



Department for
Communities and
Local Government

Display Energy Certificates: current regime and how it could be streamlined and improved

Consultation



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Contents

1.	The consultation process and how to respond	4
2.	Policy Context	8
4.	Proposal	13
5.	Summary table of consultation questions	23
6.	Next Steps	25
6.	Call for evidence	26
7.	Annex - Initial Cost and Benefit Analysis: Reviewing Display Energy Certificate requirements	27

1. The consultation process and how to respond

Scope of the Consultation

<p>Topic of this consultation:</p>	<p>Display Energy Certificates: current regime and how it could be streamlined and improved.</p> <p>Part 1 of this consultation considers ways to improve compliance with and enforcement of the requirements for the issue and display of energy certificates in public buildings. It also ensures that England and Wales are complying with Article 27 of the Energy Performance of Buildings EU Directive.</p> <p>Part 2 of this consultation considers the extent to which the existing requirements for the issue and display of energy certificates in public buildings could be modified to reduce the burden of compliance, whilst providing an effective tool to encourage public sector energy efficiency.</p> <p>Finally, the questions are followed by a call for evidence. The department invites anyone who wishes to contribute to provide information on public buildings in their care, and the costs associated with obtaining and maintaining appropriate energy certificates.</p>
<p>Scope of this consultation:</p>	<p>Part 1. The consultation sets out certain definitions to be provided in guidance, and asks respondents' views on whether the existing enforcement arrangements could be improved.</p> <p>Part 2. The consultation sets out proposals for reforms of the regime to ensure that the benefits of the Display Energy Certificate regime are achieved in a cost-effective and proportionate way for public bodies. Proposals include exemptions, validity and abolition. The Government seeks respondents' views on the proposals in section four, and asks respondents to consider any implications surrounding each of the options.</p>
<p>Geographical scope:</p>	<p>This consultation applies to England and Wales only.</p>
<p>Impact Assessment:</p>	<p>No impact assessment was required as the consultation has no impact on business or the voluntary sector at this stage of the process. An Initial</p>

	<p>Cost Benefit Analysis was produced to show costs and saving of each of the options considered in the consultation. This is attached as an annex to the consultation.</p> <p>A consultation stage Cost Benefit Analysis has been produced for Part 2 of this consultation.</p>
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Basic Information

To:	This consultation is primarily aimed at public authorities, energy assessors and accreditation schemes, although anyone is welcome to respond.
Body responsible for the consultation:	<p>The Department for Communities and Local Government.</p> <p>The consultation will be administered by the Climate Change and Sustainable Buildings division.</p>
Duration:	This consultation will run for four weeks, from 11 February 2015 to 11 March 2015.
Enquiries:	For any enquiries, please contact EPBConsultation@communities.gsi.gov.uk
How to respond:	<p>Please respond by email to: EPBConsultation@communities.gsi.gov.uk</p> <p>Alternatively, please send postal responses to: Climate Change and Sustainable Buildings Department for Communities and Local Government 3rd Floor, NE, Fry Building 2 Marsham Street London SW1P 4DF</p> <p>Responses should be received by close on 11 March 2015</p>
Confidentiality and data protection	<p>Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).</p> <p>If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a</p>

	<p>statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the department.</p> <p>The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act 1998, and in the majority of circumstances this will mean your personal data will not be disclosed to non-government third parties. Individual responses will not be acknowledged unless specifically requested.</p>
After the Consultation:	A summary of responses to the consultation will be published on the Department's website within three months of the end of the consultation period.
Compliance with the Consultation Principles guidance:	The consultation complies with the Consultation Principles guidance.

Background

1. This consultation explores options for ensuring that we are fully meeting the requirements of the Energy Performance of Buildings Directive, while minimising bureaucracy and regulations so that resources may be focussed on the delivery of front line services. It aims to explore options for reducing unnecessary costs to public bodies and the public purse, whilst ensuring the regulations which remain are properly complied with and that wider energy efficiency objectives continue to be met.
2. It is possible that the current regulations for the issue and display of energy certificates in public buildings have gold-plated the requirements of the Directive. Gold-plating is, according to the European Commission, "exceeding the requirements of EU legislation when transposing Directives into national law". This consultation sets out where the existing regulatory requirements may have gold-plated the Directive: by going beyond the minimum necessary to comply with it; by substituting wider legal terms than those used in the Directive; or by extending the scope of it by requiring energy certificates to be obtained for buildings that the Directive may exempt.

3. Whilst exploring changes to the regulatory requirements to minimise gold-plating, the consultation also seeks to ensure that the regulatory regime is satisfactorily complied with and effectively enforced. The consultation seeks views on whether and how it may be possible to improve the current enforcement regime.
4. Finally, as well as consulting on the shape of the future regime and its enforcement, this consultation seeks to gather information about public buildings in England and Wales, their number, the extent to which they have energy certificates of different types, the benefits of these, and the costs of obtaining and maintaining those certificates.
5. In short, the aim of this consultation is to obtain as full a picture as possible of how the current regime is working; its effectiveness in supporting other Government policies, such as the Energy Saving Opportunities Scheme¹; how much it is costing; how effective it is in improving the energy efficiency of our buildings; and how it may be improved and simplified while still delivering its core aim of measuring and ultimately improving the energy efficiency of our buildings.

1

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/323307/ESOS_Guide_FINAL.pdf

2. Policy Context

The Directive

6. The EU Directive on the energy performance of buildings was adopted in 2002. It is designed to improve the energy efficiency of buildings and thus reduce carbon emissions and lessen the impact of climate change. Implementation in England and Wales was completed on 1 October 2008. Energy performance is a devolved matter in Scotland and Northern Ireland, and the UK encompasses Gibraltar for the purposes of this Directive.
7. A recast of the Energy Performance of Buildings Directive² was adopted in 2010. The requirements of the recast of the Energy Performance of Buildings Directive have been transposed into legislation for England and Wales by the Energy Performance of Buildings (England and Wales) Regulations 2012. Some of the requirements of the regulations go beyond the requirements of the Directive.
8. The focus of this consultation is on the requirements of the Energy Performance of Buildings Directive to obtain and display energy certificates for buildings occupied by public authorities and frequently visited by the public.
9. The Energy Performance of Buildings Directive requires Energy Performance Certificates to be obtained for all buildings when constructed, sold or let, and to be displayed in certain qualifying buildings.
10. Article 11 of the Energy Performance of Buildings Directive sets out what is required of energy performance certificates, including that:
 1. an “*energy performance certificate shall include the energy performance of a building and reference values such as minimum energy performance requirements in order to make it possible for owners or tenants of the building or building unit to compare and assess its energy performance.*”
 2. an energy performance certificate “*may include additional information such as the annual energy consumption for non-residential buildings and the percentage of energy from renewable sources in the total energy consumption.*”
 3. an energy performance certificate “*shall include recommendations for the cost-optimal or cost-effective improvement of the energy performance of a building or building unit, unless there is no reasonable potential for such improvement compared to the energy performance requirements in force.*”
11. In England and Wales those requirements have been implemented through two regimes – the Energy Performance Certificate regime for when buildings are

² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010L0031&from=EN>

constructed, sold, or let, and an additional regime – the Display Energy Certificate regime - for public authorities.

12. All energy certificates must be issued by qualified energy assessors, who themselves must belong to an approved accreditation scheme before they are able to lodge any certificate on to the central register of all energy certificates and related documents.
13. Accreditation schemes are responsible for managing energy assessors and for monitoring the quality of the Display Energy Certificates by ensuring that their assessors are competent and possess the appropriate skills to conduct energy assessments. There are currently 10 government approved accreditation schemes that manage the energy assessors who produce Display Energy Certificates. In order to manage this process, most accreditation schemes will charge their assessors an administration fee each time a Display Energy Certificate is lodged on the Energy Performance of Buildings Register. The administration fee covers the cost of the quality assurance audit regime, insurance and technical support services.
14. The Register Operator manages the Energy Performance of Buildings Register, through a concession contract, on behalf of the Department for Communities and Local Government. The operational cost for developing, maintaining and implementing register changes are funded through a lodgement fee which is subject to an annual service review.

Energy Performance Certificates

15. An Energy Performance Certificate indicates how energy efficient a building is. The certificate provides an asset energy rating of the building (it reflects the potential energy efficiency of a building), where A is the most efficient (or A+ in the case of a building that is not a dwelling). The higher the rating, the more energy efficient the building is and the lower the fuel bills are likely to be. An Energy Performance Certificate is required whenever a building is newly constructed, sold or is let to a new tenant. The purpose of an Energy Performance Certificate is to show prospective tenants or buyers the energy efficiency of the building.

Display Energy Certificates

16. A Display Energy Certificate shows the energy performance of a building (the operational rating) based on the actual energy consumption as recorded over 12 months. It informs the current occupant how they are using the building.
17. A Display Energy Certificate is accompanied by a recommendation report, which enables the occupier to identify what may be done to improve the building and the way they use it in order to make it more energy efficient. The report contains zero and low cost operational and management improvements, possible upgrades to the building fabric or services and opportunities for the installations of low and zero carbon

technologies. This consultation seeks views on ways to modify the regime to improve compliance with and enforcement of the requirements regarding Display Energy Certificates in order both to ensure Display Energy Certificates are effective and that the UK is complying with the requirements of the Energy Performance of Buildings Directive.

Compliance with Article 11 of the recast Energy Performance of Buildings Directive

18. Display Energy Certificates show actual energy consumption of a building in a manner that allows comparison and are accompanied by reports which provide recommendations on potential energy saving measures. Display Energy Certificates meet the basic requirements of Energy Performance Certificates, as set out in Article 11.
19. However, our Display Energy Certificate regime may exceed the requirements of Article 11. Article 11 stipulates that the energy performance certificate shall be valid for no longer than 10 years.
20. Currently, a Display Energy Certificate for a building to which this regulation applies is valid for 12 months where the total useful floor area of the building is over 1,000m², or 10 years for buildings with a total useful floor area of over 500m² but below 1,000m², and recommendation reports are valid for seven years where the total useful floor area of the building is over 1,000m² and 10 years for any other building, which could appear illogical as recommendation reports are unlikely to correspond to the most recent Display Energy Certificate.
21. Article 11 also states that, “*Subject to national rules, Member States shall encourage public authorities to take into account the leading role which they should play in the field of energy performance of buildings*”. Requiring annual Display Energy Certificates is one way of meeting this obligation. It was believed that introducing a more frequent series of updates than the Directive required, the discipline of having to obtain data on annual energy use, calculating an operational rating and displaying the results to the public may have an impact on behaviour and encourage better energy management. The Department of Energy and Climate Change analysed the impact of 48,000 Display Energy Certificates and found that energy intensity (energy consumption per metre square of floor space) fell by 2% more between 2008 and 2009 for public buildings with Display Energy Certificates than comparable private sector buildings.³
22. The Department of Energy and Climate Change research suggests that “for organisations that are not particularly engaged in energy management, collecting the information required for a Display Energy Certificate can lead to a better understanding

³ <https://www.gov.uk/government/consultations/energy-savings-opportunity-scheme-impact-assessment>

of energy usage and can indicate buildings in a portfolio that are particularly energy efficient, or inefficient. The Display Energy Certificate can also promote a reduction in energy usage by providing building managers with evidence to help make a case to senior managers for making changes resulting in greater energy efficiency. For organisations that are engaged in energy reduction initiatives, the Display Energy Certificate helps to confirm which buildings are inefficient or those buildings that are not operating according to their design predictions.”⁴

23. However, as annual Display Energy Certificates are not required for all qualifying buildings, it may be that an alternate and simpler means of encouragement could be employed.

Article 12 and the Article 4 exemptions

24. Article 12 of the Energy Performance of Buildings Directive introduces the requirement for Member States to ensure that an Energy Performance Certificate is issued for every building, “*where a total useful floor area over 500m² is occupied by a public authority and frequently visited by the public,*” and allows Member States to exclude from these requirements the categories of buildings referred to in Article 4(2), namely:

- a) *buildings officially protected as part of a designated environment or because of their special architectural or historical merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance;*
- b) *buildings used as places of worship and for religious activities;*
- c) *temporary buildings with a time of use of two years or less; industrial sites, workshops and non-residential agricultural buildings with low energy demand and non-residential agricultural buildings which are in use by a sector covered by a national sectoral agreement on energy performance;*
- d) *residential buildings which are used or intended to be used for either less than four months of the year or, alternatively, for a limited annual time of use and with an expected energy consumption of less than 25% of what would be the result of all-year use;*
- e) *stand-alone buildings with a total useful floor area of less than 50m².*

25. Display Energy Certificates are currently required for buildings (or building units within) with a total useful floor area of over 500m² occupied by a public authority and frequently visited by the public. This threshold will be lowered to 250m² with effect from 9 July 2015. We do not currently apply any of the above (Article 4) exemptions to these requirements. These buildings would also need to obtain a non-domestic Energy

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211054/D13_703672__130605_Display_Energy_Certificates_-_Report_V8_FINAL.pdf

Performance Certificate if the building was to be sold or rented out. However the above exemptions are used regarding Energy Performance Certificates.

Article 13

26. Article 13 of the Directive requires Member States to “*take measures to ensure that where a total useful floor area over 500m² of a building for which an energy performance certificate has been issued in accordance with Article 12(1) is occupied by public authorities and frequently visited by the public, the energy performance certificate is displayed in a prominent place clearly visible to the public.*”
27. Every occupier of a building which is required to have a Display Energy Certificate must display at all times a valid Display Energy Certificate in a prominent place clearly visible to members of the public who visit the building. In addition, all non-dwellings which have a total useful floor area of more than 500m² and are frequently visited by the public, including those occupied by public authorities, must display an Energy Performance Certificate (if they have one) in a prominent place, clearly visible to members of the public who visit the building.
28. Display Energy Certificates are also currently one of the four ways large undertakings can comply with the Energy Savings Opportunity Scheme. Such commercial organisations must ensure that at least 90% of their total energy consumption is subject to an Energy Savings Opportunity Scheme compliant energy audit, a Display Energy Certificate, a Green Deal Assessment or a certified ISO 50001 Energy Management System. Display Energy Certificates are obtained voluntarily for this purpose and any changes to the statutory requirement for public authorities to have a Display Energy Certificates would not affect this scheme.
29. Local Weights and Measures Authorities in England and Wales have a duty to enforce the energy certification requirements of the regulations. Local Weights and Measures Authorities can issue a penalty charge notice of £500 for failing to display a Display Energy Certificate at all times in a prominent place. For failing to possess or have in their control a valid recommendation report the building occupier can be issued with a penalty charge notice of £1,000. In addition to paying these penalties, a Display Energy Certificate and/or recommendation report will still need to be obtained.

3. Proposals

Part 1 – compliance with the Energy Performance of Buildings Directive

Definitions

30. This consultation considers ways to improve compliance with and enforcement of the requirements for the issue and display of energy certificates in public buildings.
31. In order to make the requirements of the regime as clear as possible, we intend to update our guidance on Display Energy Certificates and recommendation reports for public buildings, which was last updated in January 2013. We will also make any necessary consequential changes to our guidance on non-domestic Energy Performance Certificates and for enforcement bodies.
32. As part of this, we intend to define the terms ‘public authority’ and ‘frequently visited by the public’ to clarify when Display Energy Certificates and recommendation reports are required, and by which organisations. This clarity should benefit both property owners and enforcement bodies.
33. Different EU countries define ‘public buildings’ in different ways. For example, in the Czech Republic, all buildings that are not apartments or are non-residential (respectively) are classed as ‘public buildings’. In Finland it is those buildings which ‘provide public services’, whilst in France a building must be ‘occupied by a governmental body’.
34. We intend to use the same definition of ‘public authority’ as set out in the Freedom of Information Act 2000 as applied to England and Wales to inform guidance on which organisations should be obtaining and displaying a Display Energy Certificate.
35. We also intend to define in guidance the term ‘frequently visited by the public’. This term also applies in relation to the requirement for buildings occupied by organisations other than public authorities to display their Energy Performance Certificate where they have one.
36. There are three elements to consider in this definition:
- a) What is frequently?
 - b) What is visited?
 - c) Who are the public?
37. Considering these elements, we will define ‘frequently visited by the public’ as: daily attendance during days of operation by people for purposes unrelated to their

residence, employment, education or training.

38. The adoption of this definition would make clear that certain buildings need not obtain Display Energy Certificates, while others must. For example, a school used only as a school, would not need a Display Energy Certificate because it will not daily be attended by people who are neither staff nor pupils. If other people enter the building on a daily basis, or, for example, it is also used as a community centre in the evenings, it should have a Display Energy Certificate. A hospital will always have people coming and going who are not staff, so should have a Display Energy Certificate. Under this definition, a prison may need a Display Energy Certificate where people will come to visit prisoners.
39. However, changes which may come about as a result of the outcomes of Part 2 of this consultation may remove some buildings, possibly including some prisons, from the requirement.

Enforcement

40. Local Weights and Measures Authorities in England and Wales are currently required to enforce the energy certification requirements of the Energy Performance of Buildings (England and Wales) Regulations 2012, including obtaining and displaying a valid Display Energy Certificate. Local Weights and Measures Authorities may issue a penalty charge notice of £500 for failing to display a Display Energy Certificate at all times in a prominent place. For failing to possess or have in their control a valid recommendation report the building occupier can be issued with a penalty charge notice of £1,000. In addition to these penalties, the relevant person will be required to commission these documents; otherwise further offences will be committed. In some cases simply advising someone that they need a Display Energy Certificate or explaining the benefit of knowing the cost-effective energy efficiency improvements will be sufficient to encourage and thus ensure compliance with the Regulations. However, in other cases authorities may decide that a penalty is justified.
41. We are keen to understand the effectiveness of the enforcement regime. We would welcome evidence from public authorities about how they comply with the requirements of the regulations. We also welcome information from enforcement bodies on any steps they have taken to ensure compliance with the requirements of the regulations, including evidence of guidance and education provided, or penalties issued. We would also be grateful for evidence about barriers to enforcement.
42. More broadly we are considering whether the regime could be improved, and whether Local Weights and Measures Authorities are the right enforcement body. We are taking the opportunity to reconsider the enforcement mechanism afforded by this consultation and would welcome suggestions as to how the regime may be improved.
43. It may be more appropriate to make the enforcement body the local authority as a whole, so that they may choose which of their enforcement bodies is best placed to

enforce this regime. This may be of limited benefit for the display of energy certificates in public buildings, but may be of greater relevance were a wider change is to be considered, as many other local authority functions, including housing and Building Control, have interests in the proper application of the wider Energy Performance of Buildings regime.

44. It may also be worth considering whether it would be better to require local authorities to act as the enforcement body for neighbouring local authorities' estates; or for the wider Energy Performance of Buildings regime. However, extending the responsibility of a neighbouring authority beyond the local authority estate would risk undermining the benefits of local knowledge and understanding the pre-existing relationships that come with a local enforcement body.
45. Those same pitfalls would be present were the enforcement body to be made a body with a national (or at least throughout England and Wales) presence, although there may be other benefits, such as the fact that funding for enforcement activity could be ring-fenced.
46. We would welcome any views you may have on any aspect of the current enforcement regime of the Energy Performance of Buildings Regulations regime and any barriers to its effective operation; and, any possible changes to the enforcement body.

Question 1 - How could the existing enforcement regime be improved?

If possible, please provide supporting evidence.

Question 2 – How may any barriers to enforcement be overcome?

Question 3 - Who should be the enforcement body for the display of energy certificates in public buildings regime, and why?⁵

For questions 1-3 please also tell us if you think your comments on Display Energy Certificates apply to the wider requirements of the energy performance of buildings regime.

Part 2 – reducing the burden of compliance

47. The Energy Performance of Buildings Directive permits a single regime for all energy performance certificates, exempting some categories of buildings from the requirements, but requiring qualifying buildings to have and display their energy performance certificates. In England and Wales, this requirement was met through the

⁵ Currently Display Energy Certificate, but subject to the outcome of Part 2 of this consultation, this may not always be so.

introduction of Display Energy Certificates for public authorities.

48. Some of the differences between the requirements of the Energy Performance of Buildings Directive and the requirements of the England and Wales regulations, whilst intended to push public bodies to be exemplars, may have created unnecessary complexity and may be causing unnecessary expense for public bodies.
49. We are seeking views on whether, to what extent and how the requirements of the Display Energy Certificate regime may be altered to fully meet the requirements and aims of the Energy Performance of Buildings Directive whilst minimising unnecessary costs to hospitals, libraries, local authorities and other public sector bodies (and thus ultimately the tax-payer).
50. We are aware that some commercial bodies are voluntarily obtaining Display Energy Certificates to help them meet the requirements of the Energy Savings Opportunities Scheme. Although they would not be directly affected by any changes to the Display Energy Certificate regime, as they are currently under no regulatory obligation to obtain a Display Energy Certificate and therefore cannot be affected by any regulatory changes, we would value the views of these bodies in response to this consultation.
51. We would welcome your views on the following options:
- **Do nothing.** Retain the system exactly as it currently is.
 - **Retain beneficial elements.** Retain the existing system but change elements of it to ensure that any additional burdens created by our regulations and the existence of separate Display Energy Certificate and Energy Performance Certificate regimes are intended and deliver benefits.
 - **Eliminate all additional burdens.** Retain the existing system but change it to ensure that there are no burdens created by our regulations and the existence of separate Display Energy Certificate and Energy Performance Certificate regimes.
 - **Abolition.** Remove the regulatory requirement for Display Energy Certificates, and introduce the requirement for qualifying buildings to have and display Energy Performance Certificates.

Do nothing

52. Currently, buildings over 1,000m² occupied by a public authority, where those buildings are frequently visited by members of the public, are required to renew a Display Energy Certificate annually and a recommendation report every seven years. Buildings with a useful floor area of between 500m² and 1,000m² occupied by a public authority, where those buildings are frequently visited by members of the public are required to renew their Display Energy Certificate and recommendation report every 10 years. Making no change to this system would maintain the present aim of making the largest public buildings exemplars for energy efficiency.

Current System		
Floor area (m²)	Validity of Display Energy Certificate	Validity of recommendation report
>1000	<i>12 months</i>	<i>7 years</i>
501-1000	<i>10 years</i>	<i>10 years</i>
>250-500 (from 9 July 2015)	<i>As the regulations are currently written, when the floor area threshold is reduced to 250m² from 9 July 2015, it is presumed that these Display Energy Certificates will be valid for 10 years</i>	<i>As the regulations are currently written, when the floor area threshold is reduced to 250m² from 9 July 2015, it is presumed that these recommendation reports will be valid for 10 years</i>

53. Retaining this system would retain the estimated cost of approximately £7.83 million to the tax payer annually.

54. By keeping the discipline of having to obtain data on annual energy use, calculating an operational rating and displaying the results to the public, it is hoped that this will promote better energy management amongst public authorities, which may in turn result in energy savings. It would also however continue the complicated system whereby not all Display Energy Certificates have the same validity period – and the recommendation report does not match the Display Energy Certificate validity.

Question 4 – Should the existing system of Display Energy Certificates and recommendation reports remain unaltered?

Retain beneficial elements

55. These modifications could be applied individually or in combination. We would welcome your views on which, if any, should be introduced.

Apply exemptions allowed under the Directive to qualifying buildings for Display Energy Certificates

56. Under the terms of Article 12 of the Directive, “Member States shall ensure that an energy performance certificate is issued for...buildings where a total useful floor area over 500m² is occupied by a public authority and frequently visited by the public.” This need not include any building in the exempted categories listed in Article 4, such as certain listed buildings. Therefore requiring these buildings to have Display Energy

Certificates (as the current regulations do) could be seen as 'gold-plating'. Eliminating this would reduce the burden of regulation on public authorities, especially those who would be unlikely to be able to carry out some energy efficiency improvements on their buildings due to their listed status.

57. Using permitted exemptions in the EU Directive would result in cost savings, largely for public authorities who occupy listed buildings. We assume that 1% of buildings may be exempted creating a saving of £83,520k annually. However we are seeking further information in responses to this consultation about the number of buildings in public estates that currently require a Display Energy Certificate but would be exempted should these exemptions (listed on p.10 of this consultation) be introduced to the Display Energy Certificate regime.

Question 5 – Should the exemptions from the requirements of the Directive be applied to qualifying buildings for Display Energy Certificates?

Exempt those buildings with an Energy Performance Certificate from the need to have a Display Energy Certificate.

58. At present, buildings that have both an Energy Performance Certificate and a Display Energy Certificate are required under regulations to display both. Exempting buildings of which over 500m² is occupied by public authorities and frequently visited the public from obtaining a Display Energy Certificate if they display instead a valid Non-Domestic Energy Performance Certificate would reduce the burden on public authorities and therefore taxpayers.

59. Display Energy Certificates contain information only about the current occupants' use of the building, not the theoretical energy efficiency that the building may be capable of if used differently. We must mandate the Energy Performance Certificate on construction, sale or rent, but we may be able to make the Display Energy Certificate optional. We could not offer to exempt the holders of Display Energy Certificates from the requirement to obtain an Energy Performance Certificate, however, as Display Energy Certificates do not provide certain information useful to potential buyers or tenants, as required by the Directive.

60. We would be grateful for any further information respondents are able to provide regarding the buildings for which they have both a Display Energy Certificate and an Energy Performance Certificate to enable us to better understand the potential costs/benefits of this option. We expect the numbers to be small but would be grateful for further information to confirm or refute this.

Question 6 – Should those buildings that have and display their Energy Performance Certificate be exempt from the requirements to have a Display Energy Certificate?

Require a Display Energy Certificate for a building only when 500m² is occupied by public authorities and frequently visited by the public.

61. Under the current regulations for England and Wales, if a public authority occupies a building or building unit over 500m² and frequently visited by the public they must have and display a valid Display Energy Certificate, and that would apply to every public authority occupying a qualifying unit within any building. Therefore there should be a Display Energy Certificate to every qualified building unit within a building. Also our regulations apply to qualifying buildings or building units irrespective of how much useful floor area that particular authority occupies or how much of it is frequently visited by the public. This could mean that if, for example, the Department for Work and Pensions had an area of 100m² within a 501m² local authority town hall for the administration of certain benefits, the town hall should have and display their Display Energy Certificate.
62. However the Directive allows that there should be an energy certificate displayed only for a building in which over 500m² is occupied by a public authority and frequently visited by the public. This could mean, in the example cited above, that if the total area frequently visited by the public were less than 500m² (say, if 300m² of the town hall were purely office space accessed only by staff), no Display Energy Certificate would be necessary.
63. The Directive is therefore much more flexible than our regulations in this regard, and would allow for a single certificate for a qualifying building. This would reduce the number of buildings for which there would be a mandatory requirement, therefore removing excess regulation and burdens upon public authorities, and potential gold-plating.
64. We would be grateful for any further information respondents are able to provide on the number of buildings that:
- (i) have multiple Display Energy Certificates, or
 - (ii) may have certificates that may not be required under the Directive, although they are required under our regulations,
- to help us understand the potential costs/benefits of this option.
65. Setting aside the potential financial implications of this option, it is likely that its greatest benefit would be to reduce uncertainty around the application of this part of the regulations. Public bodies may be inadvertently breaching a requirement that is currently unclear. Therefore simplifying this part of the regulations in line with the Directive should give greater certainty and make enforcement simpler.

Question 7 – Should an energy certificate be required when 500m² is occupied by public authorities and frequently visited by the public?

Change the validity period of all Display Energy Certificates and recommendation reports for buildings of more than 500m² to five years.

66. See table on page 16 for current arrangements. This option would result in recommendation reports having the same validity as their accompanying Display Energy Certificate, meaning that recommendations would be up to date and energy performance benefits easily understood. The reduction in validity of the recommendation reports is to ensure that Display Energy Certificate and recommendation report validity are the same, and the same for all qualifying buildings, to ensure simplicity.
67. Display Energy Certificates for buildings over 1,000m² would be required less frequently. However it would increase the burden of renewing recommendation reports, as these would be required every five years, rather than every seven years as they are currently stands. This would also not remove the potential gold-plating, but rather reduce validity of Display Energy Certificates and recommendation reports and therefore introduce gold-plating of the requirements of the Directive for smaller buildings, although it would reduce an element of gold-plating for larger buildings.
68. This option would represent a saving of £30.4 million over a ten year period.

Question 8 – Should the validity period of all Display Energy Certificates and their accompanying recommendation reports be five years?

Extend the validity period of all Display Energy Certificates and their accompanying recommendation reports to 10 years.

69. This option is more in line with Government policy not to gold-plate EU Directives, i.e. not to go further than the minimum requirements. Aligning recommendation report validity to coincide with Display Energy Certificate validity would ensure that recommendation reports would relate to the displayed energy performance of the building as given by energy assessors. Moving to a 10 year inspection cycle would also align Display Energy Certificates for buildings over 1,000m² occupied by public authorities with the validity period for buildings of over 500m² and up to 1,000m², and with the validity period of Energy Performance Certificates.
70. Moving to a 10 year cycle of inspections would result in significant cost savings for hospitals, libraries, local authorities and other public sector bodies which occupy buildings over 1,000m², i.e. inspection costs would not be incurred annually. The cost for all qualifying buildings to update the Display Energy Certificate and to produce the recommendation report every 10 years is estimated to be £49.92 million. This would result in total savings to public authorities of £6.003 million annually.

Question 9 – Should the validity period of all Display Energy Certificates and their accompanying recommendation reports be 10 years?

Eliminate all additional burdens

71. Introduce **all** of the following modifications together:

Apply exemptions from the Directive to qualifying buildings for Display Energy Certificates.

- *Exempt those buildings with an Energy Performance Certificate from the need to have a Display Energy Certificate.*
- *Require a Display Energy Certificate for a building only when 500m² is occupied by public authorities and frequently visited by the public.*
- *Extend the validity period of all Display Energy Certificates and their accompanying recommendation reports 10 years.*

Question 10 – Should the Display Energy Certificate regime be altered in the way outlined above?

Abolition

72. Remove the legal requirement for Display Energy Certificates, and require all qualifying buildings to have and display Energy Performance Certificates.

73. This would fully eliminate all gold-plating of the EU Directive. No longer requiring a Display Energy Certificate and recommendation report would save public authorities approximately £0.76 million annually and Net Present Value of £63.17 million. However, if a building which has a Display Energy Certificate is sold or rented out, it is also currently required to have a Non Domestic Energy Performance Certificate in addition to its Display Energy Certificate, so the savings would be higher as the owners of these buildings would not have this additional cost placed on them.

74. Display Energy Certificates also provide a slightly different (operational rather than asset) energy rating, and therefore could be seen as a more accurate tool for monitoring energy use, as they are based on actual consumption, rather than the asset rating on an Energy Performance Certificate which shows theoretical energy efficiency, not taking account of how the current occupant uses the building.

Question 11 – Should the mandatory Display Energy Certificate regime be abolished?

75. We are also aware of concerns that any changes reducing the frequency or reach of Display Energy Certificates could potentially make it more difficult to manage energy performance of large public estates, as annual data is easier to analyse than data over a longer period. However many large public estates will be comprised of buildings smaller than 1,000m² and therefore are already required to obtain Display Energy Certificates and recommendation reports only every 10 years, in line with the requirements of the Directive. Also, organisations would be free to update Display

Energy Certificates more frequently than is required by the regulations if they consider it helpful in monitoring their energy usage and energy bills.

76. Currently, some private sector organisations choose to have a Display Energy Certificate produced in order to monitor their energy usage, or to comply with the requirements of Energy Savings Opportunity Scheme. If Display Energy Certificates were no longer a statutory requirement for the Energy Performance of Buildings Directive, the cost of maintaining this system would have to be carefully considered. Therefore the department would be grateful for any further information surrounding this issue, in response to the following question

Question 12 – If Display Energy Certificates were no longer a statutory requirement, would you still obtain one (for example in order to monitor the energy efficiency of any non-dwelling)?

Question 13 – Which proposal (or combination) is your preferred outcome?

Summary table of consultation questions

Questions	Comments
Part 1	
Question 1 - How could the existing enforcement regime be improved?	
Question 2 – How may the barriers to enforcement be overcome?	
Question 3 - Who should be the enforcement body for the display of energy certificates in public buildings regime, and why? ⁶	
Part 2	
Question 4 – Should the existing system of Display Energy Certificates and recommendation reports remain unaltered?	
Question 5 – Should the exemptions from the requirements of the Directive be applied to qualifying buildings for Display Energy Certificates?	
Question 6 – Should those buildings that have and display their Energy Performance Certificate be exempt from the requirements to have a Display Energy Certificate?	
Question 7 – Should an energy certificate be required when 500m ² is occupied by public authorities and frequently visited by the public?	
Question 8 – Should the validity period of all Display Energy Certificates and their accompanying recommendation reports	

⁶ Currently Display Energy Certificates, but subject to the outcome of Part 2 of this consultation, this may not always be so.

be five years?	
Question 9 – Should the validity period of all Display Energy Certificates and their accompanying recommendation reports be 10 years?	
Question 10 – Should the Display Energy Certificate regime be altered in the way outlined above?	
Question 11 – Should the mandatory Display Energy Certificate regime be abolished?	
Question 12 – If Display Energy Certificates were no longer a statutory requirement, would you still obtain one (for example in order to monitor the energy efficiency of any non-dwelling)?	
Question 13: Which proposal (or combination) is your preferred outcome?	

4. Next Steps

The Department invites consultees' views, comments on the key questions and any evidence relating to all aspects of this consultation by 11 March 2015.

5. Call for Evidence

The Department invites anyone who wishes to contribute to provide information on public buildings in their care, and the costs associated with the obtaining and maintaining of appropriate energy certificates.

Evidence 1: How many qualifying buildings does your estate contain (including a clear articulation of why some buildings are not qualifying)?

Evidence 2: How many have a Non-Domestic Energy Performance Certificate?

Evidence 3: How much, on average, does obtaining a Non-Domestic Energy Performance Certificate cost?

Evidence 4: How many have a Display Energy Certificate and recommendation report?

Evidence 5: How much, on average, does obtaining a Display Energy Certificate (on its own) cost?

Evidence 6: How much, on average, does obtaining a Display Energy Certificate and recommendation report cost?

Evidence 7: How many of your buildings have both an Energy Performance Certificate and a Display Energy Certificate?

Evidence 8: To what extent have you implemented the recommendations provided in the report accompanying your DEC?

Evidence 9: To what extent have any changes in the energy efficiency of your buildings been influenced by the information provided by your DECs and recommendation reports?

Evidence 10: Is there any further information you wish to provide?

Evidence 11: Would you be willing to be contacted by our officials to discuss in more detail any aspect of your responses to this consultation?

Initial Cost and Benefit Analysis: Reviewing Display Energy Certificate requirements

What is the problem under consideration?

The current Display Energy Certificate regime does not take full advantage of the flexibilities afforded by the Energy Performance of Buildings Directive (the Directive) and may as a result be creating unnecessary costs for the public sector.

What are the policy objectives and the intended effects?

The objective is to simplify the regulatory regime as it applies to public buildings, taking appropriate advantage of the flexibilities afforded by the Directive, while continuing to improve the energy efficiency of buildings and minimising unnecessary burdens upon the public purse and ultimately the taxpayer.

What policy options have been considered, including any alternatives to regulation?

The following options are to be considered:

Do nothing

0. Maintain the current one year validity period for a Display Energy Certificate and seven year validity period for a recommendation report for buildings with a floor area of $>1,000\text{m}^2$, and 10 year validity for Display Energy Certificates and recommendation reports for buildings with a floor area between 500m^2 and $1,000\text{m}^2$.

Retain beneficial elements

1. To extend the exemptions in the Directive which currently apply to Energy Performance Certificates to Display Energy Certificates.
2. To exempt those buildings that have and display their Energy Performance Certificate from the requirements to have a Display Energy Certificate.

3. To require an energy certificate when 500m² is occupied by public authorities and frequently visited by the public.
4. To set the validity period of all Display Energy Certificates and their accompanying recommendation reports to five years.
5. To set the validity period of all Display Energy Certificates and their accompanying recommendation reports to ten years.

Eliminate all additional burdens

6. To combine all of the options 1, 2, 3 and 5 from above.

Abolition

7. To abolish the mandatory Display Energy Certificate regime and require non-domestic Energy Performance Certificates to be obtained for and displayed in qualifying buildings.

Does implementation go beyond minimum EU requirements?

8. Retaining the current system (0) would continue to go beyond minimum EU requirements; setting the validity period to five years for all Display Energy Certificates and their accompanying recommendation reports (4) would go beyond minimum EU requirements; eliminating all additional burdens, (6) together, would meet minimum EU requirements, although implementing only some of (1), (2), (3) and (5) would continue to go beyond minimum EU requirements; abolishing the Display Energy Certificate regime and requiring only the issue and display of non-domestic Energy Performance Certificates (7) would meet the minimum EU requirements.

Table: Monetised Estimates (£m)

Option	Annual Cost	Annual Benefit	Net Present Value
1	-	0.01	0.69
2	-	-	-
3	-	-	-
4	0.52	4.18	30.40
5	-	6.00	49.92
6	-	-	-
7	0.76	12.32	63.17

Costs assumptions

Approximately 42,000 buildings over 1,000m² and 12,000 between 500m² and 1,000m² occupied by public authorities and frequently visited by members of the public are currently required to have a valid Display Energy Certificate and recommendation report.⁷

The average cost of producing a Display Energy Certificate is estimated to be £145 and the cost of producing a Display Energy Certificate and recommendation report jointly is estimated to be £435.⁸ An average cost has been used in this analysis; these costs will vary, and will depend on the size, location and accessibility of the building areas requiring inspection (e.g. meters and plant rooms) and the availability of fuel data information and floor plans. If a building is substantial and complex and plans are not available, then the cost of an inspection may be based on an hourly assessment rate. The quality, extent and accessibility of relevant information provided to the energy assessor will also have consequences for the cost of the inspection.

The average cost of a non-domestic Energy Performance Certificate typically will range from £129-150.⁹ For the purposes of this analysis, an estimate of £140 has been used.¹⁰

Net Present Value numbers are calculated for a 10 year period.

⁷ Regulatory Impact Assessment Energy Performance of Buildings Directive Articles 7 - 10 <http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/archived/publications/planningandbuilding/regulatoryimpactenergyperformanc2007>. These numbers are likely to have slightly decreased due to the reduction of the government estate since then.

⁸ Expert interview, excluding VAT

⁹ EPBD Concerted Action Book 2015, although a wide range of estimates are available, including some which suggest a ND EPC may cost as much as £1000. This is an indicative cost only, based on top results from a Google search, i.e. not backed up by detailed market research. We are seeking information from the consultation.

¹⁰ Expert interview, excluding VAT

Option 0

Do nothing.

No regulatory changes required. To maintain the present approach whereby buildings with a useful floor area over 1,000m² occupied by a public authority, where those buildings are frequently visited by members of the public, are required to renew an Energy Performance Certificate annually and a recommendation report every seven years, and buildings with a useful floor area of between 500m² and 1,000m² occupied by a public authority, where those buildings are frequently visited by members of the public are required to renew their Display Energy Certificate and recommendation report every 10 years.

There are no additional costs associated with this option; however there remains the continued cost associated with the current requirements. The average cost of producing a Display Energy Certificate and recommendation report is approximately £435 and the cost of producing a Display Energy Certificate alone is £145. There are 12,000 public buildings between 500m² and 1,000m² and 42,000 above 1,000m².¹¹ The average annual cost for the former is £522,000. For the latter it is £7.830million.¹² This is the counterfactual for the other options.

Option 1

To extend to Display Energy Certificates the exemptions in the Directive which currently apply to Energy Performance Certificates.

Using permitted exemptions in the Directive can result in savings largely for public authorities who occupied listed buildings. 1% of buildings are assumed to be exempted which creates an annual saving of £83,520 and a Net Present Value of £0.69m over a ten year period (2014 as base year). This percentage is at this stage for illustration only due to the lack of evidence on the number of buildings that may be exempted. The consultation is seeking further information on the number of buildings that may be affected. This option would simplify the regime since the same exemptions apply to Non-Domestic Energy Performance Certificates. There is some evidence that Display Energy Certificates may lead to some savings but since Energy Performance Certificates also include recommendations upon which the occupant may act, they are likely to be minor.

Option 2

To exempt those buildings that have and display their Energy Performance Certificate from the requirements to have a Display Energy Certificate.

11

<http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/archived/publications/planningandbuilding/regulatoryimpactenergyperformanc> (2007). These numbers are likely to have slightly decreased due to the slim-lining of the government estate since then.

¹² The averages were calculated over 1000 years period to take for example account of the impact from the Recommendation Report which has a 5, 7 and 10 validity period in the different options.

Not having to comply with the regulation can result in savings. However, more evidence is required on the number of buildings affected.

This option prevents duplication. The difference between an Energy Performance Certificate and a Display Energy Certificate is that the former provides an asset rating of the building whereas the other provides an operational rating.

As any building benefiting from this exemption would have an Energy Performance Certificate, which would also include recommendations upon which the occupant may act, there is nothing to suggest that there would be any diminution of energy savings as a result of this.

Option 3

To require an energy certificate when 500m² is occupied by public authorities and frequently visited by the public.

Not having to comply with the regulation can result in savings. However, more evidence is required on the number of buildings affected.

If a public authority occupies a building or building unit of over 500m² and frequently visited by the public, they must have and display a valid Display Energy Certificate, and that would apply to every public authority occupying qualifying units within any building. Therefore there should be a Display Energy Certificate for every qualifying building unit within a building. Also, our regulations apply to qualifying buildings or building units irrespective of how much useful floor area that particular authority occupies or how much of it is frequently visited by the public.

However the Directive allows that there should be an energy certificate displayed only for a building in which over 500m² is occupied by a public authority and frequently visited by the public.

The Directive is therefore more flexible than our regulations in this regard, and would allow for a single certificate for a qualifying building and reduce the number of buildings for which there would be a mandatory requirement, therefore removing excess regulation and burdens upon public authorities, and potential gold-plating.

Fewer Display Energy Certificates may result in fewer energy savings, although no quantifiable evidence is available to determine the savings made by acting on the recommendations.

Option 4

To set the validity period of all Display Energy Certificates and their accompanying recommendation reports to five years.

This option would result in recommendation reports having the same validity as their accompanying Display Energy Certificate, meaning that recommendations would be up to date and energy performance benefits easily understood while simplifying the existing regime. Overall this will lead to annual savings of £3.654million. For the larger buildings

there will be an annual saving of £4.176million but for the smaller buildings there will be an annual cost increase of £522,200. This option has a Net Present Value of £30.4million over a ten year period (2014 as base year).

Fewer Display Energy Certificates may result in fewer energy savings, although no quantifiable evidence is available to determine the savings made by acting on the recommendations.

Option 5

To set the validity period of all Display Energy Certificates and their accompanying recommendation reports to 10 years.

This option will align to existing requirements for buildings with a total useful floor area in between 500 and 1,000m². Moving to a 10 year cycle of inspections would result in significant cost savings for hospitals, libraries, local authorities and other public sector bodies which occupy buildings over 1,000m². Moving to 10 year validity can lead to savings of £6.003 million annually. The Net Present Value is £49.92million (base year 2014).

This option is also more in line with Government policy not to gold-plate EU Directives, i.e. not to go further than the minimum requirements. Aligning recommendation report validity to coincide with Display Energy Certificate validity would ensure that Display Energy Certificates always reflected the relevant recommendations as given by energy assessors.

Less frequent Display Energy Certificates for buildings over 1,000m² occupied by public authorities may result in fewer opportunities for energy assessors, who undertake assessments and produce Display Energy Certificates, should the requirement come into effect. There are approximately 1,590 registered energy assessors who are able to produce and lodge Display Energy Certificates on to the central Register.¹³

Fewer Display Energy Certificates may however result in fewer savings, although no quantifiable evidence is available to determine the savings made by acting on the recommendations.

Option 6

To combine all of the options 1, 2, 3 and 5 from above.

- To extend the exemptions in the Directive which currently apply to Energy Performance Certificates, to Display Energy Certificates.
- To exempt those buildings that have and display their Energy Performance Certificate from the requirements to have a Display Energy Certificate.

¹³ Landmark Information Group: Non Domestic Energy Performance Certificate Register – June 2014 (unpublished)

- To require an energy certificate when 500m² is occupied by public authorities and frequently visited by the public.
- To set the validity period of all Display Energy Certificates and their accompanying recommendation reports to ten years.

More evidence is required to quantify costs and benefits. Please note that the outcome will be less than the sum of the single measures because they overlap.

Option 7

To abolish the mandatory Display Energy Certificate regime.

The current Display Energy Certificate policy costs £8,352 million annually. The cost of a non-domestic Energy Performance Certificate every 10 years would be £7.56million (£0.76million annually) estimating an average cost as £140. This would result in annual savings of £7,596 million. The Net Present Value is £63.17million (base year 2014). However, in reality, many public authorities may have both a non-domestic Energy Performance Certificate and a Display Energy Certificate, so the savings may be higher. This option would also eliminate the gold-plating of the EU Directive.

Removing Inefficient Use of Resources

Removing regulations means that resources are no longer used in complying with those regulations. Consistent with paragraph 1.1.3 of the Regulatory Policy Committee Impact Assessment Case Histories it is assumed that by removing the regulation the policy allows these resources to be re-allocated to a more efficient use and the forgone revenue is not treated as a cost.