their contractual arrangements). The Approved Inspector Regulations also set out the functions of Approved Inspectors i.e. to take all reasonable steps to satisfy themselves within the limits of their professional care that the requirements of the building regulations have been complied with.

### **WARRANTY LINK RULE**

Until 2005 only Local Authorities and National House Building Council (an Approved Inspector) were allowed to undertake the building control function for new homes intended for private sale or rent. All other Approved Inspectors were limited to dealing with non-domestic work. This was because of concerns that, if there were issues of non-compliance, a homeowner would be unable to make a claim against the Approved Inspector's professional indemnity insurance due to the need to prove negligence. NHBC was included because it only undertook building control work where its own new home warranty was in place, thus providing a no-fault redress for homeowners and it had been providing such warranties for around 20 years, giving them experience of issues relating to construction of dwellings.

When the new home market was opened up to all Approved Inspectors in 2005, it was felt that a similar level of protection was required to maintain confidence in the building control system as other Approved Inspectors had no previous experience of operating in the domestic sector. The Warranty Link Rule was therefore introduced, which requires that before an Approved Inspector can take responsibility for building control in respect of building work consisting of the construction of new build dwellings (i.e. houses or flats) or the conversion of any building in whole or in part to houses or flats (e.g. a barn conversion) and the dwellings are for private sale or rent a warranty must be in place under one of the Designated New Home Warranty Schemes approved by the Department.

## **Problem under Consideration**

### **APPROVED INSPECTOR REGULATIONS**

As part of the 2013 Building Regulations review, the Department proposes to make changes to the building control system processes to improve the existing system to both reduce burdens and improve compliance where possible and to encourage industry to take greater responsibility for their actions. We have considered a number of suggested changes to the Approved Inspector regulations to reduce the burdens associated with them and have identified the following minor changes that would reduce burdens both on Approved Inspectors and Local Authorities:

- i. remove the need for Approved Inspectors to send a copy of their approval certificate and certificate of insurance to the Local Authority with every Initial Notice (which can cover multiple units, often covering hundreds of units). Instead the approval body will hold this information on an existing publicly-accessible register;

- ii. combine the two classes (individual person and corporate) of Approved Inspectors; and
- iii. ensure all the definitions are up-to-date and make a few clarifications for ease of interpretation.

## **WARRANTY LINK RULE**

Following concerns over the way the Warranty Link Rule was operating, a project was set up to consider the policy rationale for the Warranty Link Rule and whether the specific criteria were appropriate, particularly the one for contaminated land<sup>15</sup>. The research found that Approved Inspectors do not appear to be the subject of more complaints than Local Authority building control which suggests that the concerns which led to the Warranty Link Rule being put in place have not been realised in practice. The research also found that Approved Inspectors have been discouraged from carrying out the building control function on new homes for private sale and rent due to the additional burdens associated with the Warranty Link Rule.

The research suggests that the Warranty Link Rule is no longer needed, creates an unnecessary burden and acts as a barrier for Approved Inspectors to take on business. However, the research also found that there are a number of complex issues primarily in respect of the contaminated land criterion which would need to be addressed if the Warranty Link Rule were to be retained, which could increase the costs of the warranties.

## **RATIONALE FOR INTERVENTION**

To provide competition and choice to consumers the Building Control function can be carried out by either an Approved Inspector or Local Authority building control.

If the Approved Inspector Regulations are not revised they will continue to impose extra unnecessary burdens on both Approved Inspectors and Local Authorities in cases where it is necessary for work to revert to the local authority because the Warranty Link Rule could not be satisfied. .

If we do not remove the Warranty Link Rule, Approved Inspectors will continue to be discouraged from entering the market for new homes for private sale and rent, thereby distorting competition and affecting consumer choice. The Department would also need to revise the Warranty Link Rule contaminated land criterion and designated warranty approval process which would increase costs on both the warranty providers and house builders.

Although warranties are generally considered to be beneficial to homeowners it is not Government policy to require them to be provided in all cases. There has been no provision for them to be provided where a Local Authority is the building control body.

## **POLICY OBJECTIVE**

To reduce unnecessary burdens on Building Control Bodies and improve compliance with Building Regulations where possible and to encourage industry to take greater responsibility for their actions.

To level the playing field between Local Authorities and Approved Inspectors.

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<sup>15</sup> DCLG, Research into the operation of the Warranty Link Rule, 2012, available at <http://www.communities.gov.uk/publications/planningandbuilding/warrantylinkrulereport>

# Description of options considered (including do nothing)

We have considered two options:

**Option 0** - do nothing

**Option 1** - make minor changes to the Approved Inspectors Regulations and remove the Warranty Link Rule

Option 0 would mean that the problems and unnecessary burdens associated with the current Approved Inspectors processes as described earlier would remain. There are no additional costs or benefits.

Option 1 is the chosen policy option. It addresses the problems with the current processes and removes burdens without any substantial additional costs.

## Results of the Consultation

The amendments to the Approved Inspector Regulations had widespread support from respondents, with 89% of those who had a view in favour of taking forward the proposed changes to the Approved Inspector Regulations.

Support for removing the Warranty Link Rule was more tempered, with 65% of those with a view in favour of the proposals. Significantly some local authority building control officers thought that the proposal would dilute the quality of building control provided, although in many cases it was difficult to separate criticism of the policy change from general opposition to private sector building control.

The majority of respondents did not have a view on the estimated monetised costs and benefits in the consultation stage impact assessment; of those that did 79% agreed with the estimates made in the consultation stage impact assessment. No further evidence was submitted in the consultation that could be used to refine the estimates.

## Additional research informing this final stage impact assessment

In order to further the evidence base EC Harris were asked to address two questions about the Warranty Link Rule; how much work reverts to the local authority because of the Warranty Link Rule after construction has started and how much work is lost from Approved Inspectors to local authorities in general as a result of the rule. This work has helped to refine the estimated benefits of removing the Warranty Link Rule and is discussed in more detail below.

## Monetised and non-monetised costs and benefits of each option

### Approved Inspector Regulations

It is estimated that the following costs and benefits will arise when minor changes to the Approved Inspector Regulations are introduced:

#### Costs

It is proposed that Approved Inspectors should no longer be required to send a copy of their insurance certificate and certificate of approval to the Local Authority with every Initial Notice.

Instead the Construction Industry Council (CIC), the body that approves Approved Inspectors, would add the insurance information to an existing publicly accessible website.

There will be an initial set up cost to the CIC for expanding their website to include the insurance certificates and to uploading them onto the site. We estimate that establishing this will take one 7.5 hour day, which at an hourly rate of £43<sup>16</sup>, gives a total transitional cost of **£323**.

There will also be a nominal cost for updating the insurance details on an annual basis. We estimate that this would either be included as part of the normal web management or at a nominal charge of about £3.58 per annum, on the basis of it taking 5 minutes at £43 per hour. For 70 Approved Inspectors the total ongoing cost would therefore be around £251 per annum. There would be no cost with respect to the approval information as CIC already record this information on their website.

We anticipate that CIC would recover their costs through Approved Inspectors approval/re-approval fees (re-approval is every 5 years).

There will also be a cost to Approved Inspectors of sending their insurance certificate by email to CIC each year. We estimate it will take each Approved Inspector 5 minutes to send their certificate. This gives a total time of around 5.8 hours at £43<sup>17</sup> per hour (assuming the same hourly rate for Approved Inspectors as for Local Authority building control) which gives a cost of around £251 per annum.

The estimated total annual cost of **£502** gives a present value of £4,321 over 10 years. When added to the transition cost above, this gives a total monetised present value cost of **£4,644**.

There will be no need for Approved Inspectors to send a copy of their Approval certificate to CIC as the information originates with CIC.

There will be a nominal administrative cost to Local Authorities for checking the validity of Approved Inspectors approval and insurance certificates on the CIC's website if they chose to do so. However, from information provided by LABC, we anticipate this will only occur in a few cases each year e.g. where a new Approved Inspector is involved or concerns have arisen and so costs are likely to be negligible.

## Benefits

There is a saving to Approved Inspectors of not having to send their insurance and approval certificates to the Local Authority with each Initial Notice and subsequent final notice. There are approximately 40,000 Initial Notices per annum (based on the Survey of Building Control Bodies for 2006/07 published in March 2008). We estimate that 70 % (28,000 approx) of Initial Notices are sent by email and 30% (12,000 approx) are sent in hard copy by post because not all Local Authorities elect to receive Initial Notices electronically. The same would apply to final certificates.

On the assumption that attaching both the insurance certificate and approval certificate to the initial notice takes five minutes of an Approved Inspector's time, whether as electronic attachments to an email as paper put into an envelope, there would be a saving of approximately 3,335 hours. Furthermore, they are also required to attach this information to a

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<sup>16</sup> Estimated based on attaching a 50% weight to estimates from the Annual Survey of Hours and Earnings plus 30%, (£25/hr), and a 50% weight to the charge out rate (£60/hr)

<sup>17</sup> Estimated based on attaching a 50% weight to estimates from the Annual Survey of Hours and Earnings, plus 30%, (£25/hr) and a 50% weight to the charge out rate for building control services (£60/hr)



final certificate, giving a total of 6,670 hours. At £43 per hour this would save Approved Inspectors around £286,810 per annum (range £166,750 to 400,200).

For Initial Notices and final certificates sent in hard copy by post there will also be a saving to the Approved Inspector in not having to photocopy/print off the insurance and approval certificates to send with the Initial Notice. We estimate a saving of 10p per initial notice or final certificate which would save a further £2,400 per annum.

As the insurance certificates and approval certificates would in almost all cases have been filed together with the Initial Notice or final certificate to which they were attached (either electronically or as paper) we do not think that there will be any quantifiable savings to Local Authorities from no longer receiving them. However, there will be a saving from no longer having to record the Approved Inspectors' insurers name and address information on to the register kept under section 56 of the Building Act. If this saved Local Authorities 5 mins per Initial Notice and final certificate, this would yield an annual saving to LA's of £268,810 per annum (range £166,750 to 400,200)

There are no perceived benefits in having the historic split of two classes of Approved Inspector: individual and corporate which has on some occasions caused confusion. There would therefore be minor administrative benefits of consistency to Approved Inspectors and their approval body, CIC, in combining the two classes of Approved Inspectors. Only one approval form would be needed instead of the current two and all Approved Inspectors would be required to provide the same information. There could be some very small administrative savings from this change.

The Department is also aware of instances where users of the Approved Inspectors Regulations have found some of the definitions and other provisions to be unclear. As removal of the need to accompany an Initial Notice with an insurance certificate and the combination of the two classes of Approved Inspectors will require amendments to the Regulations we would use the opportunity to clarify the unclear provisions. The time taken for Approved Inspectors and other to use the legislation will be less and compliance with the regulations should improve due to better understanding of what is required.

An annual benefit of £576,020 per annum (range £335,900 to £802,800) gives a present value benefit for the changes to the Approved Inspector regulations over 10 years of **£4.6m**.

# Warranty Link Rule

It is estimated that the following costs and benefits will arise if we remove the Warranty Link Rule:

## Benefits

Problems arise where the intended use of the dwellings under construction or conversion changes from one that does not require a warranty (for example, student accommodation or social or public sector rental) to dwellings for sale or private rental which therefore do require a warranty. Similar problems arise when a warranty provider decides it cannot issue a warranty once construction has begun. As no warranty is in place the Approved Inspector cannot continue as the building control body and the building control function must revert to the Local Authority.

This process costs loss of business to the Approved Inspector, is a difficult situation for the Local Authority who have to take over the building control function part way through the job and may require work to be uncovered so they can certify it as compliant, and results in inconvenience and potentially delays and increased costs to the developer/building owner. Abolishing the Warranty Link Rule would remove these problems.

According to the work performed by EC Harris, the removal of the Warranty Link Rule could lead to a saving of around £975-£2,650 for each project that would currently have to revert to the local authority because of the Warranty Link Rule during the construction process. These cost estimates take into account the additional administrative cost, the additional building control fees (since the Approved Inspector and the local authority would both have to be paid), on-site construction delay and, for complex works, costs associated with uncovering work for inspection and then making good following completion of the inspection. Interviews with local authority building control bodies and Approved Inspectors conducted as part of the research suggested that such instances are extremely rare, perhaps 0.2% of all residential projects currently undertaken by Approved Inspectors. This leads to an estimated cost to builders from delays arising as a result of work reverting to the local authority because of the Warranty Link Rule of around £0.1m - £0.25m per year<sup>18</sup>.

It is also estimated that every year a number of jobs that could have been dealt with by an Approved Inspector are lost to Local Authorities because the housebuilder does not want to pay for the provision of a warranty or the housebuilder does not meet all the requirements of the warranty provider.

We estimated at consultation that there are approximately 15,000 units per annum (range of 10,000 to 20,000 to reflect uncertainty) that go to the Local Authority either at the start of the job or during construction. This estimate was corroborated by EC Harris in their research. They estimated around 17,000 units potentially lost to Approved Inspectors as a result of the Warranty Link Rule, based on consultation with Approved Inspectors and local authority building control bodies to estimate that around 20% of properties developed each year, and applying this proportion to the approximate number of dwellings built per annum as per DCLG statistics (85,000)<sup>19</sup>. We use the 15,000 estimate below.

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<sup>18</sup> Assumes 120,000 projects taken on by Approved Inspectors based on figures from the ACAI (Association of Consultant Approved Inspectors). 40% of this number (48,000) are assumed to be residential projects based on the results of the survey of building control <http://www.communities.gov.uk/publications/planningandbuilding/surveybuildingcontrolrpt>

<sup>19</sup> DCLG statistics, live tables on house building, <http://www.communities.gov.uk/housing/housingresearch/housingstatistics/housingstatisticsby/housebuilding/livetable/>

Figures from Approved Inspectors suggest that Approved Inspectors knowingly lose business worth approx £5.7m pa to Local Authorities (from housebuilders who have initially approached an Approved Inspector and subsequently elected to use the Local Authority). This figure could well be significantly higher in practice as housebuilders who are aware of the Warranty Link Rule may never approach an Approved Inspector at all.

A loss of business for an Approved Inspector is a gain for the Local Authority. However, removing the Warranty Rule would level the playing field between Local Authorities and Approved Inspectors and could improve competition. As well as providing more choice for customers it could potentially result in lower Building Control charges. We estimate that if the charges dropped by 1% on the 15,000 units (range: £10,000 to £20,000) there would be a saving to consumers of around £57,000 per annum (range of £38,000 to £76,000), assuming an average building control charge of £380 per project. The EC Harris report also indicated that savings might be possible and suggested 5% could be achievable. To err on the side of caution we have used a 1% reduction in fees across the projects identified as currently only open to local authority building control. We have recorded this as a transfer payment, a cost to local authorities who lose revenue and a gain to consumers who face lower prices. To the extent that competition encourages efficient behaviour there will also be some real resource savings, which have not been monetised.

There would also be a benefit to the housebuilder and building owner in the reduction in warranty costs. The EC Harris report estimates that the average cost of a new home warranty from a designated warranty provider is £750 based on industry experience and this is in line with the estimate made at consultation stage. In most cases a new home warranty will be required to satisfy market-driven purposes, such as the Council of Mortgage Lenders borrowing requirements, although we estimate that there are approximately 2,200 units (range of 2,000 to 2,400)<sup>20</sup> built per annum that would fall in to the category of not needing a warranty for any other purpose than the Warranty Link Rule. Presumably in such cases the builder prefers to pay for the warranty and the cost of building control services provided by an Approved Inspector rather than pay the local authority building control fee. Removing the Warranty Link Rule would therefore produce a potential benefit in these cases to the housebuilders or building owners of **£1.65m** per annum (range of £1.5m to £1.8m).

Removing the Warranty Link Rule will also bring savings to warranty providers and house builders from not having to bring their policies in line with changes that would be necessary for DCLG to make to the Warranty Link Rule contaminated land criterion. It would also give more choice for consumers as they would be able to choose from a wider range of warranties not just the designated warranty schemes. Warranties would also be more flexible to meet the specific needs of particular customers/sites (e.g. providing a higher level of cover on sites where there are known contamination risks).

## Costs

There are no direct costs in removing the Warranty Link Rule. However, it does mean more work may go to Approved Inspectors and less to Local Authorities so there may be a distributional effect. Non-price competition, for example through the customer service experience, will be important alongside price competition in determining the extent of this effect. The benefits of increasing competition to consumers, estimated above as £57,000 per annum (range £38,000 to £76,000), are a transfer payment from building control providers to consumers so are counted as here as a cost to building control providers.

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<sup>20</sup> Based on 2010 figures provided by the Association of Consultant Approved Inspectors)

## Summary Table of Costs and Benefits

**Table 3** - Summary table of costs and benefits: amendments to the Approved Inspector Regulations and removal of the Warranty Link Rule

<b>Costs</b>	<b>low</b>	<b>central</b>	<b>high</b>
Transition cost	£323	£323	£323
Annual cost	£38,502	£57,502	£76,502
<b>PV Cost (10 years)</b>	<b>£331,736</b>	<b>£495,282</b>	<b>£658,828</b>
<b>Benefits</b>	<b>low</b>	<b>central</b>	<b>high</b>
Approved Inspector Regulations	£335,900	£576,020	£802,800
Savings on projects no longer reverting to the local authority	£93,600	£174,000	£254,400
Cost reduction as a result of greater competition	£38,000	£57,000	£76,000
Warranty savings	£1,500,000	£1,650,000	£1,800,000
<b>Annual total</b>	<b>£1,967,500</b>	<b>£2,457,020</b>	<b>£2,933,200</b>
<b>PV Benefit (10 years)</b>	<b>£16,935,623</b>	<b>£21,149,258</b>	<b>£25,248,066</b>
<b>NPV</b>	<b>low</b>	<b>central</b>	<b>high</b>
NPV	£16,603,888	£20,653,976	£24,589,238

## Overall Assessment of Policy

Collecting the changes to the local authority building control process and the changes affecting Approved Inspectors the overall net benefit of the policy is estimated to be **£21.7m** over ten years.

**Table 4** - Summary table of costs and benefits

<b>Costs</b>	<b>low</b>	<b>central</b>	<b>high</b>
Transition cost	£90,323	£243,323	£396,323
Annual cost	£44,002	£72,102	£103,502
PV Cost (10 years)	£469,078	£863,954	£1,287,235

<b>Benefits</b>	<b>low</b>	<b>central</b>	<b>high</b>
Transition benefit	£0	£0	£0
Annual total	£1,967,500	£2,618,270	£6,158,200
PV Benefit (10 years)	£16,935,623	£22,537,247	£53,007,855

<b>NPV</b>	<b>low</b>	<b>central</b>	<b>high</b>
NPV	£15,648,388	£21,673,293	£52,538,777

### Direct costs and benefits to business (following 'One-In, One-Out' methodology)

The majority of the benefits of the changes outlined will be to business. Costs and benefits falling on local authority building control changes only affect public bodies so have not been counted in this section of the assessment. Moving to risk based service plans has the ultimate aim of reducing the building control charges faced by business for low risk projects. As

discussed in the text the extent that savings are realisable in practice is uncertain due to varying approaches taken by local authorities so we have not assumed any benefit to business from this element of the proposals in these estimates.

The costs of the Approved Inspector Regulations changes have been included and the benefits of these changes and the removal of the Warranty Link Rule included, giving a total Equivalent Annual Net Cost to Business (EANCB) of -£1.96m in 2009 prices<sup>21</sup>.

**Table 5 – Direct costs and benefits to business**

<b>Benefits</b>	<b>central</b>
Appraisal period (years)	10
Direct costs to business (PV)	£4,644
Present benefit to business (PV, 10 years)	£18,189,849
Net present benefit to business (PV, 10 years)	£18,185,206
AE Cost (£2012)	£539
AE Benefit (£2012)	£2,113,210
Annual Equivalent Net Cost to Business (£2012)	£2,112,671
Annual Equivalent Net Cost to Business (£2009)	£1,958,446

## **Direct costs and benefits to homebuilders**

The costs and benefits of the changes to the Approved Inspector Regulations will be to Approved Inspectors rather than to homebuilders and are excluded. The majority of the benefits of removing the Warranty Link Rule will be to homebuilders, totalling £1.7 million in 2009 prices.

## **Wider impacts**

### **Economic**

The main groups affected by the proposals will be building control bodies, builders/installers and consumers.

### **Small and Micro businesses**

The proposals in this IA will apply equally to small and micro-businesses. Current statistics show that micro-businesses make up approximately 90% of the builder/installer sector. A few of the private sector Approved Inspectors are also micro-businesses.

The changes detailed within this IA are deregulatory in respect of small and micro-businesses with insignificant transitional costs. Both builders/installers and Approved Inspectors will benefit from the increased opportunities provided through the removal of the Warranty Link Rule.

### **Competition**

With respect to building control bodies it is expected that the proposals will help to level the playing field between Local Authorities and Approved Inspectors. By opening up more of the market to Approved Inspectors competition should help to foster lower prices and better service for consumers.

<sup>21</sup> Based on a GDP deflator estimate of 0.927.

## **Social**

An Equality Impact Assessment Initial Screening has been carried out and no impacts on any of the affected groups have been identified.

## **Environmental**

To the extent that the policies help to improve compliance with the Building Regulations there may be beneficial impacts on energy and water efficiency provisions of the Building Regulations with positive environmental impacts.

## **Summary and preferred options with description of implementation plan**

The chosen policy option (option 1) will be implemented from January 2013 for the amendments to the Approved Inspector Regulations including removal of the Warranty Link Rule and local authority completion certificates and from April 2013 for the local authority statutory notifications.