

# **The Chartered Institute of Building**

Submission to

## **The Department of Communities and Local Government**

On the Government consultation for

## **Proposed Changes to the Local Authority Building Control Charging Regime**

*25 June 2009*

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## **Proposed Changes to the Local Authority Building Control Charging Regime**

### **Introduction**

The Chartered Institute of Building (CIOB) represents for the public benefit the most diverse set of professionals in the construction industry.

Our Mission:

To contribute to the creation of a modern, progressive, and responsible construction industry; able to meet the economic, environmental and social challenges faced in the 21st century.

Our 7 Guiding Principles:

- Creating extraordinary people through professional learning and continuous personal development.
- Promoting the built environment as central to the quality of life for everyone everywhere.
- Achieving a sustainable future, worldwide.
- Advocating exemplary ethical practice and behavior, integrity and transparency.
- Pursuing excellence in management practice, and technological innovation rooted in evidence based science
- Being socially responsible and working responsibly
- Enabling our members to find an emotional resonance with the Institute; their success is our success.

We have over 40,000 members around the world and are considered to be the international voice of the building professional, representing an unequalled body of knowledge concerning the management of the total building process.

Chartered Member status is recognised internationally as the mark of a true, skilled professional in the construction industry and CIOB members have a common commitment to achieving and maintaining the highest possible standards within the built environment.

The Chartered Building Company and Consultancy Schemes (CBCs) are a vital part of the CIOB, providing the Institute's members with a further business perspective.

Our submission has been developed for the public benefit and is also informed by feedback from our members. Feedback has been analysed and this submission represents the consensus viewpoint which has subsequently been reviewed by Ambassador members.

### **General Comments**

#### **The CIOB welcomes the opportunity to respond to this consultation and calls for clarity and transparency....**

The CIOB considers this to be an excellent and in many ways overdue opportunity for introducing a transparent, more flexible and fair charging regime that provides a level playing field for all Building Control (BC) providers and a value based public and industry service.

#### **The CIOB welcomes a debate on Proposed Changes to the Local Authority Building Control Charging Regime....**

The CIOB welcomes the opportunity to participate in this debate and following this consultation the CIOB would like to assist in the development of the proposals put forward. We can offer a wealth of experience and expertise via our network of members including the 'CIOB Ambassadors'. We are also happy to discuss this via our Faculty of Building Control and Standards which offers an excellent platform to facilitate this debate. If you would find a meeting helpful then please contact me directly.

#### **The CIOB calls for fee regulations that drive up standards reward quality and penalise Building Control non-compliance....**

The CIOB welcomes the introduction of a risk based approach to inspections and variable charging based on build quality and compliance. We are confident that this will provide an opportunity to drive up standards and create a fairer payment regime that rewards good builders with lower BC fees rather than subsidising poor quality and non-BC compliance.

#### **The CIOB support fee regulations that incentivise 'green' building projects....**

The CIOB supports the aspiration to provide incentives for ‘green’ building projects that provide higher sustainability standards than those required in the Building Regulations.

We call for greater clarity and definition of any proposed incentives and how these can be implemented in a fair way for both Local Authorities and Approved Inspectors.

The CIOB is concerned that any charging regime that financially penalises developers using scientifically proven ‘green’ innovative materials might be perceived as being punitive.

## Annex C: Response Form

### Proposed changes to the Local Authority Building Control Charging Regime: Consultation

Respondent Details:	
<b>Name:</b> Alistair Clark	Please return by email, post or fax by: <b>Thursday 25 June 2009</b>  to: <b>Yvonne Jackson</b> <b>Sustainable Buildings Division</b> <b>Department for Communities and Local Government</b> <b>Zone 5/E8, Eland House</b> <b>Bressenden Place</b> <b>London</b> <b>SW1E 5DU</b> <b>Email:</b> <b>yvonne.jackson@communities.gsi.gov.uk</b> <b>Fax: 020 7944 5719</b>
<b>Organisation:</b> The Chartered Institute Of Building	
<b>Address:</b> Englemere, Kings Ride, Ascot, Berkshire SL5 7TB	
<b>Telephone:</b> 01344630700	
<b>Fax:</b> 01344630777	
<b>e-mail:</b> aclark@ciob.org.uk	
<b>Is your response confidential? If so please explain why. (See disclaimer on page 34 of the consultation paper)</b>  <b>Yes</b> <input type="checkbox"/> <b>No</b> <input checked="" type="checkbox"/>	
<b>Comments:</b>  <b>Are you responding as an individual?</b> <input type="checkbox"/> <b>Or are you representing the views of an organisation</b> <input checked="" type="checkbox"/> ? <b>If you are responding on behalf of an organisation, please say who the organisation represents and, if applicable, how the views of members have been assembled:</b>	
Provision is made throughout this questionnaire for you to provide additional comments. If, however, you wish to provide more detailed comments on any aspect of the consultation then please feel free to append additional materials and supplementary documents, clearly marked and cross referenced to the relevant questions, as necessary.	

<b>Organisation type (tick one box only)</b>			
House or property developer	<input type="checkbox"/>	Local authority – Building Control	<input type="checkbox"/>
Commercial Developer	<input type="checkbox"/>	Local authority – other (please specify below)	<input type="checkbox"/>
Housing Association (Registered Social Landlords)	<input type="checkbox"/>	Approved Inspector	<input type="checkbox"/>
Property Management	<input type="checkbox"/>	Professional body or institution	<input checked="" type="checkbox"/>
Builder – Main Contractor (commercial/volume house builder)	<input type="checkbox"/>	Trade body or association	<input type="checkbox"/>
Builder – Small Builders (repairs/maintenance/extensions etc)	<input type="checkbox"/>	Householder	<input type="checkbox"/>
Manufacturer	<input type="checkbox"/>	Other non-governmental organisation	<input type="checkbox"/>
Architect	<input type="checkbox"/>	Specific interest or lobby group	<input type="checkbox"/>
Civil/Structural Engineer	<input type="checkbox"/>	Research/academic organisation	<input type="checkbox"/>
Consultancy	<input type="checkbox"/>	Journalist/media	<input type="checkbox"/>
Individual in practice trade or profession	<input type="checkbox"/>	Other (please specify below)	<input type="checkbox"/>
<b>Geographical Location</b>			
England	<input type="checkbox"/>	Wales	<input type="checkbox"/>
England and Wales	<input checked="" type="checkbox"/>	Other (please specify below)	<input type="checkbox"/>

## Questions

### Proposed changes to the local authority (LA) building control charging regime

**Q1.** Do you agree that the current LA building control charging regime is inflexible, restrictive, unfair and in need of change?

Yes  No  Do not know

**Comments:**The CIOB would be in favour of Local Authority Building Control being developed to allow better flexibility with regard to setting fees which may be based on individual project risk and risk based inspection.

**Q2.** Do you agree that the proposal (no 1) to relate charges to the recovery of costs of carrying out building control function(s) for individual building projects will lead to more accurate and fairer charges?

Yes  No  Do not know

**Comments:**The CIOB calls for transparency in this process and believe that a more flexible charging regime can put an end to subsidising between jobs and give value for money to clients. Flexibility for Local Authorities to assess a job, its complexity and risk as appropriate is preferable. A common sense approach should be taken when assessing small jobs to avoid disproportionate costs.

**Q3.** Do you agree that - in addition to setting pre-fixed charges - LAs should be able to assess charges on an individual basis based on recovery of costs where appropriate (proposal 2)?

Yes  No  Do not know

If you agree, please let us know if you have a suggested 'cut-off' point between the two charging mechanisms which could apply to all LAs and be defined in regulations, or whether you think this should be left to the discretion of individual LAs.

**Comments:**The CIOB believes that setting a 'fixed cut-off point' between pre-fixed and assess charges will have a disproportionate affect between Local Authorities depending on the cost demographic of work in each Local Authority. We therefore recommend that each Local Authority set out their own charging mechanisms and that these are invaluable to all.

**Q4.** Do you agree that more discretion should be provided to LAs and applicants to request/pay inspection charges up front with the plans charge (proposal 2, paragraph 2.12)?

Yes  No  Do not know

If you agree, do you consider that it should be a prerequisite that the applicant must agree to this?

**Comments:**The CIOB would welcome more discussion on the issues of payment for inspections. We believe that Local Authorities have some discretion already in the way payments are set out. We therefore call for clear guidance to be set out to ensure timely payment. We would welcome the opportunity to be involved in any potential discussions that CLG may consider on creating guidance to achieve a fair transparent charging scheme, rewarding quality and penalising non compliance. We see this as an opportunity to drive up industry standards whilst providing an added value service.

**Q5.** Do you consider that allowing LAs to take into account additional factors relating to building projects when setting their charges, in particular those set out in proposal 3, paragraph 3.1 (i) to (viii), is appropriate?

Yes  No  Do not know

If yes, please comment on the proposed factors and whether you believe there are others that are relevant. In particular, how could the competency of a design team/builder be measured for charging purposes?

**Comments:**The CIOB would welcome transparency in the process of setting charges particularly in accounting for additional factors relating to building projects. We believe this is presently a matter of subjective judgment based on past experience and see no reason why this cannot continue as long as the process is clearly set out and open to scrutiny. We have concerns over the administration cost considerations that an over complicated regulation philosophy may impose and would welcome involvement in any discussions that CLG consider necessary to create a workable flexible fair and cost effective service.

**Q6.** Do you agree with the proposal (no 4) to give LAs more discretion not to charge and to be able to give more reductions and refunds, based on two key principles of where there are costs savings or where work is carried out for the public good/benefit?

Yes  No  Do not know

If you agree, please comment on the circumstances that these principles might cover as set in proposal 4, paragraph 4.2 (i) - (vii), and whether this might include other circumstances.

**Comments:**The CIOB questions how cost savings would be achieved and would caution against the possibility of encouraging a culture where fewer inspections were seen to be a good thing. In affect, public good/benefit is a subjective term that would be difficult to define in this context. We believe that this proposal represents a disadvantage to Approved Inspectors and feel a fairer means of funding would be through a government grant that would be accessible to Local Authorities and Approved Inspectors

**Q7.** Do you agree that LAs should be able to increase a charge in certain circumstances, where they make it clear in advance that they will do so, in order to fully recover their costs (proposal 5)?

Yes  No  Do not know

**Comments:**The CIOB agrees that Local Authorities should be able to increase charges where poor quality and Building Control non compliance justify greater Local Authority involvement. We would support extra charging for jobs that require additional inspections due to poor workmanship. We believe penalising Building Control non-compliance would drive up standards and promote quality builders whilst exposing the 'cowboy builder' as a more expensive alternative. In fairness to Building Control applicants, the circumstances under which Local Authority can increase charges should be transparent and set out clearly in advance.

**Q8.** Do you agree with the proposal (no 6) to remove the current link between charges for different building control functions (ie full plans & inspection charge equals building notice/reversion/regularisation charges)?

Yes  No  Do not know

**Comments:**

**Q9.** Do you agree with the proposal (no 7) to remove the current restrictions for charging for new housing and domestic extensions etc?

Yes  No  Do not know

**Comments:**Repealing current charging restrictions to new and domestic extensions can provide more flexible and accurate charging and this is an opportunity to develop flexible and easily defined guidance. In turn, this may lead to a charging system that reflects complexity and cost as well as floor area for any building project. Again, we would welcome a discussion with CLG to help facilitate fair and appropriate charging principles.

**Q10.** Do you agree with the proposal (no 8) to retain the exemption from charging for building work for disabled persons, but that its scope should be clarified in new regulations and guidance?

Yes  No  Do not know

If you agree, please give your views on the scope of the reference to “solely required for disabled persons” in the current charges regulations, as requested in proposal 8, paragraph 8.4.

**Comments:**The CIOB agrees in principle with the proposal ‘to retain the exemption from charging for building work for disabled persons’. We are concerned however with the current exemption scheme which is anti competitive in the favor of Local Authority Building Control and call for a government funded grant scheme that would create a level playing field between Local Authorities and Approved Inspectors. We would also welcome greater clarity and correlation between planning and building regulations exemptions to avoid unneeded complication.

**Q11.** Do you agree with the proposal (no 9) to retain the requirement for LAs to publicise their charging schemes, but that this requirement should be clarified in new regulations or guidance?

Yes  No  Do not know

**Comments:**The CIOB believes that in the interest of competitiveness Local Authorities should not be required to publicise their charging schemes as there is no requirement for Approved Inspectors to do so. In the interests of transparency we call for Local Authorities and Approved Inspectors to keep auditable records of fees charged for independent scrutiny.

**Q12.** Do you consider that the position regarding charging requirements when LAs enter into building control joint arrangements and/or partnerships with each other is unclear and should be clarified in new regulations or guidance (proposal 10)?

Yes  No  Do not know

**Comments:**This is an area that would benefit from transparent guidance rather than regulation.

**Q13.** Do you consider that there is still a problem with LAs accruing large surpluses (ie income over costs) through their building control charges and that some of this income is used to fund other services (see proposal 11)?

Yes  No  Do not know

If yes, please provide any evidence you may have.

**Comments:**The CIOB has insufficient evidence of Local Authorities' accruing surpluses so it is difficult to qualify a response. We therefore call for building control income information to be made available and for independent auditing.

**Q14.** Do you agree that it is not necessary or appropriate to ring-fence the building control/regulations charging account and that the accounting/auditing measures proposed (proposal 11) will be sufficient to help safeguard building control income?

Yes  No  Do not know

If yes, please comment on the measures referred to in proposal 11, in particular that annual financial statements should be included in charging schemes to provide more details about use of surpluses arising to aid transparency (paragraph 11.8).

**Comments:**There should be a requirement for clear guidance on appropriate costs for trade accounts etc.

**Q15.** Do you agree that the current requirement for LAs to match income with costs over a continuous three-year accounting period is flawed in practice and should be replaced by a more flexible 'taking one financial year with another' annual accounting period (proposal 11, paragraphs 11.5 & 11.6)?

Yes  No  Do not know

**Comments:**The CIOB believes that the present three year accounting period allows greater flexibility and stability of personnel resource particularly in periods of economic volatility. We believe the ability to offset costs across a three year period will assist in preserving skills and maintaining building standards. We do, however, agree that the year on year comparisons would be beneficial. Furthermore, we believe the present system allows better visibility of jobs that span more than one year.

**Q16.** Do you agree that new building control accounting guidance is needed for LAs to support new regulations (proposal 11, paragraph 11.7)?

Yes  No  Do not know

If yes, please let us have any views you may have on what it should contain.

**Comments:**The CIOB agree that accounting guidance is needed to support costs attributable to the new regulations and to ensure consistency across

**Local Authorities charging schemes.**

**Q17.** Do you consider that the Department should monitor LA building control charges income and costs and the impact of new regulations (proposal 11, paragraphs 11.9 and 11.10)?

Yes  No  Do not know

If yes, do you consider that the proposed three-year monitoring exercise is sufficient or do you have another proposal?

**Comments:**The CIOB agrees that the impact of new regulations on Local Authority Building Control charges income and costs should be monitored independently or by CLG. We believe it would be appropriate to monitor annually for an initial bedding in period and would agree to the proposed three-year monitoring exercise thereafter.

**Q18.** Do you agree with the proposal (no 12) to remove the current accounting requirement for LAs relating to the 'derogation' principle (ie not full cost recovery), as it will not be needed in future?

Yes  No  Do not know

**Comments:**The CIOB disagrees with this proposal as it stands, as we believe this could negatively affect building standards in areas where the 'derogation' principle may be needed to cover the logistical costs associated with inspection. We believe the current process provides a safety net, however, in our view the fiscal provision is overdue for review.

**Q19.** Do you consider that LAs should be able to charge for carrying out other building control functions as questioned in proposal 13?

Yes  No  Do not know

If yes, please comment on whether the possible activities referred to in proposal 13, paragraph 13.2 (i) - (iv), are appropriate and/or give details of any other suggestions you have. Please also let us have any views you may have on the extent to which LAs may be currently able to charge for giving pre-application/notice advice on building control/regulations under section 93 of the Local Government Act 2003 (paragraph 13.4).

**Comments:**We support charging for carrying out other building functions excluding enforcement activities which are adequately supported by the ability to charge for extra inspections. This is also subject to our response to

question 13.

**Q20.** Do you consider that the Consultation Stage Impact Assessment (Annex B) captures the types and levels of costs and benefits arising from implementation of the charging proposals and the impact on LAs and other groups?

Yes  No  Do not know

If yes, please comment and provide any evidence you may have.

If not, please comment on the issues you consider should also be included and provide any evidence you may have.

**Comments:**A period of lead in of at least 6 months would be sensible assuming that the implementation would start in April 2011. There would be issues about what is considered de-minimus and the practicalities of this working in practice. There are also questions about how this links to other payments.

**Q21.** Do you consider that the package of charging proposals for LAs will deliver the objectives sought, ie :

A) more flexible and accurate charging?

Yes  No  Do not know

B) fairer charges based on the actual cost of carrying out building control functions?

Yes  No  Do not know

C) improved transparency on the use of building control resources?

Yes  No  Do not know

D) improved competition with Approved Inspectors (AIs)?

Yes  No  Do not know

If yes, please let us know, the extent to which you believe each of the above will be delivered and provide any evidence you may have.

If not, please let us know why not and provide any evidence you may have and any indication of what impact you think the proposals will have.

We would particularly welcome an indication from LAs as to the extent and timing to which they think they may adopt the new flexibilities, and from AIs the extent they consider the proposals may impact on competition.

**Comments:**The CIOB is unable to comment as to the extent to which we believe the above objectives will be delivered as Local Authorities differ in there capacity to commit to the proposals. We believe a lead in to full compliance of two to three years should be imposed and that it would be appropriate to assess the effective delivery of objectives at that time.

**We would particularly welcome an indication from Local Authorities as to the extent and timing to which they think they may adopt the new flexibilities, and from Approved Inspectors the extent they consider the proposals may impact on competition.**

**Q22.** Do you agree with the Department's proposal (no 14) to increase Determination fees submitted to the Secretary of State by doubling the current minimum and maximum fees payable?

Yes  No  Do not know

If not, what would you consider to be an appropriate level of fee?

**Comments:**

Please give details of any other proposals or additional comments you may have below relating to the LA building control charging regime. If applicable, please refer to any relevant questions or responses submitted above.

**Any other Proposals or Comments:**The CIOB proposes that all companies to which Building Control inspections are outsourced should comply with all the regulations and requirements.