

DCLG Scheme Operating Requirements Associated with Non Domestic Energy Assessors and the Production of Energy Performance Certificates at NOS Levels 3 & 4

Preamble

The Energy Performance of Buildings Directive (EPBD) became part of EU law in December 2002. The EPBD has been implemented into law via the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (S.I. 2007/991 as amended) (“the 2007 regulations”) in respect of sales and lettings, and in regulation 29-33 of the Building Regulations 2010 (S.I. 2010/2214 as amended or superseded)(the Building Regulations) in respect of the duty on construction. Hereinafter the 2007 Regulations and the Building Regulations are referred to collectively as the ‘EPBR’.

This document sets out the Secretary of State’s current requirements for the operation of those organisations in receipt of a Letter of Approval on behalf of the Secretary of State for Communities and Local Government to operate an Accreditation Scheme (Scheme) for Non Domestic Energy Assessors (EAs) providing EPCs at Levels 3 & 4 for Non Domestic buildings under Regulation 25 of the 2007 Regulations. There is a separate SOR for EA using dynamic simulation modelling (Level 5). Schemes shall comply with these requirements from 1 April 2012.

This document includes:

- Minimum outcomes that the Secretary of State requires Schemes to deliver.
- In support of these, some prescriptive approaches which shall be followed to ensure that these outcomes can be undertaken and reported in a consistent way across Schemes.

The purpose of Schemes is to ensure that consumers and others who rely on Energy Performance Certificates (EPC) can have confidence in the credibility of EPCs, their accompanying recommendations for cost-effective improvement, and the Energy Assessors (EAs) responsible for them.

Scheme operators may apply additional voluntary standards to their member EAs (also referred to in this document as Energy Assessors (EA)) provided that the minimum requirements as laid out in this document are met.

In this document reference to DCLG means the Department for Communities and Local Government, its authorised representatives, and its appointed agents. This includes the Operator of the EPC Registry.

Overview of requirements

For Schemes to remain compliant with DCLG requirements, they shall be able to demonstrate that the following provisions are in place, and are functioning correctly:

1. Ensure that members of the Scheme are “fit and proper” persons to undertake energy assessments and that they operate within a code of conduct as defined in Appendix 1.2 which is actively enforced by the Scheme.
2. Ensure that members of the Scheme are qualified to undertake energy assessments.
3. Ensure that members of the Scheme have in force suitable indemnity cover.
4. Ensure that members of the Scheme use operational procedures that ensure consistency and accuracy of energy assessments.
5. Maintain active quality assurance procedures that are calculated to ensure so far as is reasonably practical that the other provisions listed here are delivered.
6. Facilitate the resolution of complaints against members of the Scheme.
7. Implement disciplinary procedures in a proportionate and reasonable manner.
8. Establish and maintain a register of members.
9. Ensure financial probity, financial stability and operational resilience of the Scheme.
10. Allow DCLG to monitor the Scheme periodically to ensure that it continues to comply with the terms of its approval and delivers compliance with the legislation.
11. Maintain suitable administrative and operational systems that are applied in a consistent, fair and open way that is compliant with all relevant legislation.
12. Meet other requirements that DCLG has specified from time to time, and in line with the “Approval Letter”.

Section 13 sets out the Definition of Terms used in this document.

Where references are made to Section numbers or paragraphs, unless otherwise stated if the reference is made to a Section or paragraph in an Appendix, it refers to the Section or paragraph in that Appendix, and the same applies to the main document.

NB: For the avoidance of doubt, Schemes should note that in meeting the DCLG Scheme Operating Requirements (SOR), they must comply with the Data Protection Act and other relevant legislation. Should there be a conflict between the SOR and statutory requirements, the latter take precedence. Scheme operators must make DCLG aware of any perceived conflicts and the provisions they propose for resolving them. DCLG will broadcast to all Scheme operators their rulings on whether reported conflicts are real and in the event provide official guidance on their resolution.

EA Scheme Operating Requirements

Ensure that members of the Scheme are “fit and proper” persons to undertake energy assessments and that they operate within a code of conduct which is actively enforced by the Scheme.

1.1 Members are ‘Fit and Proper’

- 1.1.1 Schemes shall be able to demonstrate that proper and effective operational, recording and reporting procedures are in place to decide whether applicants are, and members remain, ‘fit and proper’ persons.
- 1.1.2 Applicants to a Scheme to become an EA for Non Domestic buildings who are not determined by the Scheme to be ‘fit and proper’ shall have their membership application rejected.
- 1.1.3 Where Scheme enquiries, activities, or other evidence shows that an existing member is no longer ‘fit and proper’, that member shall have their membership revoked.
- 1.1.4 Schemes shall have an appeals procedure in place for those applicants who are rejected, or members who have their membership revoked, because they are deemed by the Scheme not to be ‘fit and proper’ persons.
- 1.1.5 These procedures shall be applied in a fair and open way that is compliant with legislation.
- 1.1.6 DCLG criteria for assessing whether an individual is a ‘fit and proper’ person, and its detailed requirements of Schemes, are provided in Appendix 1.1.

Code of Conduct

Schemes shall have an energy assessor “Code of Conduct” (see Appendix 1.2 for detailed requirements). Schemes shall ensure that all members formally sign in assent to this, and to all other Scheme requirements, in a manner which is legally binding and abide by its terms.

Procedures shall be in place for:

- a) Requiring members to sign the Code of Conduct in a manner which is legally binding
- b) Policing the Code of Conduct (see Appendix 1.2 for detailed requirements)
- c) Implementing disciplinary measures which are proportionate and reasonable in the light of a breach of the Code of Conduct. Scheme requirements for disciplinary action are given in Section 7. Appendix 1.2 provides specific instances of disciplinary measures which are considered proportionate and reasonable.

- d) Giving Members and prospective members easy access to the procedures and any DCLG or Scheme guidance related to the Code of Conduct and its implementation.

The Code of Conduct shall explicitly refer to this document as the primary statement of requirements to be followed in the event of any conflicting interpretation.

Ensure that members of the Scheme are qualified to produce energy assessments

- 2.1.1 Applicants can be considered by a Scheme to be competent to produce EPCs for non domestic buildings, and so become a member of a Scheme register of Non Domestic Energy Assessors (EA) if they either:
- 2.1.1.1 Hold an appropriate qualification that has been approved by OFQUAL which is consistent with the relevant National Occupational Standard (NOS) (Level 3 and 4) at which they shall operate. Scheme operators shall have procedures which confirm that a candidate has the appropriate qualification and that, where relevant, the candidate is only accredited to operate within any limitations appropriate to the qualification.
- 2.1.1.2 Or can demonstrate to the Scheme that they meet the competencies set out in the relevant National Occupational Standards (Levels 3 and 4) for Non-Domestic building EPC assessments, and have satisfied the Scheme's approval process. In this case the Scheme shall have had its APEL (Accreditation Prior (Experiential) Learning) membership route agreed by DCLG, and shall meet all DCLG requirements associated with APEL.
- 2.1.2 Applicants who have been accepted by another Scheme through the APEL route may be accepted into membership so long as:
- a) The individual is not currently suspended by another Scheme of which they are a member.
 - b) The individual has not had their membership revoked by another Scheme.
 - c) They have lodged an EPC within the last 2 years.
 - d) The Scheme who accepted the individual through the APEL route confirms their acceptance of the individual into membership through APEL. Schemes shall provide such confirmations on request.
 - e) The individual can provide the receiving Scheme with a record of their CPD record over the last year, and it can be demonstrated that this meets DCLG requirements.
- 2.1.3 Scheme operators shall have procedures to confirm that a candidate has the appropriate qualification, or has been assessed as being suitable under the APEL membership route, and that, where relevant, the candidate is only operating within any limitations appropriate to the qualification.
- 2.1.4 For applicants going through the qualification route, the Scheme shall request, and retain, a colour photocopy of the qualification certificate.
- 2.1.5 Schemes may require an applicant to undertake an accompanied site visit followed by a professional discussion, or some other check, as an additional test of competence.

- 2.1.6 Schemes shall check the identity of applicants. These checks shall require a colour photocopy to be provided of either the applicant's passport or driving licence (where this includes a photograph). Where an applicant cannot provide either, Schemes shall require a copy of the applicant's birth certificate, and copies of two utility bills (or equivalent). However the use of these latter checks shall be the exception. In all cases where applicants are not able to supply copies of either a passport or a driving licence, Schemes shall conduct professional interviews with prospective candidates. Schemes shall require such applicants to sign a declaration stating that they do not possess either a valid passport or a valid driving licence during the professional interview.
- 2.1.7 Schemes shall require their members to undertake Continuing Professional Development (CPD) so as to maintain their occupational competence. In this context CPD is defined according to Appendix 2.
- 2.1.8 Schemes shall have procedures in place to check that Energy Assessors (EAs) maintain their competence as stipulated in Appendix 2.

Ensure that members of the Scheme have in force suitable insurance cover

- 3.1.1 Schemes shall have procedures for ensuring that their members have and maintain an appropriate Level of insurance cover to protect Customers.
- 3.1.2 Schemes shall identify the Level of cover required. DCLG requires that as minimum EAs have professional indemnity insurance cover of £250,000 for each claim in relation to any particular EPC, and public liability insurance of £1,000,000 per claim in relation to EPCs for existing buildings.
- 3.1.3 Schemes are required to:
- a) Undertake reasonable checks that EAs have the required cover. As a minimum the checks shall include obtaining copies of valid certificates of insurance as part of: membership applications; membership renewals; and insurance renewals.
 - b) Undertake checks that the necessary insurance is in place and valid where the Scheme has any doubts about the validity of a member's insurance.
 - c) Undertake checks of members that the necessary insurance is in place and valid where disciplinary proceedings are being instigated, or investigations are being made prior to disciplinary proceedings, against the member associated with a potential breach of the Code of Conduct.
 - d) Implement disciplinary proceedings against any member who does not have the relevant insurance cover. See Section 7 and Appendix 1.2.

Ensure that members of the Scheme use operational procedures that ensure reasonable consistency and accuracy of EPCs

4.1 EN 45011

- 4.1.1 DCLG is considering the introduction of a requirement for Schemes:
- a) To be working towards being accredited by UKAS to EN 45011 against this document , or a successor document by Nov 1st 2012, and
 - b) To be accredited by UKAS to EN 45011 against these requirements, or successor requirements, by Nov 1st 2013.
- 4.1.2 Should DCLG decide to follow this route DCLG will announce the requirements which will apply. In the absence of any announcement from DCLG, the requirements set out in this document shall apply.

4.2 General Requirements

- 4.2.1 Scheme operators shall have operational procedures in place to ensure that members produce consistent and accurate assessments.
- 4.2.2 Schemes shall be able to demonstrate that they are following these procedures and any other procedures or arrangements which they have in place so as to demonstrate that DCLG requirements are being met. All procedures and arrangements shall be consistently applied, and the outcome of all procedures shall be replicable by DCLG.
- 4.2.3 The Scheme's report generation software shall produce accurate EPCs which conform to the specifications set out by DCLG.
- 4.2.4 A single national register of EPCs has been established, and is currently operated under licence from the Secretary of State, by Landmark Solutions. All EPCs shall be lodged with this register in line with DCLG requirements.
- 4.2.5 All reasonable requests for information requested by the operator of the register shall be met. Schemes are required to enter into a formal agreement with the Register Operator for the purposes of lodging all EPCs and related data including Energy Assessor details and other information as required under this SOR.
- 4.2.6 Any software whether it is be provided by Scheme Operators to members, or which the Scheme allows members to use, shall be approved by the Secretary of State as compliant with the National Calculation Methodology (iSBEM) current at the date of lodgement. Schemes shall have access to a copy of any software used by their members so that they can undertake Quality Assurance (QA) checks on their work (see Section 5).

- 4.2.7 Scheme operators shall have operational procedures for EAs to lodge EPCs.
- 4.2.8 Scheme operators shall have in place procedures which check that EPCs are being lodged. Where there is a failure to lodge such a report on the register, the Scheme shall investigate the cause and take appropriate action in a timely manner. Here the response shall be to suspend the EA subject to an investigation of why the EPC has not been lodged.
- 4.2.9 Schemes shall have arrangements in place to ensure that, in circumstances where they cease to trade, appropriate information is transferred to DCLG as described in Section 9.3. Schemes shall inform DCLG of these arrangements.
- 4.2.10 Scheme procedures shall be reviewed from time to time in the face of realised outcomes.

4.3 Software Conventions

- 4.3.1 Schemes shall inform new members of acceptable software and software conventions (including versions/patches) used by the Scheme, and existing members of changes in software requirements and conventions as they are required by DCLG.
- 4.3.2 Specifically Schemes shall:
- a) Circulate new or revised conventions issued by DCLG to their EAs, together with any other information, guidance, and testing requirements that DCLG believe are necessary to ensure that EAs read, understand, and implement, the new conventions.
 - b) Make it clear to EAs that from the date of their implementation changes in software, conventions, or other requirements, shall be included in Scheme QA checks of their members.
 - c) Change their QA procedures, and be able to demonstrate to DCLG that practices have changed, to include the new software, conventions, and any other change in DCLG requirements in their QA checks on their members. Accordingly Schemes shall ensure that those people who undertake the QA of EAs are aware of the changes, and are able to competently implement them in their assessment of EPCs.
 - d) Ensure that the new conventions are included, where appropriate, in any training, information, and other material made available by Schemes to their members. Schemes shall either archive material which is out of date, or make it clear to members what parts of documents are out of date, where it is necessary to provide access to those documents.

4.4 Support Services to Members

- 4.4.1 Schemes shall provide a helpdesk to members to assist them with enquiries. This helpdesk can be provided directly by the Scheme, or by a third party operating on behalf of the Scheme.
- 4.4.2 The minimum requirements of the helpdesk are:
- a) The helpdesk shall log enquiries from members and responses from the helpdesk.
 - b) This log shall be structured such that particular enquiries, and any correspondence chain, can be recalled, and the Scheme can analyse the enquiries log to support other aspects of the Scheme's operation including the provision of information to Scheme members and the QA of Scheme members.
 - c) The average time taken to respond to an enquiry can be calculated.
 - d) Schemes shall ensure that those who undertake the provision of advice to members are competent to do so.
- 4.4.3 Schemes shall also provide information to members associated with changes in software conventions, QA requirements, or other changes which materially affect the way EAs operate. Schemes shall provide additional advice and information services in support of these changes. As a minimum Schemes shall provide:
- a) E-mail or similar alert to their members summarising the requirements
 - b) Information notices, or other similar summaries, to their members where the changes in software conventions or QA requirements are substantive.
 - c) In those instances where training is necessary, a list of Scheme recommended training providers with the statement to members that there are alternative training providers, or a summary of training provided by the Scheme, and how to access it, where this training is provided free of charge.
 - d) Other requirements as identified by DCLG, for example, associated with the release of software conventions.
- 4.4.4 Schemes shall inform would be applicants of the support services provided by the Scheme as part of the membership fee, including whether the helpdesk is provided as a telephone service, or just through e-mail and give an indication of the Level of service which the Scheme undertakes to provide. An example of this latter point would be a service Level agreement between a Scheme and its EAs which includes the average time that the Scheme expects to take to respond to a query.
- 4.4.5 Schemes shall provide a response to enquiries from their members. In doing so Schemes shall make their members aware that DCLG and its technical support contractors will only respond to requests from Schemes.

5 Maintain and demonstrate quality assurance (QA) procedures

5.1 Scheme QA Checks

- 5.1.1 Schemes shall have QA procedures in place to check the quality of EPCs, and corrective actions in place where required standards are not met. Requirements associated with the QA of EPCs, monthly reporting of QA and other related statistics (SOR Monthly Reporting Requirements), and disciplinary measures which Schemes shall implement in specified instances, are provided in Appendix 5.
- 5.1.2 As a summary of Appendix 5, outcomes required from Schemes are that:
- a) 95% of EPCs audited through “random sampling” are considered to be within specified accuracy targets.
 - b) Schemes place measures on an EA as detailed in Appendix 5 where they produce a defective EPC.
 - c) Defective EPCs identified by QA procedures are replaced in so far as it is possible to do so, and in a defined timescale.
 - d) Where an EA fails to undertake corrective action (see also Section 6) Scheme disciplinary procedures shall include a means of escalating required remedial action leading ultimately to the revocation of Scheme membership.

5.3 Responsibility for the Replacement of Defective Certificates

- 5.3.1 The responsibility and costs associated with the replacement of defective certificates rests with the EA who provided the certificate.
- 5.3.2 If an EA fails to respond to a Scheme requirement to replace a defective EPC they shall be suspended, and if they continue to refuse to replace the EPC the Scheme shall revoke their membership.
- 5.3.3 If the EA responsible for a defective EPC cannot be contacted, or is no longer practicing as an EA, then the Scheme through which they lodged the certificate shall take responsibility for replacing the defective certificate.
- 5.3.4 Appendix 5 gives more details of requirements in this area.

6 Complaints & Queries

6.1 Introduction

- 6.1.1 Requirements for handling complaints are provided below and in the following Appendices:
- a) Appendix 6.1 provides the definition of “complaints” and “queries” that Schemes shall apply, and also provides requirements as to how Schemes and their members shall respond to such complaints.
 - b) Appendix 6.2 gives the requirements for the provision of an independent third party complaints procedure for members’ Customers and Scheme members.

6.2 Facilitating the resolution of complaints

- 6.2.1 Schemes shall have procedures for responding to complaints against members or against the Scheme in a timely manner.
- 6.2.2 Schemes shall require their Members to declare all complaints that they receive related to the EPBR, to the Scheme, regardless as to the nature of the complaint and whether or not the issue has been resolved by the EA.
- 6.2.3 Complaints procedures shall be available at no cost to Customers. Scheme complaint procedures shall be easily accessible and available to all complainants and where appropriate shall be able to provide for effective redress. Easily accessible shall require that the process for dealing with complaints is signposted on a Scheme’s home web page.
- 6.2.4 Scheme operators shall ensure that complainants understand that their legal rights are not affected by participating in the Scheme’s complaints process.
- 6.2.5 Scheme operators shall report to the police complaints, or other information received, that involve apparent criminal activity.
- 6.2.6 Where complaints cannot be resolved to the complainant’s satisfaction by the Scheme, complaints shall be referred to an independent third party for a decision (see Appendix 6.2).

6.3 Vexatious complainants

- 6.3.1 A vexatious complainant is defined here as a complainant who brings about a complaint or complaints, regardless of its or their merits, solely to harass or subdue the subject of the complaint.
- 6.3.2 A single action, even a frivolous one, is not enough to raise a complainant to the Level of being declared vexatious, though repeated

and severe instances by an individual, or by others on behalf of that individual, can result in the complainant being considered vexatious.

- 6.3.3 Schemes may judge vexatious complainants as abusing the complaints process and as such may refuse the individual access to their complaints process, although the Scheme shall disclose such instances to DCLG. If a Scheme uses this ability to prevent a legitimate complaint from being lodged, the Scheme shall be subject to disciplinary measures by DCLG.

6.4 DCLG Involvement in Complaints

- 6.4.1 DCLG only expects to become involved in complaints in the following instances:
- a) Any complaint regarding a Scheme being in breach of its approved status shall be copied to DCLG, and DCLG shall decide whether they wish to be involved in the complaint.
 - b) Section 3 of Appendix 6.2, gives other specific instances.
- 6.4.2 Schemes shall not bring the EPBR, or DCLG, into disrepute by inappropriate reference to the DCLG, EPBR, and associated software.

7 Scheme Disciplinary Procedures

7.1 Introduction

- 7.1.1 Disciplinary measures implemented by the Scheme, shall be evidence based, and shall be reasonable and proportionate to the nature of the breach against Scheme requirements, and the risk of such a Breach re-occurring.
- 7.1.2 Scheme disciplinary measures shall not be implemented in a manner which is perverse, vindictive, or vexatious. An example of such an action would be to interpret and apply the SOR to a particular individual to prevent them from trading in response to an outstanding debt or grievance that a Scheme has against the EA, rather than implementing the SOR across all EAs in a reasonable and proportionate manner.
- 7.1.3 Scheme disciplinary measures shall be implemented in a timely manner.

7.2 Scheme Disciplinary Procedure

- 7.2.1 The Scheme disciplinary procedure shall:
- a) Consider the evidence that an EA has been in Breach of the SOR requirements, and if necessary undertake additional investigations to provide additional evidence.
 - b) Consider the severity of the breach in requirement, any history of EA breaches in requirements, and any other relevant information.
 - c) Assess the likelihood of the breach re-occurring.
 - d) Identify a “reasonable and proportionate” response to a) – c) above.
 - e) Inform the member of:
 - o The outcome of the disciplinary procedure
 - o Any remedial measures they are required to implement as a result of the disciplinary procedure
 - o Any evidence and reasoning that the Scheme has applied in coming to its judgement
 - o Their right to appeal, and how to do so.
 - f) Allow the member to appeal on the grounds of disagreement about one or both of:
 - o The Scheme decision
 - o The remedial measure
 - g) Allow the EA a hearing (see later) as part of the appeal
 - h) Provide feedback to the EA following the appeal
 - i) Provide (if necessary) the EA with recourse to the Independent Third Party Appeals procedure (see Appendix 6.2)
 - j) Consider the feedback from the Independent Third Party Appeals Panel or approved equal and take action as appropriate.
 - k) Under exceptional circumstances (Paragraph 6.3.3, Section 6.4) refer the case to the DCLG Scheme manager.

- 7.2.2 In all instances where a disciplinary procedure has been implemented, the Scheme shall inform the member:
- a) As to the reason for the action
 - b) As to the appeals process, including recourse to the Scheme independent Third Party Appeals Panel (paragraph 6.2.7).
- 7.2.3 If the EA can provide a satisfactory refutation of a complaint or other basis of a suspension, the Scheme shall:
- a) Re-instate the EA, and inform the EA of their reinstatement.
 - b) Maintain a record of all material evidence, and of the reason behind the decision.

7.3 Disciplinary Hearing

- 7.3.1 Where an EA wishes to appeal against the decision of a Scheme, such that their right to trade as an EA has been affected, the principle Schemes shall implement is of allowing the EA the opportunity to make their case against suspension / membership revocation. Schemes shall be reasonable and proportionate in their response to such appeals, and as such shall normally fully disclose to the EA the evidence used as the basis for the suspension, and the Scheme's reasoning. The exceptions to full disclosure are: where such disclosure means that the Scheme will be in breach of legislation; the Scheme can make a reasonable case that such disclosure may put at risk an individual mentioned, explicitly or implicitly, in the disclosure.
- 7.3.2 The Scheme shall allow the EA an opportunity to participate in a formal hearing as part of the appeal process. Such a hearing shall be timely and shall not be deferred for perverse, vindictive or vexatious reasons of the type described in paragraph 7.1.2 above. Timely here is such that the EA has sufficient opportunity to prepare their case, whilst also being sufficiently rapid so as to not cause undue financial distress to the individual concerned. The format and location of the hearing shall be for the Scheme to decide, although the test of "reasonableness" applies.
- 7.3.3 Schemes may offer EAs a hearing before a decision is taken to revoke membership.

7.4 "Reasonable and Proportionate"

- 7.4.1 Other Sections of the SOR provide specific requirements of Schemes, and examples of "reasonable and proportionate" actions, regarding disciplinary actions on their members:
- a) Breach of the Code of Conduct (Section 1.2)
 - b) Failure to meet CPD requirements (Section 2)
 - c) EPC QA Failures & Risk Assessment (Section 5)
 - d) Complaints (Section 6)

7.5 Member with Multiple Strand Membership

- 7.5.1 Where an EA has membership of more than one EPBD strand (e.g. is a non domestic energy assessor and a DEA), and the EA is suspended because of quality or other issues associated with one particular EPBD strand, Schemes shall not automatically suspend a member for all Strands. However where a Scheme is aware that a member has been suspended for one particular EPBD strand, and have that individual as a member of a different EPBD strand, the Scheme shall assess the reason for the suspension and make a judgement as to whether the reason for the suspension means that the individual is no longer competent, or "fit and proper" to undertake work on the different EPBD strands. Examples are provided in paragraph 7.5.2.
- 7.5.2 An example where an EA is suspended for one strand but where there is no reason why the EA should be suspended across all strands would be where the reason for suspension is EPBD strand specific, such as a repeated failure to follow a particular EPBD strand convention picked up as part of the audit process, and where the error does not cut across the other strands. An example where an individual EA is suspended from one strand shall lead to an EA being suspended across other strands would be where an EA has been suspended as part of a failure to comply with a Code of Conduct requirement which is common to other EPBD strands, and where the failure to comply with the Code of Conduct requirement for one strand can reasonably be expected to have occurred for the other EPBD strands.

8 Establish and maintain a register of Scheme members

8.1 Register Requirements

- 8.1.1 In keeping a register and such records, the Scheme shall comply with the Data Protection Act 1998 as amended, and any other relevant statutory requirements.
- 8.1.2 Consistent with the above, Scheme shall maintain a register of current members of their Scheme and keep records of former members, with a view to:
- a) Ensuring that insurance cover of members is maintained.
 - b) Recording energy assessor helpdesk enquiries or complaints to the Scheme and any follow-up action.
 - c) Recording Customer queries, complaints, or claims, and any remedial action, related to the energy assessor.
 - d) Recording outcomes associated with QA checks, and any remedial activities.
- 8.1.3 The Level of detail required to be stored by the Scheme shall be such that the Scheme Auditors can follow and review the “paper trail” associated with any individual complaint, query, QA check, CPD check, or other activity covered by the SOR.

8.2 Scheme Membership

- 8.2.1 Scheme operators shall have a procedure that allows a Customer to establish the legitimacy of any individual claiming to be, or have been, an energy assessor accredited by them.
- 8.2.2 Schemes shall keep a record of all relevant material associated with membership applications and queries, and ensure that it accurately meets DCLG requirements.

8.3 Retrieval and Analysis of Information

- 8.3.1 Schemes shall from time to time, but no less frequently than once a year, analyse data to identify trends and other useful information as part of a regular review of its procedures, and ongoing risk assessment of their members

9 Financial probity, financial stability and operational resilience.

9.1 General Requirements

- 9.1.1 Schemes shall have appropriate arrangements in place to ensure financial probity.
- 9.1.2 Schemes shall have sufficient operational resilience to ensure business continuity in the face of events such as the loss of key staff, staff illness, fire and flood damage, and sufficient protection in place to protect data from unauthorised access or theft.
- 9.1.3 Schemes shall have in place arrangements to ensure that, in the case of ceasing to trade, core information and resources have been maintained in such a way that they are available to others. Requirements are detailed in Section 9.3.
- 9.1.4 Schemes shall demonstrate that they have these arrangements in place as part of their application for approval to operate an EPBR strand and whenever they are called upon to do so thereafter by DCLG.

9.2 Financial Statement

- 9.2.1 Scheme operators shall have sufficient financial stability to provide confidence that they can continue to operate.
- 9.2.2 Scheme operators shall send annually to DCLG financial statements specifically relevant to the operations of their approved Schemes. Schemes shall agree with DCLG in advance their annual accounting dates and send the relevant statements within one month of them becoming available.

9.3 Cease to Trade

- 9.3.1 DCLG have issued a provisional "Cease to Trade" document circulated to all Schemes under cover of DCLG's letter dated 22nd December 2009. This largely relates to the transfer of a Scheme's members in the instance that it "ceases to trade". This places a series of requirements on Scheme operators receiving members from a Scheme which has ceased to trade.
- 9.3.2 In addition, each Scheme shall provide a statement to the DCLG annually which will state how the Scheme's membership records will be accessible by DCLG in the case that the Scheme ceases to trade in the following instances:
- a) The Scheme voluntarily decides to cease to operate one or all of its Schemes.
 - b) The Scheme ceases to trade involuntarily.

9.3.3 DCLG reserves the right to issue further instructions relating to Cease to Trade arrangements. Such instructions may apply either to individual Schemes or to all Schemes collectively depending upon what DCLG deems to be necessary according to circumstances.

9.3.4 In any event, as and when instructed to do so by the DCLG, Schemes shall complete and lodge, in a manner and form prescribed by DCLG, details of complaints and disciplinary action against either individual EAs or all of their members.

10 Allow DCLG to monitor the Scheme periodically to ensure that it operates within the published rules of the Scheme and delivers compliance with this SOR.

10.1.1 Scheme operators shall allow access to their operations and records by DCLG on request.

10.1.2 Scheme operators shall maintain records in a form that allows DCLG to inspect the operation of their Scheme for compliance with the SOR.

10.1.3 Records shall be backed up either electronically or on paper, and enable full retrieval whenever necessary. Back-up data shall be stored in such a way that it can be reasonably expected to survive instances which might affect the original material stored by the Scheme (fire, theft, various forms of attack on the Scheme's IT systems).

10.1.4 Where the Scheme employs a third party to, for example, undertake some or all of its QA procedures there shall be full access to the work of that third party, in so far as it relates to demonstrating that the requirements of the SOR are being met,

10.1.5 Scheme operators shall demonstrate the above provisions in practice during their application for Scheme approval, and during operation of the approved Scheme thereafter, at DCLG's discretion.

11 Suitable administrative and operational systems that are applied in a consistent, fair and open way that is compliant with all relevant legislation

11.1 Overall Objectives

11.1.1 Scheme operator shall:

- a) Co-operate with any authorised officer of an enforcement authority making enquiries of the Scheme for the purposes of carrying out the authority's duties under legislation.
- b) Demonstrate commitment to publicising the Scheme and its rules.
- c) Manage the avoidance of conflicts between the commercial interests of the Scheme and any sponsoring or member organisations involved with the Scheme, and the Scheme's responsibilities under the terms of its approval.
- d) Provide advice to the public seeking to engage EAs.

11.2 Conflicts of Interest

11.2.1 Schemes shall operate in such a way that there are no conflicts of interest associated with their operation as Schemes, and other activities they, or companies that they are closely associated with, provide.

11.2.2 Schemes shall declare potential conflicts of interest, and their approach to managing the potential for conflicting interest, to DCLG

11.2.3 If in doubt Schemes shall declare potential conflicts of interest and their approach to managing the conflict to DCLG. Failure to declare any conflict, or potential conflict, of interest may result in DCLG taking disciplinary action.

11.2.4 Should DCLG identify additional measures that they believe need to be implemented, the Scheme shall implement those additional measures.

11.2.5 Other DCLG Scheme guidance material, for example that associated with APEL assessment, and that associated with the QA of EAs (Appendix 5) also identifies additional requirements on Schemes in order to ensure that conflicts of interest are avoided in these specific areas.

11.2.6 Schemes shall have no material links of any kind with organisations associated with the "Panel system"¹ of providing EPCs, or with

¹ Schemes must declare to DCLG any relationship which might be considered as falling within what is commonly understood as the "panel system" (paragraph 11.2.6). In these instances DCLG shall provide guidance as to whether the relationship is, or is not, acceptable given the requirements of the SOR.

organisations which operate a system with similar attributes. “No material links” in this context means that all the following conditions are met:

- a) Ownership of the Scheme shall be substantively different from that of any organisation operating a “Panel system” or a system with similar attributes.
- b) There shall be no common line management of the Scheme with that of any “Panel system” or a system with similar attributes.
- c) The Directors or managers of the Scheme shall not gain financially in a manner which is likely to be perceived as affecting their judgement in any organisation operating a “Panel system” or a system with similar attributes.
- d) The Scheme does not receive any benefit in terms of direct or indirect payments.
- e) The Scheme does not gain members as a result of the link with an organisation which operates a “Panel system”.

11.3 Publicly available material

11.3.1 Schemes shall allow members of the public, potential applicants to become members, and existing members to have access to all information associated with Scheme operations and pricing which has a material impact on them.

11.3.2 As a minimum, Schemes shall allow members of the public ready access to the following:

- a) Scheme complaints procedures (see also Section 6), including appeals procedures.
- b) Application procedures, requirements, and charges. All such information shall be comprehensive and transparent such that would be applicants can make informed choices when comparing Schemes.
- c) Information about EPCs, what they mean, and what people can do – which may involve links to other sites, such as the Carbon Trust.
- d) Scheme procedures which the public might have reasonable expectation of access to.
- e) A register of the Scheme’s members – to allow potential Customers to access their members, and to undertake a basic check that an individual who has approached them is a genuine member who has a valid registration with the Scheme and is thus permitted to lodge EPCs.
- f) The Scheme Annual Report, the content of which has previously been specified by DCLG.

11.4 Information available & support provided to members

11.4.1 Members shall have access to a Scheme “help desk” (section 4.1). This is defined as a mechanism by which members can ask their Scheme for assistance with, and report on, matters including general advice about: the EPBR and associated infrastructure; conflicts of

interest; complaints; QA requirements; and software issues including conventions. The level of service which members can expect from the Scheme shall be included in material available to Scheme applicants.

11.4.2 Schemes shall record, and from time to time analyse, the nature of enquiries from members and be able to demonstrate how they have considered the outcome. The analysis will be undertaken at least quarterly and be used to inform QA assessments (see Section 5), and the provision of information to members (Section 4.4).

11.5 Provision of Information to Other Schemes, and Information requests from Other Schemes

11.5.1 DCLG wishes to ensure that individual EAs do not move from Scheme to Scheme as a means of avoiding QA checks, CPD, or to avoid corrective action associated with a failed QA check, code of conduct violation, failure to undertake CPD etc.

11.5.2 As such Schemes shall lodge information associated with their member's status in line with the requirements in Appendix 11.

11.5.3 Schemes shall access the information about the suspension of individuals in other Schemes on a daily basis, and shall use this information to inform actions associated with existing members or new applicants.

11.6 Retention of Information

11.6.1 Schemes shall retain information in a secure and resilient manner that remains accessible to DCLG, and require their energy assessors to retain information in a secure and resilient manner, so that all the following are met:

- a) Any requirements associated with ensuring liability insurance are satisfied including any "run off" requirements.
- b) Any specific DCLG requirements specified in the SOR which identify the need to access and check information.
- c) Records are maintained for a minimum of ten years.

11.7 Multiple Registrations Within A Scheme

11.7.1 A member refers to an individual registered with a Scheme, who has one or more registrations with a Scheme. For the avoidance of doubt, in the SOR a "member" or "Energy Assessor" refers to a unique individual, ie multiple registrations by a single individual do not count as additional members.

11.7.2 Where Schemes report to DCLG about the numbers of members, Schemes shall report on the number of unique individuals who are members of the Scheme, and not the number of registrations unless so asked to do.

- 11.7.3 Schemes shall not make available information that misrepresents the size of the Scheme. Information about the current size of the Scheme, the Scheme shall make reference to both the number of members who are currently registered with the Scheme and the number who are currently active, which is defined as those who have lodged an EPC in the preceding 12 months. Schemes may provide information covering more than one calendar year, but shall only do so if the information is broken down into periods of time that do not exceed 12 months. DCLG will see reference to the number of registrations as a means of inflating the size of the Scheme as misrepresentation and will treat this as a disciplinary matter.
- 11.7.4 Where members have multiple registrations Schemes shall be able to demonstrate that the request for each and every registration has come directly from the EA concerned. In each case the EA shall provide proof of address, a copy of which shall be retained by the Scheme. An example of such a proof is a letter from an employer.
- 11.7.5 For any given EPBR strand, where there is a request for a second or further additional registration from an existing or new member, and at each anniversary of these registrations, the Scheme shall review whether each additional registration is necessary, and record the outcome of that review. The following are instances where additional registrations shall not be considered necessary:
- a) Administrative benefits associated with the EA's participation in organisations operating a so called "Panel system".
 - b) Where an EA registers with a wide range of postal addresses which are not credible as representing a range of locations where the EA has their place of employment.
- 11.7.6 As part of the anniversary review, the Scheme shall review those registrations where an EA has not made a lodgement in the preceding 12 months, and unless there is a compelling reason, shall remove the additional registration. An example of a compelling reason is where an EA has been on maternity or paternity leave, or long term sick leave. An example of a reason which Scheme's shall not see as compelling is where a multiple registration is associated with the operation of an organisation operating a so called "Panel system".

12 Other Requirements

12.1 Other Clarifications

12.1.1 DCLG has issued clarifications associated with Schemes. These clarifications are still in force unless overtaken by the requirements in this document, or other later releases from DCLG.

12.1.2 Earlier clarifications / requirements include but are not limited to:

- a) IAN/1 dated 1st August 2008
- b) Letters / e-mails to Schemes from DCLG:
 - 22 December 2009 (various issues)
 - 11 May 2009 (data gatherers)
 - 30 December 2008 (APEL)

13 DEFINITIONS

- 13.1 National Occupational Standards** – standards for EAs that are approved by the United Kingdom Coordinating Group of National Occupational Standards Boards, as amended from time to time.
- 13.2 “Customer”** shall be understood as including any of the following:
- a) A person who commissions an energy assessment.
 - b) Any seller or landlord on whose behalf an energy assessment is commissioned.
 - c) Any person acting on behalf of the seller or landlord of a building for whom an energy assessment is produced.
 - d) The person who receives the Energy Performance Certificate (EPC) following a transfer of ownership or leasing arrangements.
- 13.3** A “**member**” is a person who can, unless suspended or struck off, lodge Energy Performance Certificates (EPCs) for non-domestic buildings because their membership of a Scheme demonstrates that they have been assessed as meeting the requirements of being an Energy Assessor. A member is an individual who may have one or more registrations with a Scheme, or Schemes. For the avoidance of doubt, when Schemes report on membership numbers they shall report on the number of unique individuals who can lodge EPCs for non domestic buildings and not on the number of registrations a Scheme has.
- 13.4 “Energy assessment”** means here the production of **Energy Performance Certificates** (EPCs) for Non-Domestic buildings (new and existing) and the accompanying recommendations for the improvement of the energy performance of the building.
- 13.5** An **Energy Assessor (EA)** refers to a person who has membership of a Scheme, and through this can lodge Non Domestic EPCs. In this document Energy Assessor equates to “Non Domestic Energy Assessor” (NDEA), and an EPC relates only to EPCs produced for non-domestic buildings (buildings other than dwellings).
- 13.6** A **Scheme**, or a Scheme operator, is an organisation in receipt of a Letter of Approval on behalf of the Secretary of State for Communities and Local Government to operate an Accreditation Scheme (Scheme) for a particular strand of the EPBD.
- 13.7 EPBR Strand**, the following are strands associated with the EPBR, each of which requires an “Approval Letter”:
- Energy Performance Certificate (EPC) production for existing dwellings.
 - Energy Performance Certificate (EPC) production for new dwellings.
 - Energy Performance Certificate (EPC) production for Non Domestic buildings (for Levels 3, 4 & 5).

- Display Energy Certificates (DEC), and Advisory Reports for public buildings
- Air Conditioning Inspection Reports (ACIR) (for Levels 3 & 4).

13.8 A **Scheme** refers to an organisation in receipt of a Letter of Approval on behalf of the Secretary of State for Communities and Local Government to operate an Accreditation Scheme associated with the EPBR.

13.9 If a Scheme **revokes** membership, it refers to the instance where it withdraws membership from an individual due to specified breaches in requirements. Section 11 relates to limitations associated with the terms “revoked” and “**struck off**” in the context of the sharing of information between Schemes via the registry.

APPENDIX 1.1

'FIT AND PROPER'

1. Requirements

- 1.1.1 Schemes shall demonstrate that proper and effective operational, recording, and reporting procedures are in place to decide whether applicants are, and Members remain, "fit and proper" persons. These procedures shall be applied in a fair and open way that is compliant with legislation.
- 1.1.2 Schemes shall:
- a) Make appropriate enquiries of the applicant and their employer about checks already made into the background of applicant EAs to enable them to make an informed judgement about whether the applicant is a "fit and proper" person. An applicant who makes a false disclosure on their application, regarding their employment or previous status as an energy assessor with another Scheme, shall not be considered "fit and proper".
 - b) Maintain checks / monitoring after membership is granted.
 - c) Reject applicants, or revoke membership, where the applicant or member is considered not to be a "fit and proper" person.
- 1.1.3 Scheme operators shall respond promptly to enquiries from other Schemes to confirm the membership status and disciplinary record of any former member.
- 1.1.4 Schemes shall:
- a) Have procedures in place which assess an individual against paragraph 1.1.2 in a transparent manner.
 - b) Have an appeals mechanism for applicants who have been turned down because they are not seen as "fit and proper", and for existing members who have been suspended or removed from membership because they are no longer deemed to satisfy the "fit and proper" requirements.
 - c) Inform applicants who have been turned down because they are not seen as "fit and proper", the reason for the decision, and how the appeals mechanism operates.

APPENDIX 1.2

ENERGY ASSESSOR CODE OF CONDUCT

1. Code of Conduct Requirements

- 1.1.1 The EA shall sign a Code of Conduct, provided by the Scheme, which includes the requirements in paragraphs 1.1.2 to 1.1.16 below.
- 1.1.2 The EA shall not provide an EPC where there is a conflict of interest in doing so. If an EA is uncertain what constitutes a conflict of interest they shall contact their Scheme to gain clarification.
- 1.1.3 The EA shall act in a professional manner, as defined by the relevant “National Occupational Standards”, available from Asset Skills.
- 1.1.4 The EA shall notify the Scheme operator of any complaints they have received.
- 1.1.5 Where an EA receives a complaint they shall provide the complainant with the relevant complaints procedure, and explain to them that if they are not satisfied with the way that the complaint is handled, how the Scheme complaints procedure can be accessed. The EA shall explain that the complainant’s statutory rights are not affected by accessing the complaints procedures.
- 1.1.6 Information obtained by the EA shall be confidential where it is not covered by the requirements to provide that information to their Scheme, to the organisation or individual who has commissioned the work, and to other formal requirements associated with the EPBR, including lodging the EPC on the appropriate Registry.
- 1.1.7 An EA shall not undertake an EPC if the nature of the building is such that the EA lacks the competence or knowledge to produce an accurate EPC for that building.
- 1.1.8 The EA shall agree to their Scheme sharing information it holds on the EA with other Scheme operators, Green Deal Certification Bodies, DCLG, the Department for Energy and Climate Change (DECC), and the Green Deal Oversight Body regarding paragraphs 1.1.8.1 to 1.1.8.4 below:
- 1.1.8.1 Disciplinary actions associated with any of:
- a) A failure to meet the EA Code of Conduct.
 - b) The production of defective EPCs.
 - c) A failure to meet CPD requirements.
 - d) Other matters relevant to the Code of Conduct.

- 1.1.8.2 Complaints against the EA which the Scheme has knowledge of.
- 1.1.8.3 Competency assessments, including the outcome of any QA checks.
- 1.1.8.4 The EA's CPD records.
- 1.1.9 In the course of their work the EA shall take reasonable steps to ensure their own, and the public's, health and safety. If an EA considers a building, or part of the building, unsafe they shall:
 - a) Record any such instances in their site notes.
 - b) If necessary inform others as part of their duty of care.
 - c) If necessary not continue with the provision of an EPC.
- 1.1.10 The EA shall show their identification to the person who provides access to the building and to the Customer (if different, and if possible).
- 1.1.11 The EA shall discuss with the person allowing them access to the building:
 - a) What access will be required, and whether this access is possible.
 - b) What photographs will be required, and why they are being taken.
 - c) What the person allowing access to the building should do if they have a complaint about the behaviour of the EA.
- 1.1.12 The EA shall lodge all EPCs produced in accordance with Scheme requirements.
- 1.1.13 The EA shall agree to be bound by all Scheme rules, shall follow all Scheme procedures, and will be bound by Scheme disciplinary procedures unless they are overturned on appeal.
- 1.1.14 The EA shall ensure that records associated with the production of an EPC are stored in a safe and secure manner.
- 1.1.15 The EA shall ensure that they are covered by an appropriate Level of Professional Indemnity and Public Liability insurance, and shall not provide an EPC unless so covered.
- 1.1.16 The EA shall not undertake any action that brings the EPBR or the Regulations that implement it into disrepute.

2. Policing of the Code of Conduct

- 2.1.1 Scheme operators shall carry out checks with EPC Customers with the aim of ensuring that members are complying with the Code of Conduct. As a minimum Schemes shall engage with any Customer who complains about an EA or an EPC, and specifically check with the complainant whether the EA satisfied those elements of the Code of Conduct which the complainant might reasonably be able to comment on.
- 2.1.2 In the instance where Schemes receive a complaint the complaint shall trigger a check as to whether the individual has had the appropriate Level of insurance cover required by the Scheme (Section 3).

3. Scheme Response to a Breach of the Code of Conduct

3.1 A Proportionate Response

- 3.1.1 DCLG requires that Schemes respond to transgressions against their Code of Conduct in a proportionate way.
- 3.1.2 As part of their disciplinary procedures Schemes shall include an approach which considers:
- a) The seriousness of the transgression in terms of the potential impact of the transgression on the Customer or other stakeholders.
 - b) Whether there have been previous transgressions, which might be relevant, and how recently these have taken place.
 - c) Any other evidence which the Scheme has available to it which might also be relevant.
- 3.1.3 In terms of the seriousness of the transgression, the following is provided as guidance:
- a) **Minor transgression.** No significant impact on a Customer or other stakeholder associated with the transgression. The appropriate response here would be to inform the assessor of the nature of the shortcoming, and check that the assessor's behaviour changes. An example would be where a misunderstanding of an element of the code of conduct occurs which does not result in a significant impact on the Customer or other stakeholder.
 - b) **Significant transgression.** A transgression which has a significant impact on a Customer or other stakeholder. This category falls between "Minor" and "Major" transgression. Depending on the nature of the transgression the EA may be required to undertake additional training to modify their behaviour whilst being allowed to continue to lodge certificates, or may be subject to suspension until a period of training has been completed.

c) Major transgression. Compelling evidence that an EA has failed to meet the code of conduct, in a way which has had a major impact on the Customer or other stakeholders. Here an energy assessor can be expected to be suspended pending a disciplinary hearing. An example would be where the energy assessor has provided a specific recommendation to a Customer, which is aimed at securing additional work for the energy assessor rather than being either a standard output from the EPBD software, or a recommendation which reflects a professional judgement.

3.1.4 In the case of “minor” or “significant” transgressions Schemes shall check on, and record, the effectiveness of remedial action. The Scheme shall have an escalation process in place if remedial action does not substantively remedy the shortcoming.

3.2 Further examples:

3.2.1 Referring to Section 1, compelling evidence regarding an EA breach of the Code of Conduct paragraphs 1.1.2, 1.1.3, 1.1.5, 1.1.6, 1.1.7, 1.1.9, 1.1.10, 1.1.12, 1.1.13, 1.1.15, 1.1.16 shall be seen as a “major transgression”, which shall result in the immediate suspension of the EA, pending an investigation by the Scheme operator which shall be undertaken in a timely manner. Action on 1.1.13 is dependant on the nature of the breach being covered by specific DCLG requirements in the SOR outside of paragraph 1.1.13. For example individuals who the Scheme suspends for late payment shall not be marked at “suspended” on the Registry (see Section 11) as this is not a specific requirement of the SOR.

3.2.2 Where the evidence is less than compelling, but more than hearsay, the Scheme shall make enquiries before undertaking action, and that action shall be proportionate to the outcome of those enquiries and in line with other requirements laid out in this Appendix.

3.2.3 Referring to Section 1, compelling evidence regarding a breach of the Code of Conduct paragraphs 1.1.4, 1.1.11, 1.1.14 shall result in:

- a) 1st instance: Scheme shall inform the EA that they are in breach of the Code, and what remedial measures they need to take.
- b) 2nd instance: EA to be reprimanded, and informed that a further failure will result in them facing disciplinary action which shall be that they are suspended until they have undertaken measures to remedy the deficiency.
- c) 3rd instance: The EA is suspended, until they have undertaken measures identified by the Scheme as being reasonable and proportionate to remedy the deficiency. The Scheme shall implement additional checks to assess the effectiveness of those measures..

APPENDIX 2

CONTINUING PROFESSIONAL DEVELOPMENT REQUIREMENTS

1 General Requirements

- 1.1.1 Schemes shall have procedures in place which ensure that EAs undertake continuing professional development (CPD).
- 1.1.2 For the purposes of this document there are three types of CPD which Schemes shall require of Members and about which they shall ensure evidence that the CPD has been undertaken:
- a) **Changes in Requirements.** This relates to CPD requirements required for an EA to retain their competence in the face of changes in the way in which EPCs are required to be produced. This is covered in Section 1.2 of this Appendix.
 - b) **Disciplinary Requirements.** This relates to CPD requirements required by the Scheme as a result of disciplinary action. This is covered in Section 1.3 of this Appendix.
 - c) **Other Professional Development.** This covers the need for the EA to undertake on-going professional development separate to that identified in a) and b) above. This is covered in Section 1.4 of this Appendix.

1.2 Changes in Requirements.

- 1.2.1 Scheme operators shall ensure that all their members have access to changes in requirements as soon as practical where there are changes in any of:
- a) Software.
 - b) Scheme requirements.
 - c) Other changes which materially affect the way in which EPCs are provided or EAs operate.
- 1.2.2 Where training is required to ensure that the EA is competent to deliver EPCs in the changed circumstances, the Scheme shall identify suitable training providers, implement checks that this training is undertaken, and where necessary check the competence of the EA following the training. DCLG may from time to time issue instructions as to the need for information, training, and testing associated with the release of new software or software conventions.
- 1.2.3 There is no specified time requirement for this set of requirements. The requirement is for EAs to keep their professional competence up to date by undertaking whatever training is necessary.

1.2.4 Scheme operators shall keep records which can be used to demonstrate that any required training, and where necessary testing, in this category has been undertaken.

1.3 Disciplinary Requirements.

1.3.1 Where, for example due to a failure of a QA audit, an energy assessor is identified as requiring remedial training, the Scheme shall identify these requirements, ensure that the EA has completed any remedial training, and put in place procedures which ensure that the remedial training has been effective. There is no specified time requirement for this set of requirements. The requirement is for Schemes to specify an appropriate training regime and subsequent compliance regime for the EA to demonstrate their competence. Scheme operators shall keep records which demonstrate that any required training, and where necessary testing, in this category has been undertaken.

1.4 Other Professional Development.

1.4.1 Scheme operators shall work with their members to develop personal development plans which meet the requirements of the individual EA, outside of the two categories listed above. Schemes need to define the types of CPD which they believe are appropriate for their members, and the evidence needed to demonstrate that this CPD has been undertaken. Schemes shall require a minimum of 10 hours of CPD per year in this category. Where an assessor is accredited in more than one strand of the EPBR, they shall undertake an additional 5 hours CPD per year in this category for every additional strand, over and above the minimum 10 hours required.

2 CPD Monitoring

2.1.1 Schemes shall require their members to keep up to date records of the CPD they have undertaken. Schemes shall be able to demonstrate that their members have completed any requirements associated with CPD undertaken under the above headings of "Changes in Requirements", and "Disciplinary Procedure requirements". Particular monitoring requirements associated with "Change in Requirements" will be specified by DCLG from time to time. Schemes shall check that all CPD requirements associated with disciplinary requirements have been met. If a member fails to demonstrably undertake CPD in these areas they should be subject to a disciplinary procedure which leads to, or maintains, their suspension until they have completed the necessary CPD.

2.1.2 For CPD under the heading above of "Other Professional Development", Schemes shall randomly sample at least 5% of members annually to ensure that they have undertaken the necessary level of CPD. This means that Schemes shall require that members provide their CPD return. Failure to do so shall be treated by Schemes as a disciplinary

matter, which ultimately leads to the suspension of the member if the CPD return is not forthcoming within 15 working days of the request.

3 Scheme Procedures

3.1.1 Scheme operators shall have procedures in place which enable them to demonstrate that these requirements are being met. Scheme operators shall keep records of CPD undertaken by assessors that are subject to disciplinary procedures.

4 CPD / Training and Scheme Conflicts of Interest

4.1.1 Unless CPD / training is provided by Schemes as part of the membership fee, Schemes shall not require attendance on training events provided by themselves. Schemes shall not mandate training with any single training / CPD provider, and shall declare to their members any link that the Scheme has with the training provider.

4.1.2 Schemes can only charge members for competency testing following training where such training has been mandated by the Scheme as a result of disciplinary action. However Schemes shall ensure that charges for such tests are proportionate and applicants shall be made aware that these charges will be levied at the point at which they apply for membership of the Scheme or renew their membership.

4.1.3 DCLG intends to inform Schemes when software or other changes in operating practice require mandatory CPD and whether the Scheme shall undertake, and may charge for, testing associated with software or other changes.

4.1.4 In the instance of EAs requiring training because of a failure associated with QA Audits, DCLG sees the additional QA monitoring regimes associated with QA failures required in Appendix 5 as being the only checks necessary to ensure that any remedial training has been successful.

APPENDIX 5. SCHEME QUALITY ASSURANCE (QA) REQUIREMENTS ASSOCIATED WITH NON- DOMESTIC ENERGY ASSESSORS (EA)

1 INTRODUCTION

1.1.1 Requirements associated with Scheme auditing of EPCs produced by EAs are provided in the following Sections of this Appendix:

- Section 2: Accuracy of EPCs, and the methodology for assessing whether they are defective.
- Section 3: Evidence supporting EPCs.
- Section 4: Methods of sampling of Scheme members' EPCs.
- Section 5: Requirements on Quality Assurance Assessors (QAAs).
- Section 6: Provisions for replacing defective certificates.
- Section 7: Scheduling of EPC audits and the replacement of defective EPCs.
- Section 8: Monthly reporting to DCLG of the results of Schemes' member QA.
- Section 9: The avoidance of conflicts of interest.
- Section 10: Participation in Cross Scheme moderation activities.
- Section 11: Requirements for Disciplinary measures.
- Section 12: Handling the outsourcing of QA.
- Section 13: Dealing with uncertainty.

1.1.2 Cross references apply to text within this Appendix unless otherwise indicated.

1.1.3 In this Appendix:

- a) An "EPC audit" means an audit of an EPC by a QAA as referred to in Section 5 using the methodology referred to in Section 2. For the avoidance of doubt, this refers only to those EPCs for which sufficient evidence has been provided to undertake an EPC audit, and where the results of the audit have been provided to the EA.
- b) "EPC audited", or "audited" means an EPC audit has been completed and EPC feedback provided to the EA.
- c) An "EPC called for in month" means that within a given calendar month, the first request for evidence to an EA has been sent.

2. ACCURACY REQUIREMENTS AND CALCULATION METHODOLOGY.

2.1 Standard DCLG Approach

- 2.1.1 The Scheme target set by DCLG is for no more than 5% of EPC audits in any month under the heading “random sample” (see Section 4) to be judged to be defective.
- 2.1.2 The methodology used to determine whether an EPC is defective shall be based on an assessment by the Scheme QA team, shall be evidence based, shall follow DCLG requirements identified in Section 2, and the quality and availability of the evidence used by the Scheme shall be such that the Scheme audit can be replicated by DCLG.
- 2.1.3 The Scheme shall inform their members as to the minimum level of evidence that is acceptable to allow an EPC to be audited. Schemes shall copy the DCLG Scheme Manager with a copy of these requirements.
- 2.1.4 In calculating the accuracy of EPCs, the Scheme shall use the software conventions approved by DCLG extant at the time the EPC was produced, and using the same DCLG approved software as that used by the EA.
- 2.1.5 If the Scheme’s monthly return to DCLG (see Section 8) shows that more than 5% of EPCs lodged by Scheme members are defective, the Scheme shall submit a further report within 5 working days of submitting the return to inform the DCLG Scheme Manager what measures the Scheme is implementing to improve the accuracy of their members’ EPCs.
- 2.1.6 The QAA shall review whether the number of zones selected for the building is sufficient to accurately determine the energy performance of the building. If the QAA believes that the number of zones used by the EA to describe the building is insufficient then the EPC shall be deemed defective; the EA informed as to the QAA’s judgement and reasons for that judgement, and the EA required to replace the EPC.
- 2.1.7 The QAA shall form a view as to whether the EA has correctly classified the building as Level 3 or Level 4. Where an assessor does not have sufficient competence to assess the building, i.e. an energy assessor who is only qualified to undertake Level 3 EPCs has assessed a building which should have been categorised by the EA as a Level 4 building, the EA shall be subject to Scheme disciplinary

action (section 11). Where a Level 5 building is assessed by an EA as a Level 3 or Level 4, the EA shall be subject to disciplinary action, and the EPC shall be marked as defective. In this latter instance only, the Scheme is not responsible for replacing the defective EPC should the EA fail to do so, but they shall use their best endeavours to inform the client of the building that the EPC they have been issued is defective should the EA not replace the certificate, and provide the client with details of the EA's professional indemnity insurance.

2.1.8 Based on the evidence provided by the EA, the QAA shall calculate the difference between their and the EA's BER and EPC rating using the methodology set out in Sections 2.2 and 2.3 below. With reference to these Sections "critical input" are defined as:

- a) General information – NOS Level, Weather location, Orientation, Metering, Power factor, Air permeability, Accredited Details.
- b) Construction types/elements – U and Km values for opaque constructions. Glazed fittings and openings: Area, U-value, and g-value (where applicable) of windows, roof lights, and doors. Exposed thermal elements: Area and U-values of external walls, floors, roofs.
- c) HVAC systems – efficiencies and fuel type for heating, cooling, and DHW systems (including storage, losses and secondary circulation data where required), air distribution system efficiency parameters.
- d) Ventilation system – local mechanical exhaust, extraction or supply only and extraction and supply systems, SFP and heat exchanger type and efficiency.
- e) Lighting and lighting controls
- f) Zoning including total zone area and building area along with assigned activities.
- g) Inclination of roof element – for any EPC using compliance with 2010 Building Regulations onwards.
- h) Flat roof assignment.
- i) Record keeping including: notes, drawings, and photographs.

2.1.9 Where an EPC is audited, feedback shall be provided to the EA.

2.1.10 Any replaced EPC shall be automatically audited as part of targeted sampling (section 4.3)

2.1.11 Schemes shall inform their EAs about Scheme QA procedures including evidence requirements, and the methodology used to calculate the whether an EPC is assessed as being defective.

- 2.1.12 Apart from specific instances identified in the SOR, Schemes shall not forewarn individual EAs that they will be undertaking QA on a particular lodgement.
- 2.1.13 For any areas where there is uncertainty as to interpretation of a particular software convention, Schemes shall inform their members as to their interpretation of an acceptable approach pending official clarification. Schemes shall also raise the issue with DCLG and the appropriate software conventions group so as to obtain the official clarification as soon as possible.
- 2.1.14 In the case of EPCs which are replaced due to EA self-reporting of errors, Schemes shall request evidence, and audit the EPC lodged at the point where the request to the EA for evidence is made. So, if the EA has replaced an EPC prior to the Scheme requesting evidence, the replacement EPC shall be assessed. Where the EA has replaced the EPC after the scheme has requested evidence, the Scheme shall assess the original EPC.

2.2 Buildings With 20 or Fewer Zones

- 2.2.1 The QAA shall review evidence provided by the EA. If it falls below Scheme requirements the audit shall be marked as a “fail”, the EPC assessed as defective, and the Scheme shall inform the EA of the need to replace the EPC.
- 2.2.2 The QAA shall then assess differences between the EA and themselves regarding differences in the BER and the EPC rating using the following procedure:
- 2.2.3 The QAA shall assess the accuracy of the BER calculation and EPC rating as follows:
- a) The QAA shall work through the EA’s assessment using the evidence provided by the EA for each data entry field required by the software for all of the critical elements identified in paragraph 2.1.7 and relevant sub-paragraphs.
 - b) For each data field where the QAA believes that there is a need to change the data, the QAA shall list the data fields considered to be incorrect, and shall then change the input data for each data field in all relevant elements and for all zones and then recalculate the BER rating.
 - c) The QAA shall note the variance in the BER arising from any change, and shall record the variance as a positive value in each case whether the variance is negative or positive, as well as the reason for the change.

- d) The QAA shall then reset the field(s) in question to the EA's original value.
- e) The QAA shall then move to the next entry field and repeat testing from step b) above.
- f) When all entry fields have been checked the QAA shall add all the differences obtained by step c) to arrive at the cumulative error in the BER rating.
- g) Schemes shall not make use of truncation or rounding within their calculation processes, eg 4.4 cannot become 4, where software provides a more accurate outcome.
- h) The BER rating (sum of absolute errors given in f) above) shall be judged to be correct if the EA's assessment is within either 5 kgCO₂/m² of the rating calculated by the QAA, or 10 per cent of the BER rating calculated by the QAA. In all other instances the BER rating, and hence the EPC, shall be judged to be defective, and the audit marked as a fail.
- i) In addition to these checks, if errors in data entry by the EA result in a material change of recommendations as to energy efficiency measures, the audit shall be marked as a fail, and the EPC shall be judged as being defective.

2.3 Buildings With More than 20 Zones

- 2.3.1.1 Where a building has more than 20 zones, the QAA shall review all global values plus a sample of 20 zones, plus at least 10% of the remaining zones once the first 20 have been reviewed. These zones shall be selected by the QAA to be the most critical in the buildings when it comes to BER calculations and recommendations, depending on the servicing strategy. For each HVAC plant type present a selection of zones that HVAC plant services shall be checked. Zones shall be representative of the building as a whole, and shall include the major functional areas.
- 2.3.1.2 The following are acceptable means of reviewing BER and EPC errors:
 - a) Check all zones in the building following the methodology in paragraph 2.1.2.
 - b) Check all global values following the methodology associated in paragraph 2.1.2. Then check the 20 most important zones plus 10% of the remaining zones following the methodology followed in paragraph 2.1.2. Calculate $n = 20 + 10\%$ of total number of zones. Cumulate the total floor area of all n sampled zones (TFA of sampled zones = TFA of Zone 1 + TFA of Zone 2 + ... + TFA of Zone n). Calculate the "escalation factor" (F) by dividing the total floor area of the EPC by the total floor area of

sampled zones: $F = \text{TFA of EPC} / \text{TFA of sampled zones}$. Multiply the cumulative error in the BER associated with all zones sampled with F . If this error plus any error associated with global zones is outside acceptable accuracy limits given in paragraph 2.1.2, the EPC is defective. If the recommendations associated with the EPC changes due to differences between the QAA and the EA data entry, the EPC is defective. The EPC shall be calculated by the EA when all differences between the EA and QAA are entered into SBEM.

- c) The sampling requirements specified in 2.3.1.2(b) above are minimum requirements. QAAs may apply additional sampling, of anything up to 100% of zones, to establish whether an error that is identified in one zone is a single occurrence or whether it is likely to have been repeated in other zones. Where additional zones are checked and the error is found to be repeated in 45% or more of the zones in which a similar error might occur, then the escalation factor described in 2.3.1.2(b) above shall be applied. Where the error is found to be repeated in less than 45% of the zones in which a similar error might occur, then the QAA may make a judgement that the escalation factor described in 2.3.1.2(b) above shall not be applied. However, any zones in which the error is repeated shall be treated as cumulative errors for the purposes of determining the outcome of the audit. In either case the QAA shall record the evidence to support their decision such that an independent auditor can make an assessment of whether the judgement made by the QAA was reasonable. If the error plus any error associated with global zones or the application of the escalation factor is outside acceptable accuracy limits given in paragraph 2.3.1, the EPC shall be classed as “defective”, and the EA required to replace it. If the recommendations associated with the EPC change due to differences between the QAA and the EA data entry, the EPC shall be classed as defective and the EA required to replace it.
- d) Another methodology agreed by DCLG.

2.3.1.3 In paragraph 2.1.2.2b an acceptable alternative where an EPC is identified as defective before all data entry checks are completed is to move to a shortened approach whereby the EA no longer has to identify the absolute errors associated with each data entry, but instead identifies any further errors the EA has made, and records these.

2.4 Cross Scheme Alternative Approach

2.4.1 DCLG would welcome a proposal from Schemes acting in collaboration to develop an alternative approach to the QA of Level 3 and Level 4 Non Domestic EPCs. Annex A to this Appendix provides detailed DCLG requirements associated with such an approach. In summary Annex A requires:

- a) That the proposed alternative QA approach is submitted on behalf of at least three Schemes who currently QA non domestic EPCs at Level 3 and 4.
- b) That the submission provides details of the governance (standard development, cross Scheme moderation, ownership, membership); details of the initial standard (which shall cover each of the main headings in Appendix 5 of the SOR); and a statement which demonstrates how the alternative QA approach is at least as effective as the “standard DCLG approach”, in ensuring that defective EPCs are identified and replaced.
- c) In any proposed alternative DCLG shall require that it has the final say on any alternative QA “standard” or governance approach, or amendments to these.
- d) DCLG shall continue to have full powers of access and inspection for the purposes of establishing on-going performance compliance.

2.4.2 If DCLG accept the alternative approach proposed by Schemes, it is minded to require all Schemes to adopt this alternative approach.

3. Evidence Requirements Associated With EPC Audits

3.1.1 Schemes shall require their members to provide sufficient material to their Scheme QAAs in response to calls for audit such that EPCs can be recreated by an independent QAA.

3.1.2 Evidence provided by an EA shall be such that an independent assessor can be reasonably certain it relates to a particular EPC.

3.1.3 Schemes shall retain the evidence provided by an EA to a Scheme, and the workings of the QAA undertaking the audit of the EPC such that DCLG can replicate the QAA’s work.

3.1.4 Schemes shall circulate information to their members, copied to the DCLG Scheme Manager, regarding specific evidence required by the Scheme to allow QAAs to satisfactorily complete audits. This shall include information about the need to take photographs which are clear and, where possible, in particular case context. The over-riding principle is that Schemes shall be able to demonstrate to DCLG that

the evidence being required by them, and supplied by the EA, is of sufficient quality and detail to enable thorough assessment by the Scheme QAA, and replicated by DCLG. Table 1 provides a minimum set of evidence requirements by DCLG.

- 3.1.5 Requirements for disciplinary procedures for dealing with non-provision or inadequate provision are given in Section 12.
- 3.1.6 Schemes shall notify EAs of their EPC auditing requirements.
- 3.1.7 Schemes shall assess the quality of photographic material, or other evidence, which is provided by their EAs regarding relevance, clarity, accuracy and provenance. As part of this process Schemes shall include checks on previous EPC audits of an EA's work should there be concerns that the EA is using stock photographs. These checks shall be satisfied by comparing photographs supplied for the three previous EPC audits (if previous audits have been undertaken) to assess whether the same image has been provided as evidence for more than one EPC.
- 3.1.8 In addition to these checks on specific cases, in 2% of EPCs audited the Scheme shall undertake checks that stock photographs have not been used in a similar manner to that identified in paragraph 3.1.7.
- 3.1.9 Where Schemes have doubts about the photographs provided by a particular EA, they shall require that EA to provide further information, and in future require a greater degree of evidence from the EA, or undertake additional checks on the EA's work.

APPENDIX 5, TABLE 1: Minimum Evidence Requirements

The table provides the minimum Level of evidence which shall be required by Schemes as part of the QA of Energy Assessors.

REQUIRED EVIDENCE	COMMENTRY
EXISTING BUILDINGS	
Data file, and or software data collection forms, relating to information used by an EA to calculate and EPC, which allows Scheme QAA to assess the accuracy of the EPC against each stage of data entry associated with SBEM	
Site Notes.	<p>The EA shall provide within the site notes (or design commentary notes) anything used in support of:</p> <ul style="list-style-type: none"> • Confirming data input or decision making that cannot be substantiated by other sources of evidence • Reflective thought, hand calculations, or amendments to recommendations (identifying building age, construction, assessing primary heating system etc), which is not provided through other sources of evidence.
Design Floor Plan, elevations, sections, building log book etc which allows the EPC to be recalculated.	Where these documents are not available photographic evidence shall be required which can demonstrate missing elements – eg photographs which demonstrate construction type,
Evidence of zoning.	Evidence of zoning shall be by way of an annotated drawing of the building identifying the zones.
Schedule of what is in every zone.	In buildings with many zones, photographic evidence shall be provided to support zone classification.
<p>Other evidence requirements</p> <p>Arial view of building from Google maps or similar that clearly identifies the building and site layout to confirm orientation, or a hyperlink to the satellite view of the building.</p> <p>Individual assessors are responsible for ensuring that they comply with any terms and conditions attached to the use of such material.</p> <p>Photographs of all external elevations: front, rear and side(s)</p> <p>Photographs demonstrating all construction types (eg cavity or solid wall) with a demonstration of, where possible, the presence or not of insulation</p> <p>Photographs of glazing types, including sufficient information, where necessary supported by site notes, of the g-value selected (g-value (EN ISO 410).</p> <p>Photographs of shading types</p>	<p>For HVAC, lighting, controls and fabric the evidence needs to demonstrate the data entered into SBEM.</p> <p>Schemes shall provide their members with information as to the evidence that they shall provide to allow the Scheme QAA to audit their work.</p> <p>Evidence requirements shall specify those elements which are required for SBEM. For each HVAC & lighting system this shall include the requirement to provide appropriate evidence, including photographs, manufacturers make and model, and evidence of any third party calculations, to, for example:</p> <ul style="list-style-type: none"> • 'Effective heat generator seasonal efficiency', • Generator Seasonal Energy Efficiency Ratio (SEER) and Generator Nominal Energy Efficiency Ratio (EER), • Chiller and generator type, • Heat recovery system, • Presence of fans and pumps along with pump power and/or SFP, • Fuel type and controls. (including HVAC manufacturer/make/model numbers and any third

<p>Photographs of roof construction including any rooflights. Photographs which demonstrate the full range of HVAC & lighting systems used in the building.</p>	<p>party evidence of calculations). Heat emitters and cooling terminal units within zone/areas Controls within zone/areas DHW type, efficiency, fuel, volume and/or storage losses, pump power, secondary circulation Lighting within zones and controls Evidence of LZC technologies and relevant data Sub-metering Power factor correction – if no photograph or other compelling evidence then the QAA shall select 0.9 or worse. Any other key feature of the building or limitation whose presence or absence may affect the EPC rating or which would be required to support any claim made in the report that could be subsequently queried or be the subject of a complaint. Any unusual feature which leads to an adjustment in the floor area from a simple calculation based on plan areas.</p> <p>Where the Energy Assessor believes that photographs are not practically achievable, but a particular element / energy using device is present, site notes shall explain why the photographic evidence is not available. The QAA shall form a view as to whether the claim is reasonable. In this regard the QA assessor needs to record reasons why the absence of photographic evidence have been accepted to allow a review by DCLG.</p> <p>Photographs shall be dated within the image to avoid the use of stock images. Electronic files will only be acceptable if there is a secure means of dating the file.</p> <p>If there is a particular reason for a failure to provide evidence which is outside of the control of the Energy Assessor, the Scheme can apply to the DCLG to implement a revised set of requirements.</p> <p>Lighting and controls. Evidence shall be photos of lamp types, combined with numbers of lights and the lighting schedule from site notes. Where lux measurements and hand calculations are provided supporting evidence (photographs) shall be required. Daylight linked controls requires photos of sensors on ceilings.</p>
<p>Supplementary calculations undertaken by the assessor</p>	<p>Examples of these might be:</p> <ul style="list-style-type: none"> • Overshading calculations • Common values • CoP /SEER / EER • SFP • Extraction rates.
<p>Accredited details</p>	<p>Can only be used with existing buildings if evidence that they were accepted at the time of design can be provided.</p>
<p>Any other evidence required to justify the suppression or inclusion of additional recommendations</p>	<p>Example of this might be:</p> <ul style="list-style-type: none"> • a guarantee or a building control notice for improvements • evidence of a building's age
<p>Ventilation rates</p>	<p>Evidence for the ventilation rate selected shall be provided</p>

	– including in the instance that the default value is selected.
Specific fan power	Follow conventions.
Recommendations report	If no recommendations have been eliminated the QAA shall check that recommendations do not relate to a technology which does not exist within the building or is not appropriate.
NEWLY CONSTRUCTED BUILDING OTHER THAN A DWELLING	
Data file, and/or software data collection forms, relating to information used by an Energy Assessor to calculate the BER and asset rating, which allows Scheme QAA to assess the accuracy of the EPC against each stage of data entry associated with SBEM. The information shall allow the Scheme to deduce the software (and version) used to produce the EPC. Solar values, U, L Km and T values	The QAA needs to validate that the EA has correctly input data into the EPC generation software. As such the QAA needs access to the same Level of information as that required to produce the EPC. For more complex buildings the QAA may limit the number of zones (see section 2) which are checked.
Evidence of zoning.	Evidence of zoning shall be assessed by examination of an annotated drawing of the building identifying the zones. If architectural drawings with references are submitted, these references shall be annotated by titles on the zoning diagram or a copy of the architects references provided. If no documentation is available which provides a summary of what is in each zone, sample photos shall be provided for each type of zone and these shall be referenced against a schedule of what is in each zone.
AS BUILT CHECKS Evidence that the building has been built as per the design:	<ul style="list-style-type: none"> • Statement from the developer, or equivalent person who is working for the client who is in a position to provide a professional judgement, that the building has been constructed (services, fabric U-value and glazing g-value etc) in line with the design, and if not what the differences are between are between the finished building and the design. • Copy of the pressure test certificate or evidence of other confirmation of compliance with the Building Regulations as accepted in the particular case by Building Control. • Accredited Construction Details (ACD) certificate, if applicable.
Details of any supplementary calculations undertaken by the assessor	Examples of these might be: <ul style="list-style-type: none"> • Overshading calculations • Common values • CoP /SEER / EER • SFP • Extraction rates. • Emission factors for district heating Schemes (either calculated or provide documentation from the provider/ESCO)
Any other evidence required to justify the suppression or inclusion of additional recommendations	

4. SAMPLING REQUIREMENTS.

4.1 Introduction

4.1.1 DCLG requires Schemes to use a mix of “random sampling” and “targeted sampling” when undertaking checks on their members’ work. The requirements for these two sampling approaches are detailed in this Section. The reporting of outcomes from these audits is covered in Section 8.

4.2 Random Sampling

4.2.1 “Random sampling” is defined as the selection of audits such that:

- a) The EA whose EPC is to be audited shall be unable to identify which EPCs are to be called for audit – apart from those instances noted later.
- b) The selection of EPCs for audits shall not be biased in any way to make the outcome of an audit more favourable, or easier to undertake.

4.2.2 For each Scheme in each calendar year, a minimum of 2% of the EPCs lodged in that year shall be audited by Schemes through a process of random sampling. The 2% check excludes “targeted” audits, which are covered in Section 4.3.

4.2.3 While the numbers of EPCs audited may vary between individual calendar months the number shall not fall below 2% of EPCs lodged in any Quarter, or below 1% of the number of EPCs lodged in any calendar month.

4.2.4 The calendar year is 01 January to 31 December. Quarters are the periods: 01 January to 31 March, 01 April to 30 June, 01 July to 30 September, and 01 October to 31 December.

4.2.5 The numbers of EPCs reported under “random sampling”, as contributing to achieving the minimum 2% annual sampling rate, can include the other minimum checks on EAs described in paragraphs 4.2.6 and 4.2.8. DCLG accepts that in these cases the requirements in paragraph 4.2.1 may not be met.

4.2.6 **Minimum checks.** Members shall be subject to a minimum check of:

- a) One EPC audit in each of the periods 01 January to 30 June, and 01 July to 31 December, unless they lodge no EPCs in those periods.

b) 1% of their EPCs over the calendar year.

4.2.7 **Schemes** can manage auditing such that no EA is subject to more than two audits in any single calendar month subject to at least 1% of their EPCs being assessed over the calendar year.

4.2.8 **New members.** New EAs shall be assessed within the first 30 days of their membership if they lodge EPCs in that period or else on their first available EPC. Following this the sampling rate for newly registered EAs shall be at least 5% of lodged EPCs during the first six months of their membership. New members to the Scheme include those who are:

- a) New to the EPBD.
- b) Or new to the Scheme, unless they are currently members of another Scheme, or Schemes, and that checks with all Schemes which they have membership of have found that the individual is not subject to heightened QA by any other Scheme.
- c) Or have not lodged in the previous 12 months.

4.2.9 Schemes shall on request provide information about whether an EA is a current or former member of their scheme, whether the EA is subject to heightened monitoring, and that the EA has lodged an EPC at the appropriate level in the preceding 12 months, when requested to do so by another Scheme, and in a timely manner, the following information:

- Whether the EA is, or has been, a member of the Scheme for the EPBD strand and NOS level requested;
- When the EA last lodged an EPC for the stand and NOS level requested;
- Whether the EA is currently subject to heightened QA for the strand and NOS level requested.

4.2.10 Schemes shall provide, on request and in a reasonable timescale, the following information about an EA who is a member of their Scheme, or who previously been a member of their Scheme:

- A statement as to whether the EA has been subject to heightened QA monitoring, over which period, and why.
- Whether the EA has lodged an EPC, at the level requested by the Scheme, over the preceding 2 years, and the date of the last lodgement at the level requested.

4.2.11 The Scheme can apply to DCLG to allow a temporary reduction in sampling requirements in light of, for example, unusually high lodgement rates in any month. Although agreement to such variations will not be unreasonably withheld, any shortfall shall be required to be

made up within a timescale to be agreed with the DCLG Scheme Manager.

4.3 Targeted Sampling

- 4.3.1 Targeted sampling refers to a number of specific instances where risk factors such as a failed random sample audit triggers the need for additional audits. Targeted sampling is required in instances defined in paragraphs 4.3.2 to 4.3.13.
- 4.3.2 **“Random sample” failed audit.** Where a “random sample” EPC audit results in a failure, the Scheme shall audit 2 further EPCs including at least one EPC lodged within the 30 day periods both prior to and following the date at which audit feedback is given to the EA. If this is not possible, Schemes shall select at random 2 EPCs for audit that were lodged within the 30 days following the date of the initial call for audit, or the next 2 EPCs to be lodged if this time period is exceeded. The only exception to this is if the calculation conventions have changed in the period of 30 days prior to feedback being given to the initial case failure. In this situation the first two EPCs produced since the introduction of the new calculation conventions shall be selected for audit.
- 4.3.3 **“Targeted sample” failed audit.** Where a “targeted sample” EPC audit identifies a defective EPC, the Scheme shall take due account of the nature of the failure, and history of the particular EA’s other failures, and any risk factors which the Scheme is aware of and take appropriate action. Section 11 gives requirements for Scheme actions in a number of examples of “targeted sample” audit failure.
- 4.3.4 **Failure to Provide Evidence.** Where an EA fails to provide any evidence, the Scheme shall immediately suspend the EA subject to the requirements of Section 11.2.1.
- 4.3.5 **Failure to Provide Sufficient Evidence.** Where an EA fails to provide sufficiently good evidence to allow a QAA to undertake an EPC audit, the Scheme shall audit additional EPCs in line with requirements set out in Section 11, including the need for additional checks.
- 4.3.6 **Use of Stock Photos.** In those instances where there is compelling evidence that an EA has used stock photographs, and does not have their membership revoked, disciplinary actions and targeted sampling requirements are given in Section 11.

- 4.3.7 **Replacement EPCs.** EPCs produced to replace those which have been failed shall be audited.
- 4.3.8 **Excessive use of help desk.** Schemes shall have procedures in place which identify EAs who make unusually high use of the help desk, without obvious reason such as dealing with an unusual building, or whose queries suggest they are at high risk of producing EPC failures. These cases shall trigger as a minimum the auditing of the next available EPC and a sampling rate of 5% over the next six months.
- 4.3.9 **Customer Complaints.** Customer complaints shall normally result in an EPC being assessed by the Scheme under “targeted sampling”. Instances where this will not be the case can be: where the complaint refers to an aspect of the software used by the EA beyond the EA’s control; or a complaint which reflects a demonstrable lack of Customers understanding of the requirements of the EPC rather than any failing on the part of the EA. If the audit fails the Scheme shall audit two further EPCs as in section 4.3.2.
- 4.3.10 **High Lodgement Rates.** Schemes shall assess whether an EA is lodging an unusually high number of certificates in any calendar month. Where this is the case Schemes shall undertake additional checks that provide assurance that the EA has indeed visited the buildings where this is required. Requirements in a) to d) below shall apply:
- a) Consideration of what constitutes an unusually high number of lodgements shall take account of information received from DCLG or other Schemes where available (it is not yet a requirement to share information about the activities of EAs who may be lodging energy certificates through a number of Schemes).
 - b) Schemes shall be able to demonstrate that they are being proactive in this respect.
 - c) Scheme operators shall set their own thresholds for triggering additional checks associated with high lodgement rates, but this threshold shall not be more than 25 per calendar month.
 - d) Schemes shall be able to show DCLG that their approach and practice here are reasonable. A way of sampling whether an EA thought to be over-lodging is actually visiting buildings would be to choose 3 buildings visited in the same period (as close together as is practicable), and undertake checks that the photographs provided by the EA are all dated and different.
- 4.3.11 **Other risk factors.** Schemes shall intervene if they come to believe an EA is at high risk of lodging erroneous EPCs for any other reason.

An acceptable intervention in these cases as a minimum would be to call for an audit of the EA's next EPC.

4.3.12 **DCLG specified audits.** The Scheme shall undertake QA checks on specified EPCs if requested to do so by DCLG

4.3.13 **“Targeted Sample” Audit failure.** The requirements for disciplinary action and additional targeted EPC audits are provided in Section 11.

4.3.14 Statistics associated with failures of targeted sample audits shall be reported separately from those for the random samples - see Section 8.

4.4 Feedback to EAs & Minor Errors

4.4.1 Schemes shall provide feedback to the EA as part of every EPC audit .

4.4.2 Where minor errors are identified which do not result in an EPC being failed, the EA shall be given feedback which includes guidance on what they need to do to remedy the errors.

4.4.3 Where there is a pattern of repeated errors which do not result in a failed certificate but which are assessed as being likely to result in future failed certificates the requirements of Section 11.8 shall apply.

5. REQUIREMENTS FOR SCHEME QUALITY ASSURANCE ASSESSORS (QAA)

5.1 Introduction

5.1.1 This Section deals with requirements in the following areas:

Section 5.2: Demonstration that Scheme QAA are occupationally competent

Section 5.3: Moderation activities across Scheme QAA

Section 5.4: Verification activities where there is a sole QAA

Section 5.5: EA appeals against the work of a QAA

5.2 QAA are Occupationally Competent.

5.2.1 Schemes shall be able to demonstrate that QAAs are competent to undertake audits. DCLG consider that competence would be demonstrated if an individual has satisfied all of the following:-

- a) Is qualified, or met the requirements of the APEL framework prior to July 2010, so as to undertake EPCs at Level 4 for level 4 buildings and at Level 3 for level 3 buildings. Those working towards the relevant qualification may undertake QA assessments as a trainee

under the supervision of an experienced QAA. However, in these circumstances, the experienced QAA shall be responsible for the quality of the QA work undertaken, and the trainee shall achieve the qualification within 3 months of starting to practice as a trainee QAA.

- b) Can demonstrate that they have been trained in the relevant software and conventions.
- c) Has been trained in the process the Scheme is using to undertake EPC audits, and is undertaking additional training or CPD as necessary to maintain their competence. As a minimum this annual CPD shall be 10 hours.
- d) Demonstrates awareness and implementation of the current suite of technical and administrative requirements, calculation procedures and software versions and earlier variants where these may be applicable to their caseload.
- e) Has their work moderated against fellow QAA, or verified by a more senior individual who has extensive experience of assessing the work of EAs or of training EAs for Non Domestic Level 4 EPCs.
- f) Demonstrates an awareness of the need to identify and declare conflicts of interest and to avoid them where possible.
- g) Declares to the Scheme any previous, current or likely future relationship existing between the QAA and the member being audited. In such circumstances the Scheme shall decide whether a conflict of interest exists.

5.3 Moderation Activities Across Scheme QAA

5.3.1 Schemes shall moderate the activities of all their QAAs where more than one QAA undertakes EPC audits whether they are members of staff or subcontractors.

5.3.2 Moderation procedures shall:

- a) Seek to ensure correct implementation of the SOR.
- b) Seek to ensure consistency of process and outcome between QAAs.
- c) Enable learning through sharing experience.
- d) Identify QAAs' training and CPD needs
- e) Enable reviews and corrective actions as necessary of the progress of training and CPD programmes.

5.3.3 Schemes shall implement the following checks, or an equivalent approach which they can demonstrate to DCLG's satisfaction is at least as effective:

- a) The Scheme shall conduct a moderation meeting of QAAs on a quarterly basis, and shall keep records of discussion topics, actions

arising and outcomes. The Scheme shall appoint a lead QAA to chair these meetings.

- b) The lead QAA shall randomly check at least 1 audit each month for each QAA who undertook audit work that month. If as part of this work a QAA's practices or knowledge are found to be deficient, the Scheme shall identify appropriate remedial measures for the QAA as soon as is practicable. The Scheme shall check that, apart from those instances beyond the Scheme's control, these remedial measures have been successfully implemented within one month after their identification.
- c) As part of the moderation meetings in a) above, prior to that meeting the Scheme shall also arrange for all QAA undertaking audits on behalf of the Scheme in the preceding quarter to independently assess the same EPC to allow a comparison to be undertaken between all QAA, and identify corrective action accordingly in line with the actions required in paragraph b) above.
- d) Schemes shall ensure that all anomalies in practice identified in the quarterly moderation meeting are addressed by the end of the following meeting, apart from those instances which are beyond the Scheme's control.

5.3.4 The lead QAA in 5.3.3b shall be the first line of response to appeals by EAs against the judgements of other QAAs, unless there is a conflict of interest in them doing so, in which case the Scheme shall identify another QAA who can do so.

5.3.5 Where a DCLG inspection finds that a QAA has material errors in more than 1 in 10 audits examined, the Scheme shall implement appropriate corrective actions as identified by DCLG.

5.4 Verification Activities Where There Is A Sole QAA

5.4.1 Schemes with just one QAA shall develop and implement procedures that seek to verify satisfactory performance. Schemes shall implement the following checks, or an equivalent approach which they can demonstrate to DCLG's satisfaction is at least as effective.

5.4.2 Any individual who acts as a verifier shall be suitably competent as defined in Section 5.2.1.

5.4.3 Verification procedures shall :

- a) Seek to ensure the correct implementation of the SOR.
- b) Seek to ensure consistency of process and outcomes.
- c) Enable learning through sharing experience.
- d) Identify QAAs' training and CPD needs.

- e) Enable reviews and corrective actions as necessary of the progress of training and CPD programmes.

5.4.4 Verification procedures shall ensure that the QAA's practice is verified by examination of at least 2% of their caseload over each quarter, with a minimum (if practical) of at least 1 audit verified each month for the QAA. However at least 10% of the caseload of an QAA shall be examined each month under any of the following circumstances:

- a) The QAA is operating as a QAA for the Scheme for the first time.
- b) Verification has indicated a significant level of error, where significant is defined as more than 1 in 10 EPC audits having errors.
- c) DCLG inspection finds that the QAA is not meeting SOR requirements in more than 1 in 10 instances.

5.4.5 The verification rate may fall back to 2% after the QAA has operated for 3 months so long as criteria 5.4.4 b) c) have been met for each monthly period.

5.4.6 The verifier shall hear appeals by EAs against the judgement of the QAA who undertook the EPC audit, unless there is a conflict of interest in them doing so, in which case the Scheme shall identify another verifier who can do so.

5.4.7 Where DCLG inspection finds that a QAA has material errors in more than 1 in 10 instances examined, the Scheme shall implement appropriate corrective actions as identified by DCLG.

5.5 EA Appeals Against The Work of QAAs

5.5.1 Schemes shall have a procedure in place that enables EAs to appeal against QAA judgements they contend are wrong.

5.5.2 Appeals shall be heard by a person other than the QAA whose judgement has been challenged. Such persons shall be suitably competent, and experienced as QAAs, and have an appropriate Level of authority.

5.5.3 Where appeals include claims of uncertainties in the SOR or the software conventions, Schemes shall make judgements in pursuit of equitable resolutions in the particular cases and pass the details to DCLG, the conventions group, or the QA moderation group as appropriate. The judgements shall seek to maximise compliance with the SOR.

5.5.4 Schemes shall have procedures to be followed in cases where EAs repeatedly and unsuccessfully appeal. In such cases remedial measures shall be introduced in line with the requirements in Section 12.7.

6 EPCs WHICH FAIL SCHEME AUDITS

6.1 Requirements

6.1.1 Schemes shall fail an EPC audit, the EPC shall be considered defective, and the Scheme shall make arrangements for the EPC to be replaced, when any one of the following conditions apply:

- a) The EPC fails to meet accuracy requirements associated with BER and EPC rating (see Section 2).
- b) Errors in the building's description result in a change in the recommendations made.
- c) The building's description is sufficiently inaccurate to cause Customers to doubt the accuracy of the EPC Rating. 'Sufficiently inaccurate' means information in EPCs which is demonstrably incorrect and capable of correction within the bounds of the SBEM current at the time of the assessment on the basis of what the EA should have observed.

6.1.2 The SOR requires Schemes to keep their and their members' activities under review in an effort to improve overall performance by undertaking all of:

- a) Spotting systemic weaknesses.
- b) Introducing corrective measures in their own operations.
- c) Notifying DCLG, and the conventions forum of shortfalls in the national calculation methodology, the SOR and the software and their ways of overcoming them if found.

6.1.3 Because there are differences in the ways different SBEM software calculate SBEM ratings, QAAs shall normally use the same software as used by the EA when carrying out EPC audits. Schemes shall retain back copies of software, or access to back copies of software, to permit this. As an exception QAAs may use a different software version from that used by the EA so long as the Scheme can demonstrate differences in the software versions will have no impact on calculating EPC accuracy.

6.1.4 Schemes shall provide feedback to EAs as part of the outcome of each EPC audit.

6.2 EA Replacement of a Defective Certificate

6.2.1 Where an EA replaces a defective certificate, the replacement EPC shall be audited by the Scheme to ensure it is satisfactory.

6.3 Scheme Replacement of a Defective Certificate

6.3.1 Where an EA fails to replace a defective EPC, Scheme shall use their best endeavours to do so. Where a Scheme is obliged to replace a defective EPC, if the QAA has sufficient evidence provided by the original EA to produce a satisfactory EPC, and there are no indicators of false evidence, the QAA may lodge a replacement EPC without visiting the building so long as they are willing to accept the insurance obligations associated with doing so. In other circumstances Schemes shall undertake all reasonable endeavours to arrange for the replacement EPC to be lodged. A way of doing this would be to engage substitute EAs to produce a new EPC.

6.3.2 Where it proves impractical to replace an EPC (eg where the original EA's evidence is unsatisfactory and access is refused), Schemes shall maintain a log of the cases where they have been prevented from replacing EPCs. These logs shall include records of how the Scheme used all reasonable endeavours to effect a replacement and the reasons why they were unsuccessful.

6.3.3 In replacing defective EPCs Schemes shall ensure that the replacement EPC is generated using the software and conventions in force at the date at which the EPC was replaced.

6.3.4 Where the Scheme replaces a defective EPC it may wish to recover costs where it has to undertake work, from the EA who produced the original EPC. If Schemes wish to recover their costs in this way they shall have already publicised ahead of any QA request a list of such charges to existing Members, and new applicants, and these costs shall be reasonable.

7 DEADLINES ASSOCIATED WITH THE QA OF EPCS

7.1.1 Schemes shall undertake QA work in ways which achieve the timetables set in Table 2.

APPENDIX 5. TABLE 2. TIME LIMITS FOR EPC AUDIT WORK

Row No	Scheme Process		Maximum Period ¹	Permissible Exceptions
1.	From: 1. EPC lodged	To: 2. Scheme first calls for evidence from EA	25 working days	Excludes audit requirements associated with minimum sampling of 1 EPC lodged per six month period: Jan – June; July - December. Circumstances beyond Scheme's control ²
2.	2. Scheme first calls for evidence	3. Evidence received	15 working days	Period can be extended by up to 5 working days in cases where the EA is or will be late for legitimate reasons ³ .
3.	3. Evidence received	4. Auditing work completed	15 working days	Circumstances beyond Scheme's control ²
4.	5. Auditing work completed	6. Feedback provided to EA	5 working days	Circumstances beyond Scheme's control ²
5.	6. Feedback provided to EA	7. Lodgement of a replacement EPC by EA where required	10 working days	EA appeals. Excludes instances where the

EA is or will
be late for
legitimate
reasons³

Scheme
makes other
arrangement
s⁴

Notes

1 – Schemes may apply to DCLG for a temporary variation in these deadlines in the case of exceptional circumstances.

2 - Schemes shall log the circumstances and their reasoning in cases where exceptions are granted. And these logs shall be capable of separate reporting.

3- Legitimate reasons include absence from work due to illness, holiday, or similar, coupled with no lodgement activity. An extension can be allowed to cover a period of up to 5 days after the EA's point of return to work.

4 - Schemes make other arrangements to replace a defective certificate should the EA fail to do so, but here the replacement EPC shall be provided within 3 months of the EA being required to replace the EPC.

7.1.2 Schemes may apply to DCLG for a temporary variation in these deadlines under exceptional circumstances.

8 SCHEME SOR MONTHLY REPORT

8.1.1 Schemes shall provide feedback on QA statistics to DCLG, or a person acting on behalf of DCLG, on a monthly basis using a template which will be provided DCLG.

8.1.2 Schemes shall complete the template in line with the timetable set out by DCLG. The numbers reported in the returns shall be a true reflection of activity within the Scheme, and it shall be possible for DCLG, to be able to replicate the return by inspection of Scheme records.

8.1.3 Table 3 lists the information which Schemes shall provide to DCLG on a monthly basis.

9 CONFLICTS OF INTEREST

9.1.1 Scheme QAAs shall declare previous, current or future relationships to the Scheme or Scheme members where they think they may have a conflict of interest in the outcome of an EPC Audit. Schemes shall

determine in these cases whether there is a real conflict and if so act to remove it. A way of removing the conflict would be to refer the EPC to another QAA who has no interest.

- 9.1.2 DCLG considers a conflict of interest to mean situations where it is reasonable to surmise that a person's judgement is affected by the circumstances in which they find themselves. Such instances include, but are not limited to, where someone:
- a) Is related to, or has employment links with, the person whose work they are assessing.
 - b) Has a financial or other interest in seeing that EPC audits do not fail.
 - c) Feels threatened or coerced by EAs or others.
- 9.1.3 Although there is no embargo on QAAs practicing as EAs, Schemes shall have a procedure in place for dealing with the conflicts of interest that might arise when their employees practice both functions.
- 9.1.4 Schemes shall be able to demonstrate that employees understand the need to avoid conflicts of interest in their work, and that there are procedures in place for an employee to raise concerns if they feel they have been asked to implement practices which run contrary to this.
- 9.1.5 Schemes shall have a QAA "Code of Practice" or similar in place which QAAs are obliged to formally accept in writing before they can practice. The Code or similar shall include obligations to:
- a) Declare any potential relationships and / or conflicts of interest.
 - b) Abide by the DCLG requirements in so much as they relate to them.
 - c) Avoid giving advance warnings to EAs, or their employers, of EPC audit sampling intentions.
- 9.1.6 Schemes shall require QAAs to declare any misgivings they have about EAs engaging in fraudulent, or other activity aiming to circumvent the SOR
- 9.1.7 Schemes shall have procedures and / or guidance in place which:
- a) Provide training and guidance on the need for QA assessors as to what a conflict of interest is – anything which might be reasonably be expected to materially influence their judgement or assessment of a particular EPC – and how they should declare or deal with such a conflict.
 - b) Record any complaints or concerns from an EA QAA, and provide such complaints to the Scheme Auditor on request.

10 CROSS SCHEME MODERATION ACTIVITIES

10.1.1 Schemes shall participate in any cross-Scheme QAA moderation or verification activities as specified by DCLG. DCLG will circulate to Schemes the requirements and conditions associated with such activities ahead of implementation.

11 CORRECTIVE AND DISCIPLINARY MEASURES

11.1.1 Schemes shall impose disciplinary measures in the instances where:

- a) An EA fails to provide all or part of the data required to undertake an EPC audit within required deadlines (see Section 11.2).
- b) An EA repeatedly fails to provide evidence of sufficient quality to allow an EPC to be properly audited (see Section 11.3).
- c) They can show that an EA has submitted false evidence such as stock photographs, or falsely claimed to have visited the building (see Section 11.4).
- d) The results of one or more EPC audits reveal a lack of understanding, or failure to act in a professional manner, which materially affects the EPC's accuracy (see Sections 11.5, 11.6).
- e) Other issues indicate the EA is at unacceptable risk of breaching the Code of Conduct or of producing defective EPCs (Section 11.8)

11.2 Failure To Provide Evidence By The Required Timetable

11.2.1 Failure by an EA to provide satisfactory evidence within the deadlines set out in Table 2 shall trigger immediate suspension from membership. This suspension shall only be lifted if the EA provides a "reasonable and compelling" case as to why the information is not available. Except where the EA provides a "reasonable and compelling" case as to why the information is not available, and where the suspension is lifted, the Scheme shall undertake two further audits from the subsequent 30 days following the date of the initial call for audit, or the next 2 EPCs lodged if this time period is exceeded.

11.2.2 Schemes shall exercise their judgement as to what constitutes a "reasonable and compelling case" on a case by case basis, and take action in line with the examples given in paragraphs 11.2.3, and 11.2.4

11.2.3 An example of a "reasonable and compelling case" would be where there is a specific client requirement that no photographs shall be taken, or other information provided, (eg MoD building) the requirement on an EA is to provide evidence that there is a specific client requirement which prohibits the provision of information. In this instance the Scheme shall select another EPC to audit where the same constraints do not apply. If the EA has no other EPCs apart from those

where a client requires that evidence shall not be provided, then the QAA shall use their best endeavours to undertake an audit on an EPC with the limited evidence available..

- 11.2.4 An example of a “reasonable and compelling case” which depends on the number of times the excuse, or similar excuses, are used would be where an EA has given an excuse which is not client directed (eg camera malfunction). Multiple uses of this, and similar, instances shall lead to the Scheme suspending the EA who fail to provide the data requested more than twice in any given 12 month period following the date of the initial failure to provide evidence. Suspension shall only be lifted after the Scheme has investigated the EA, and is assured that the EA will meet future requirements associated with evidence provision.
- 11.2.5 Where an EA simply does not respond to a request, they shall remain suspended. Should the EA eventually respond to the request, but without a reasonable case, the Scheme shall investigate the reason for the late provision of data, and impose appropriate measures.
- 11.2.6 Where an EA provides a reasonable excuse Schemes shall record all of:
- a) The date the request for evidence was sent;
 - b) Why (if applicable) e.g. if the EA is on holiday, off sick, or some similar reason (an out of office e-mail with a specified date of return is an example of evidence the Scheme may use);
 - c) The reason (if applicable) given by the EA as to the non-availability of data;
 - d) In the case where the Scheme accepted the explanation in c) above as a “reasonable and compelling case”, the Scheme’s reasoning.
- 11.2.7 EAs shall be subject to increased EPC auditing frequency following reinstatement after a suspension. The additional auditing shall be classed as “targeted sampling”, and comprise the selection of 2 EPCs lodged in the period of 30 days following the reinstatement or if this is not possible the next 2 EPCs lodged. The EPCs selected shall exclude any where survey work or lodgement predate suspension.

11.3 Failure To Provide Evidence Of Sufficient Quality

- 11.3.1 Where a Scheme QAA is unable to audit an EPC due to unsatisfactory evidence such as poor photographs or site notes the Scheme shall fail the audit, and mark the EPC as defective. The EA shall be informed of the shortcomings, including specific instances where evidence needs to be clearer, and given instructions as to how to improve their performance. The Scheme shall audit a further 2 EPCs lodged within the 30 days following the date at which the audit feedback was given, or if insufficient lodgements are made, the next 2 EPCs. If any of these targeted audits fail due to a failure to provide evidence the Scheme shall suspend the member. Re-instatement shall only occur if either:
- a) New, satisfactory evidence is provided.

- b) Or if the EA can demonstrate without doubt that the reason for the non provision of data was beyond their control, and that the EA has taken steps to ensure that further instances do not occur. In this instance Schemes shall record the evidence received, and their reasoning, which shall include an assessment of that EA's audit history.

11.3.2 On return from suspension the EA shall be subject to increased auditing at a rate of:

- a) Which ever is greater of either 10% of their EPCs over the next six months or five EPCs over the next six months.
- b) The next five EPCs lodged after the six month period if requirements in a) above cannot be met.
- c) Where an EA that is subject to increased auditing does not exceed 1 EPC lodgement in a given six month period, each EPC that has been lodged shall be called for audit and may also qualify as meeting the minimum random sampling requirement in 4.2.6 provided that it is not double counted in the Monthly QA returns submitted to DCLG.
- d) Wherever possible these additional auditing requirements should be conducted on a random sample.

11.4 Stock Photos or No Visit to Building

11.4.1 Where there is evidence that an EA has used stock photographs or failed to visit buildings when required, the EA shall be suspended pending investigation which shall include:

- a) Discussions with the EA.
- b) A formal interview with the EA
- c) A review of all photographic evidence provided by the EA for auditing purposes over the past two years
- d) A review of other evidence available to the Scheme, including any which the EA provides.

11.4.2 EAs shall only be reinstated if Schemes are confident that all the following apply:

- a) The EA is visiting buildings as required.
- b) The EA has shown the use of stock photographs was not intended to mislead. An example here would be where an EA mistakenly submits photographs previously submitted for a different audit. Where there are multiple instances of use of the same photographs, this shall be taken as clear evidence that an EA has intended to mislead.
- c) The EA has undertaken not to use stock photographs again under any circumstances.

- 11.4.3 Following reinstatement, Schemes shall implement the following additional checks:-
- a) Two new EPCs lodged in the succeeding 30 days following the lifting of suspension, or if this is not possible the next two shall be subjected to EPC audits. These audits shall be recorded under the heading “targeted sampling”.
 - b) All subsequent “random sampling” EPC audits for at least the next year shall include checks that stock photographs are not being used.

11.4.4 The suspension on the EA shall only be lifted if the Scheme is satisfied that the EA has visited buildings in line with DCLG requirements. In this case the additional checks associated with paragraph 11.4.3 shall be implemented by the Scheme.

11.4.5 If the Scheme is satisfied that the EA has not visited a building when they are supposed to have done so, then that EA shall have their membership revoked. Where an EA has been found to be using stock photographs apart from exceptional circumstances (no intent to mislead – see paragraph 11.4.2 b)), they shall have their membership revoked.

11.5 QA Failures – Random Sample

11.5.1 Where there are errors which result in an EPC being failed, the EA shall be given feedback as to why and appropriate remedial action to both replace the failed EPC, and ensure similar failures do not reoccur.

11.5.2 The remedial action in paragraph 11.5.1 shall be informed by any history of failures associated with the EA.

11.5.3 Targeted sampling requirements following EPC audit failure are given in Section 4.

11.6 QA Failures – Targeted Sampling

11.6.1 There are a number of situations that could arise in EPCs subjected to targeted sampling.

11.6.2 Where the EA has two additional EPCs audited triggered by a random sample audit failure the requirements in paragraphs 11.6.2.1 to 11.6.2.7 apply.

- 11.6.2.1 If the EA fails one of the two additional audits the Scheme will need to make a judgement as to the appropriate remedial action based on the seriousness and nature of the failure:
- a) If the error is due to, eg, an oversight, or a misunderstanding of a software protocol which is easily corrected, and so the error is unlikely to be repeated, the EA shall be informed, and their future work checked to see that they have learnt from the feedback.
 - b) If the error indicates the EA lacks basic understanding the EA shall be suspended until the results of suitable training convince the Scheme there is low risk of repetition.
 - c) If the error indicates fraudulent practices, the EA shall be suspended pending further investigation.
 - d) If the EA fails both the two additional audits they shall be suspended until the results of suitable training convince the Scheme there is low risk of repetition.
- 11.6.2.2 DCLG recognises that Schemes need to respond specifically to the circumstances in each case in determining suitable remedial measures and supervision of their implementation.
- 11.6.2.3 If an EA passes both the two additional audits the EA can revert to the random sampling schedule appropriate to their status as either a new or established member as given in Section 4.
- 11.6.2.4 The duration of any suspension (applicable in paragraphs 11.6.2.1, 11.6.2.2) and the criteria for reinstatement shall be determined by Schemes based on their assessment of the nature of the error. A member shall normally be suspended until they complete the activities identified by the Scheme. Shortcomings in competence shall be tackled initially by a series of appropriate measures including mandatory training and / or site based checks.
- 11.6.2.5 The Scheme shall subject the EA to post-reinstatement targeted sampling to the extent whichever is the greater of:
- a) 10% of lodgements for a period of 6 months subject to at least 5 EPCs being assessed during the period; or
 - b) An audit of 5 EPCs within 6 months or
 - c) The next 5 EPCs lodged.
- 11.6.2.6 If Schemes may wish to implement an alternative approach to sampling, they shall only do so with the consent of the DCLG Scheme Manager.
- 11.6.2.7 Schemes can charge an EA for implementing the higher Level of QA required post suspension in paragraph 11.6.2.5, in line with transparency and reasonableness requirements identified elsewhere in the SOR.

11.6.3 Where a replacement EPC itself fails, the EA shall be suspended until the Scheme has assessed the nature of the failure, the likelihood of future EPCs being defective, and suitable remedial action has been successfully completed. In this instance a regime similar to that described in paragraph 11.6.2.5 would be a satisfactory response.

11.6.4 Where the EAs “targeted sampling” EPC audit was triggered by other risk factors and the EPC is assessed as defective, then the requirements of paragraph 11.8 apply.

11.7 EA Incorrectly Identifies Level of Building

11.7.1 If an EA who is qualified, or has been assessed through APEL, for Level 3 buildings alone, inappropriately assesses a Level 4 or 5 building, when they are not qualified or competent to do so then the following shall apply:

11.7.1.1 The Scheme shall determine whether or not the EA has lodged previous reports which are of buildings at an inappropriate Level to their qualification or competence. This shall be done by:

- a) Reviewing previous EPC audits undertaken in the last two years.
- b) Reviewing the addresses associated with the five most recent (if available) EPCs the EA had lodged, and through Google Earth, or similar, identify any buildings which a QAA on visual inspection believes are indicative of a Level 4 or 5 building. If any of these buildings give indications of being at Level 4 or 5 the EA shall be asked to provide that evidence which the QAA requires to assess the Level of the building.

11.7.1.2 If there is just a single instance over the previous 2 years of the Level 3 EA inappropriately assessing a Level 4 or 5 building, the Scheme shall inform the EA of the failure, and be notified that further instances shall be a serious disciplinary matter. The Scheme shall audit the EA’s next EPC undertaken since the notification.

11.7.1.3 If there are 2 or more instances over the previous 2 years of the Level 3 EA inappropriately assessing a Level 4 or 5 building the EA shall be informed of the failure, and shall be required to undertake training which gives them sufficient competence to distinguish between Level 3 and Levels 4, 5, and shall be suspended until suitable training has been undertaken. The Scheme shall subsequently increase the audit rate of the EA in line with the requirements of paragraph 11.8.1 d).

- 11.7.1.4 In the instance where the individual has undertaken the training identified in paragraph 11.7.1.3, and where within two years they continue to inappropriately assess a Level 4 or 5 building, they shall be suspended until they undertake additional training as specified by the Scheme, and their competence to distinguish between the different building Levels can be assessed by the Scheme. The Scheme shall subsequently increase the audit rate of the EA in line with requirements of paragraph 11.8.1 d).
- 11.7.1.5 Should the Scheme have evidence through the testing identified in 11.7.1.4 above that the EA is competent to identify the different Levels of building but has continued to fail to do in the year following the competency assessment, then the EA shall have their membership revoked.
- 11.7.2 If a Level 4 EA incorrectly assesses a Level 5 building using SBEM, the following apply:
- 11.7.2.1 The Scheme shall determine whether or not the EA has lodged previous reports which are of buildings at an inappropriate Level to their qualification or competence. This shall be done by:
- a) Reviewing previous EPC audits undertaken in the last two years.
 - b) Reviewing the addresses associated with the five most recent (if available) EPCs the EA had lodged, and through Google Earth, or similar, identify any buildings which a QAA on visual inspection believes are indicative of a Level 4 or 5 building. If any of these buildings give indications of being at Level 4 or 5 the EA shall be asked to provide that evidence which the QAA requires to assess the Level of the building.
- 11.7.2.2 If there is just a single instance over the previous 2 years of the Level 4 EA inappropriately assessing a Level 5 building, the Scheme shall inform the EA of the failure, and be notified that further instances shall be a serious disciplinary matter. The Scheme shall audit the EA's next EPC undertaken since the notification.
- 11.7.2.3 If there are 2 or more instances over the previous 2 years of the Level 4 EA inappropriately assessing a Level 5 building the EA shall be informed of the failure, and shall be required to undertake training which gives them sufficient competence to distinguish between Level 3 and Levels 4, 5, and shall be suspended until suitable training has been undertaken. The Scheme shall subsequently increase the audit rate of the EA in line with the requirements of paragraph 11.8.1 d).

- 11.7.2.4 In the instance where the individual has undertaken the training identified in paragraph 11.7.2.3, and where within two years they continue to inappropriately assess a Level 5 building using SBEM, they shall be suspended until they undertake additional training as specified by the Scheme, and their competence to distinguish between the different building Levels can be assessed by the Scheme. The Scheme shall subsequently increase the audit rate of the EA in line with requirements of paragraph 11.8.1 d).
- 11.7.2.5 Should the Scheme have evidence through the testing identified in 11.7.2.4 above that the EA is competent to identify the different Levels of building but has continued to fail to do in the year following the competency assessment, then the EA shall have their membership revoked.

11.8 Handling Other Risks of EPC Failure

- 11.8.1 Schemes shall have written procedures for:-
- a) identifying risks, and assessing their magnitude,
 - b) recording/logging their occurrence and
 - c) periodic examination for trends
 - d) designing and implementing proportionate corrective action including additional targeted sampling to the extent whichever is the greater of:
 - 10% of lodgements for a period of 6 months subject to at least 3 EPCs being assessed during the period; or
 - An audit of 3 EPCs within 6 months or
 - The next 3
- 11.8.2 Examples of actions which DCLG consider may be proportionate will be developed and circulated by DCLG from time to time.

11.9 EA Appeals

- 11.9.1 Where an EA disputes and/or eventually appeals against criticism or an EPC being failed they shall have the right to appeal against the decision.

11.10 Revoking Membership

- 11.10.1 Examples of instances where Schemes would normally be expected to revoke the membership of an EA have been given elsewhere in the text, and further examples will be developed and circulated by DCLG from time to time.

12 SUBCONTRACTING QA

12.1.1 Schemes may subcontract their QA to other firms or to individuals but shall be able to demonstrate:-

- a) That the subcontractors' QA systems comply with the SOR and
- b) That they are supervising the subcontractors to the degree necessary to ensure satisfactory practice.
- c) That the subcontractors are obliged to give DCLG access to their activities as necessary for compliance auditing.

12.1.2 Where a Scheme has a mix of staff and subcontract QAAs they shall be able to demonstrate how they ensure consistency, see Section 5.3, 5.4.

13 DEALING WITH UNCERTAINTY

13.1.1 Schemes shall not temporarily suspend, set aside or in any other way adjust the SOR and their implementation of them without prior approval.

13.1.2 Schemes wishing to formally request supplementary guidance shall provide details of the issues and why they believe further guidance is necessary. It would be helpful if such requests are accompanied by proposals for resolving matters in ways that can be communicated to other Schemes.

APPENDIX 5 – ANNEX A: Alternative QA approach by Schemes.

A1. Summary

- A1.1 DCLG would welcome a proposal from Schemes working together of an alternative approach to the QA of L3 and L4 Non Domestic EPCs. This Annex provides detailed DCLG requirements associated with such a submission.
- A1.2 Schemes should note that DCLG also intends to establish a QA conventions group to contribute to the development of DCLG's standard approach. Where Schemes develop an alternative approach which is accepted by DCLG, it is DCLG's intent to require the alternative approach across all Schemes.
- A1.3 This Annex provides the following:
- Section A2 “Basic Requirements”** provides the basic attributes required of the submission (eg minimum number of Schemes supporting the proposal)
 - Section A3 “Governance”** provides the DCLG's requirements related to the operation of the alternative approach.
 - Section A4 “Alternative QA standard”** provides a summary of the areas which Schemes shall include in their standard.
 - Section A5 “Cross Scheme Moderation”** which provides the mechanism by which the alternative approach shall be moderated across those Schemes who operate it.
 - Section A6 “Audit approach”** which provides a summary of the requirements for the proposal to identify how the alternative approach shall be audited.
 - Section A7 “Equivalence”** provides a statement on how the proposed alternative approach provides at least as good an approach to ensuring that defective EPCs are identified and replaced as the DCLG standard approach.

A2. Basic Requirements

- A2.1 Any submission to DCLG shall include details covering the areas included in sections A3, A4, A5, and A6.
- A2.2 The proposal is supported by at least three Schemes who are currently undertaking audits of L3 and L4 Non Domestic EPC.
- A2.3 DCLG is not required to fund the development or operation of the alternative approach.

A2.4 DCLG shall be able to audit the implementation of any alternative approach.

A2.5 Once agreed, all Schemes shall be able to operate the alternative QA approach subject to any membership requirements associated with the alternative QA approach.

A3. Governance & Operation

A3.1 DCLG shall be able to agree, and if necessary stipulate the amendment of, any and all aspects of the proposed alternative approach, including the submission and later amendments.

A3.2 DCLG shall have the right to use any proposed alternative QA approach, and include it, or elements of it, in a future SOR.

A3.3 That the proposals identify how an alternative standard is going to operate in terms of its governance (chairing, membership requirements) and operation (including any membership costs)

A4. “Alternative QA standard”

A4.1 This is the detailed alternative to the DCLG standard approach. The DCLG accuracy requirements, and general requirements associated with the replacement of defective certificates shall be included. The alternative QA standard shall include:

- Methodology for determining whether an EPC is judged defective.
- Evidence required for supporting EPCs.
- Methods of sampling of Scheme members' EPCs.
- Requirements on Quality Assurance Assessors (QAAs).
- Provisions for replacing defective certificates.
- Scheduling of EPC audits and the replacement of defective EPCs.
- Monthly reporting to DCLG of the results of Schemes' member QA.(in line with current requirements)
- The avoidance of conflicts of interest.
- Requirements for Disciplinary measures.
- Handling the outsourcing of QA.

A5. “Cross Scheme Moderation”

A5.1 The submission shall provides details of the establishment of a cross Scheme moderation panel to ensure that all Schemes implement the alternative approach consistently, and shall detail how that cross – Scheme moderation panel shall operate.

A5.2 All Schemes who participate in the alternative approach shall be required to participate in the cross Scheme moderation panel.

A5.3 The submission shall show how the partners propose to deal with failures to abide by the rules.

A6 “Audit approach”

A6.1 The submission will identify how the alternative approach shall be audited by DCLG.

A7 “Equivalence”

A7.1 The proposal shall include an assessment on how the proposed alternative approach achieves at least as good a quality outcome in ensuring that defective EPCs are identified and replaced as the DCLG standard approach.

APPENDIX 5, TABLE 3. DCLG SCHEME EA – Level 3 & 4 QUALITY AUDIT MONTHLY MONITORING RETURN – NB: A Template will be Issued to Schemes to Complete

Note: If Schemes are unclear what is being asked for they should contact the DCLG EPBD Scheme Manager.

For the avoidance of doubt, DCLG requires monthly Quality Assurance Monitoring returns to be submitted on the last working day of each month for the previous month's activity.

Ref Nos	Description of Metric	Value	Scheme Qualifying comments	Examples, further clarification
1	Number of Scheme members who can only undertake Level 3 audits.			Number of members with the Scheme - including those who are suspended on the last day of the reporting month. "Only" means that they are not able to lodge EPCs at Level 4.
2	Numbers of Scheme members who can undertake Level 4 audits.			Number of members with the Scheme - including those who are suspended on the last day of the reporting month.
3	Number of EAs who have lodged an EPC at either Level 3 or 4 through the Scheme in the month being reported on – existing buildings.			This relates to individuals regardless as to the number of multiple registrations they may have with a Scheme. Applies only to EPCs associated with existing buildings.
4	Number of EAs who have lodged an EPC at either Level 3 or 4 through the Scheme in the month being reported on – new buildings.			This relates to individuals regardless as to the number of multiple registrations they may have with a Scheme. Applies only to EPCs associated with new buildings.

5	Numbers of EPCs lodged by EAs in the month being reported on – existing buildings.			If this month's report is for March 2012, then the numbers here relate to the number of certificates lodged through the Scheme in March 2012. The report for this month would be provided to DCLG on or before the last day of April 2012. EPCs related to existing buildings only
6	Numbers of EPCs lodged by EAs in the month being reported on – new buildings.			If this month's report is for (ie covers) March 2012, then the numbers here relate to the number of certificates lodged through the Scheme in March 2012. The report for this month would be provided to DCLG on or before the last day of April 2012. EPCs related to new buildings only.
7	Number of EPCs called for audit in the month being report on as part of "random" sampling.			In the case of the report for March 2012 the number here would relate to the number of EPC audits called for in March 2012 regardless of the month in which the EPC was lodged. Includes new and existing buildings at both Level 3 and 4.
8	Number of EAs whose work has been subject to a request for evidence associated with an audit undertaken as part of random sampling in the month being reported on.			If the month's report is for March 2012, then the numbers here relate to the numbers of EAs who have received a request for their work to be audited under the random sampling approach. This may well be a different number from the number of EPCs called for audit.
9	Number of "random" audits where feedback is given to Energy Assessor in this month – at Level 3			In the case of the report for March 2012 the number here would relate to the number of audits where feedback was provided to energy assessors in March 2012. The audits may have been completed in the earlier month, and feedback provided this. Feedback to the EA for a particular EPC audit can only be counted once. Level 3 EPCs only.
10	Number of "random" audits where feedback is given to Energy Assessor in this month – at L4 (existing buildings)			In the case of the report for March 2012 the number here would relate to the number of audits where feedback was provided to energy assessors in March 2012. The audits may have been completed in the earlier month, and feedback provided this. Feedback to the EA for a particular EPC audit can only be

				counted once. Level 4 EPCs for existing buildings only.
11	Number of "random" audits completed and feedback given to Energy Assessor in this month – at L4 (new build)			In the case of the report for March 2012 the number here would relate to the number of audits where feedback was provided to energy assessors in March 2012. The audits may have been completed in the earlier month, and feedback provided this. Feedback to the EA for a particular EPC audit can only be counted once. Level 4 EPCs for new buildings only.
12	Number of EPCs where evidence has been called for as part of random sampling audits, in the month being reported on where the audit remains incomplete.			In the case of the report for March 2012 the number here would relate to the number of EPCs called for audit in March which remain incomplete at 31 March 2012. Includes EPCs at Level 3&4, new & existing buildings.
13	Number of EPCs where evidence has been called for as part of random sampling audits, in the previous month to that being reported on, where the audit remains incomplete.			In the case of the report for March 2012 the number here would relate to the number of EPCs called for audit in February 2012 which remain incomplete at 31 March 2012. Includes EPCs at Level 3&4, new & existing buildings.
14	Number of EPCs where evidence has been called for as part of random sampling audits, more than 2 months ago, where the audit remains incomplete.			In the case of the report for March 2012 the number here would relate to the number of EPCs called for audit earlier than February 2012 which remain incomplete at 31 March 2012. Includes EPCs at Level 3&4, new & existing buildings.
15	Number of "random" audits completed in the month being reported on which failed due to BER or EPC rating errors			In the case of the report for March 2012 the number here would relate to the number of audits undertaken as part of "random" sampling completed in March 2012 which were failed because they lie outside of accuracy targets. Covers EPCs at Levels 3 & 4, and for new & existing buildings.

16	Number of "random" audits completed in the month being reported on which failed due to reasons other than BER and EPC rating errors.			In the case of the report for March 2012 the number here would relate to the number of audits undertaken as part of "random" sampling completed in March 2012 which were failed because of reasons other than accuracy targets. Covers EPCs at Levels 3 & 4, and for new & existing buildings.
17	Number of EAs who have been suspended in the month being reported on for failing to provide requested information for audit			In the case of the report for March 2012, the number here would be the number of assessors suspended in March 2012 due to non-provision of data, whenever the request for information took place, and regardless as to whether or not the assessor remains suspended at the time that the report is submitted to DCLG. Applies to all EPCs, and to both random and targeted audits.
18	Number of defective EPCs which were identified as defective in the month being reported on, and which have been replaced in the month being reported on.			In the case of the report for March 2012 the number here would relate to the number of defective certificates which were identified in March 2012, and which were replaced in March 2012. Defective certificates identified through "random sampling" alone, regardless of when the original report was lodged. Covers all EPCs.
19	Number of defective EPCs which were identified as defective in the month previous to that being reported on, and which have been replaced in the month being reported on.			In the case of the report for March 2012 the number here would relate to the number of defective certificates which were identified in February 2012, and which were replaced in March 2012, regardless of when the original report was lodged. Levels 3 & 4. New & existing.
20	Number of defective EPCs which were identified as being defective more than a month prior to the month being reported on which have been replaced in this month.			In the case of the report for March 2012 the number here would relate to the number of defective certificates which were identified prior to February 2012, and which were replaced in March 2012, regardless of when the original report was lodged. Levels 3 & 4. New & existing.

21	Number of EA suspended in the month being reported on due to failure to relodge an EPC after being notified of errors.			In the case of the report for March 2012 the number here would relate to the number of members (excluding any who have had their membership revoked) who during March 2012 have been suspended due to a failure to replace an EPC.
22	Number of EAs who are subject to "targeted" sampling in the month being reported on.			In the report for March 2012 the number here would be the number of individual EA who are subject to a requirement of "targeted" sampling in March 2012.
23	Number of EPCs where evidence is requested for targeted audits in the month being reported on.			In the report for March 2012 the number here would be the number of individual EPCs where an EA has received a request to provide evidence as part of an EPC audit undertaken under the heading "targeted" sampling.
24	Number of targeted audits completed in the month being reported on.			In the report for March 2012 the number here would be the number of individual EPCs where a targeted audit has been completed in the March 2012.
25	Total number of "targeted" QA checks which fail audits in the month being reported on.			Number of targeted EPCs completed in the month being reported on, where the assessor has been informed of a failure with the EPC in the month being reported on.
26	Number of EAs suspended in the month being reported on due to issues associated with the audit of EPCs			Numbers of members suspended (or suspended and re-instated) during the current month.
27	Average time for a QAA to complete an audit in the month being reported on.			This shall be based on the time that the individual QAA spends checking EPCs and giving feedback to members, it will exclude time that is spent on any other matters (eg training, moderation). To nearest 5 minutes.

28	Number of audits in the month being reported on which are re-assessed by a moderator or external verifier.			This is the total number of QA audits checked by a moderator or external verifier in the month being reported on (eg if this is the report for March 2012, then numbers should relate to completed moderator / verifier audits undertaken in March 2012).
29	Number of audits in the month being reported on which are re-assessed by a moderator or external verifier which identify shortcomings in the QAA's work eg due to misunderstanding of software conventions etc.		Provide a brief summary of the nature of errors, and remedial action.	This is the total number of QA audits checked by a moderator or external verifier in the month where the work of the QAA is found to be at fault eg due to a misunderstanding of a software convention. If this is the report for March 2012, then numbers should relate to the number of audits inspected by the moderator / external verifier in March 2012, where errors have been identified.
30	Number of EAs suspended by the Scheme due to issues other than issues arising from audits of an EA's work.			All suspensions other than those identified in line 29.
31	Scheme Feedback		Provide feedback on the implementation of the SOR, and SOR monthly return.	For the Scheme to complete.

APPENDIX 6.1

SCHEME REQUIREMENTS ASSOCIATED WITH COMPLAINTS & QUERIES

1. Complaints

1.1.1 For the purposes of Schemes in receipt of an Approval Letter to operate elements of the EPBR, a complaint is any statement in whatever form of communication from a person regarding concerns about the behaviour of a person or organisation associated with the production of an EPC, or outcome associated with the provision of an EPC.

1.1.2 Complaints are categorised as being either:

- a) Verbal
- b) Written (including electronic media)

1.1.3 Types of complaint are categorised as falling into one of the following categories:

- a) Behaviour of an EA
- b) Behaviour of an EA's company
- c) Behaviour of a Scheme
- d) Timing & outputs associated with a particular EPC
- e) Generic complaint regarding the EPBR and its implementation
- f) Other

1.1.4 Those who raise a complaint can be categorised as falling into one of the following categories:

- a) Customer, which in this context means anybody who owns or lives in, or who otherwise has an interest in, a building or buildings for which an EPC has been prepared
- b) Customer's agent (estate agent, solicitor)
- c) A company who employs EAs
- d) Another Scheme
- e) An EA who is a member
- f) Another EA
- g) Trading Standards Officer, Building Control Officer, or some other individual who has a formal role regarding ensuring compliance with the Regulations implementing the EPBD, the Building Regulations, the Green Deal.
- h) DCLG.
- i) Another interested party not listed above.

- 1.1.5 Where a complaint to an EA or Scheme is made verbally or in writing, EAs and Scheme operators shall record details of the complaint and the outcome of discussions.
- 1.1.6 Scheme operators shall require their members to disclose any complaint made to them, or about any complaint made to the company they work for about them or their work, or about the Scheme, which they are aware of.
- 1.1.7 Where a complaint to an EA is verbal or written, Schemes shall require the EA to:
- a) Inform Customers or others who complain that if they are unhappy with the EA's response that they should put the complaint in writing to the EA.
 - b) As a minimum they shall inform the person complaining as to the relevant complaints procedure.
 - c) Inform the Scheme of the details of the complaint.
- 1.1.8 Where EAs are members of multiple Schemes, the requirement is for the EA to inform that Scheme which is most relevant to the complaint (eg if a complaint is about a particular EPC, then the Scheme through which the certificate has been lodged).

2. Queries

- 2.1.1 A query is defined in this document as correspondence or discussion of any sort between a Customer and the EA where the nature of the discussion is purely a point of clarification, rather than any sort of statement which implies concern with an EA's professional conduct (ie breach of the Code of Conduct), or accuracy of the EPC.
- 2.1.2 EA's shall be required by the Scheme which they are members of to make and retain any correspondence associated with a query.
- 2.1.3 Schemes shall require their EAs to allow them access to records associated with queries on request. Schemes shall request these records in instances where there is evidence that an EA is not disclosing complaints to the Scheme, and shall check them to ensure that the EA has not incorrectly categorised a complaint as a query.

3 DCLG Requirements of Schemes

- 3.1.1 Schemes shall:
- a) Publicise their complaints procedures, and have a clear mechanism by which Customers and other interested parties, can address a complaint directly to the Scheme.

- b) As a minimum these procedures need to be easily accessible on the Scheme web site, and be provided on request in another form of media when an individual requests them.
- c) Deal with complaints that they (Schemes) receive directly from Customers and other interested parties regarding an individual EA directly with the complainant, unless it is clear that the EA is in the best position to deal with the complaint in the first instance.
- d) Record complaints and from time to time analyse them, and provide an analysis of complaints to DCLG, on request.
- e) Have a disciplinary process which can suspend, expel, or require a member to undertake corrective training on the basis of a complaint in line with the evidence, and nature of the complaint.
- f) Have an appeals mechanism for EAs.
- g) Have an appeals mechanism for Customers and other stakeholders
- h) For Customers and member EAs have an Independent Third Party Appeals mechanism
- i) In all dealings with Customers, including in documentation associated with complaints, Schemes shall inform Customers that their statutory rights are not affected by them using the complaints and associated appeals procedures.
- j) Subject to meeting the requirements of the Data Protection Act and other relevant legislation, Schemes shall pass on to other Schemes, and the DCLG details of individuals disciplined as part of the complaints procedure where those members are either suspended, or had their membership revoked (see Section 11.5 of the main document),.

4 Specific Instance Where an EA is an Employee of a Company

4.1.1 Where an EA is an employee of a company where the Scheme is satisfied that the complaints procedures in that company are equivalent to that of the Scheme, and so meet the obligations placed on the Scheme by the SOR, the following apply:

- a) Complaints to an EA shall be dealt with in the first instance by the company's complaints procedure.
- b) The EA shall be required to notify the Scheme that the complaint has been received, and is being dealt with in line with the company's procedures, and shall notify the Scheme as to the outcome of the complaint.
- c) Where a complaint is being dealt with through a company complaints procedure, the Scheme shall ensure that the complainant understands that as part of an escalation procedure if they are not happy with the outcome of the company complaints procedure, they can have recourse to the Scheme's complaint's procedures. The complainant shall be informed how to access the Scheme's complaints procedure, and shall be informed that their

statutory rights are not affected by their access to the company's or the Scheme's complaints procedures.

- d) As with other complaints, if the complainant is unhappy with the outcome of the Scheme complaints procedure they shall be informed that they have recourse to the Scheme's independent third party appeals procedure.

APPENDIX 6.2

INDEPENDENT THIRD PARTY COMPLAINTS PROCEDURE FOR CUSTOMERS

1. General Requirements

- 1.1.1 In the case where a Scheme receives a complaint, DCLG requires Schemes to be in a position to:
- a) Respond to that complaint.
 - b) Provide an appeal's mechanism for the Customer if they are not satisfied with the Scheme's response.
 - c) Refer, or advise the complainant to refer, the complaint to an Independent Third Party Appeals Panel, if the complainant is not satisfied with the outcome of any appeal.

2. Independent Third Party Appeals Panel

- 2.1.1 Schemes shall ensure that the Independent Third Party Appeals Panel is independent of the Scheme.
- 2.1.2 By "independent" DCLG means that the people on the panel shall have no commercial or other link to the Scheme which might influence their deliberations.
- 2.1.3 As a minimum panel members shall not be employed by the Scheme, or have a common line management reporting point with the managers of the Scheme, or work for a company where the ownership of the two companies is substantively similar.
- 2.1.4 Schemes shall:
- a) Have an Independent Third Party Appeals Panel in place.
 - b) Provide the panel with terms of reference.
 - c) Send a copy of the make up of the Independent Third Party Appeals panel, including affiliations of the individuals concerned, and the terms of reference of the panel, to the DCLG for their endorsement.
 - d) Schemes shall amend their Independent Third Party Appeals Panel, and its terms of reference, if required to do so by the DCLG.
 - e) Send a copy of any complaint forwarded to the Independent Third Party Appeals Panel to DCLG at the same time as it is sent to the panel.
 - f) Send a copy of the Independent Third Party Appeals Panel's findings to the person complaining and to DCLG when they are available.

- g) Consider the Independent Third Party Appeals Panel's findings, and implement them as necessary. If the Scheme declines to implement the panel's findings it shall send a copy of the Independent Third Party Appeals Panel's findings to both the complainant and DCLG stating the reasons why the Scheme has declined to implement the panel's findings.
- h) Relating to g) above, the Scheme shall implement measures as directed by DCLG.
- i) In all correspondence it shall be made clear to the complainant that their statutory rights are not affected by the appeals process or outcome.
- j) Maintain a record of all material correspondence associated with a complaint.

3 Recourse to DCLG

- 3.1.1 Under exceptional circumstances, Schemes may refer an individual complainant direct to DCLG. Instances which Schemes may consider as exceptional are:
 - a) Instance of an EA who has been suspended by one Scheme, so preventing them from trading, and another Scheme having considered the evidence believing that there is a compelling case that the individual has been treated in a vindictive or perverse manner by the Scheme who suspended them.
 - b) An EA has been suspended in a way which is wholly in line with the SOR, but which demonstrates a shortcoming in the specific wording of the SOR.
- 3.1.2 Persistent unwarranted use of this approach by a Scheme shall be treated as a disciplinary matter by DCLG.
- 3.1.3 In paragraph 3.1.2 one definition of persistent is DCLG having informed the Scheme on two previous occasions in the previous eighteen months that it has forwarded complaints which the Scheme should have dealt with using normal procedures.

APPENDIX 11

SHARING OF INFORMATION WHERE A MEMBER HAS THEIR MEMBERSHIP SUSPENDED OR REVOKED

1 Uploading Member Status to the Registry

- 1.1.1 Schemes shall maintain the minimum mandatory information specified in Table 1 in relation to every registration held by every member. Schemes shall as a minimum upload this information to the EPC Register as part of the daily member upload process.
- 1.1.2 Scheme operators shall include in the information that is uploaded the current status of every EA according to one of the following categories:
- (a) "Active" – able to lodge certificates
 - (b) "Not Active" – suspended for disciplinary reasons given in paragraph 1.1.5
 - (c) "Suspended" – suspended for disciplinary reasons given in paragraph 1.1.4
 - (d) "Struck Off" – membership revoked following disciplinary action associated with reasons given in paragraph 1.1.4
 - (e) Deleted – no longer a member for reasons other than covered by (d) above. Schemes shall remove membership details for individual assessors from the information uploaded onto the Register in order to activate this status.
- 1.1.3 Schemes shall make it part of the terms and conditions of membership that EAs give prior written consent to share information about their status with other Schemes, the Operator of the EPC Register, and DCLG.
- 1.1.4 Schemes shall declare EAs as "Suspended" or "Struck Off" in circumstances where EAs are either suspended or struck off by their Scheme for one of the following reasons:
- a) The EA is no longer considered to be "fit and proper" (Section 1.1 of the main document).
 - b) Disciplinary action for committing a breach of the Code of Conduct in those areas covered by Appendix 1.2.
 - c) Disciplinary action following a failure to meet the QA standards, or failing to meet requirements following a QA failure.
 - d) Disciplinary action associated with a failure to provide evidence associated with a QA request.
 - e) Disciplinary action associated with a request to replace a defective certificate.
 - f) Disciplinary action associated with a failure to meet CPD requirements associated with the Scheme Operating Requirements.
 - g) Disciplinary action following a failure to provide a Basic disclosure certificate.

- 1.1.5 Schemes may suspend members, and ultimately revoke membership, for any breach of the terms of their membership including non-payment of membership fees. However, in instances other than those covered by paragraph 1.1.4. Schemes shall also not declare EAs as being “Suspended” or “Struck Off” when uploading EA details onto the EPC Register in the following circumstances:
- a) The Scheme is in dispute with the EA over whether a breach has occurred – ie the EA has appealed against the decision. In the instance where the EA has not acted in a reasonable and timely manner as part of a request for information associated with an appeal, the Scheme shall, however mark the individual as suspended or revoked.
 - b) The Scheme has been instructed by DCLG not to do so.
 - c) Any breach of the Scheme Code of Conduct associated with paragraph 1.1.13 of Appendix 1.2 does not relate to a specific requirement in the SOR (eg it is related to a breach in requirements associated with payments from the EA to the Scheme).
- 1.1.6 Schemes who suspend or revoke membership of an EA shall fully disclose the reasons why they have suspended or revoked the EA’s membership to other Schemes on request.

2 Uploading Member Status from the Registry

- 2.1.1 When a Scheme uploads EA details onto the Register and is notified as part of the upload process that one of their members has been marked as “suspended” or “struck off” by another Scheme, within 1 working day they shall seek further information from the Scheme that has struck the Assessor off as to their reasons for doing so.
- 2.1.2 If it is confirmed that the EA has been suspended or struck off for any of the reasons described in paragraph 1.1.4 above, then the Scheme shall suspend or revoke the EA’s membership subject to the requirements of Section 3.

3 Lifting the Suspension Status of a member suspended by another Scheme

- 3.1.1 Where a Scheme is notified as part of the upload process that an EA has been suspended, they shall also suspend that EA until the issue or issues that have led to disciplinary action being taken against them have been resolved. The Scheme shall at the same time request further information, from the Scheme that originally revoked membership (struck off) or suspended the EA, about the circumstances that have led to disciplinary action being taken against them.
- 3.1.2 If the EA has been suspended for reasons associated with paragraph 1.1.4 a) or 1.1.4g), a Scheme may lift the suspension of the individual only if that Scheme is satisfied that the individual continues to be “fit

and proper". With respect to 1.1.4 g) this requires that the Scheme at least has a valid Basic disclosure certificate. Where a Scheme lifts a suspension associated with 1.1.4 a) or 1.1.4 g) this Scheme shall inform the Scheme which triggered the suspension, and the DCLG Scheme Manager, as to why it considers the individual is "fit and proper".

- 3.1.3 If an EA has been suspended for reasons other than a) in paragraph 1.1.5, the EA shall remain suspended across all Schemes apart from exceptions detailed in paragraphs 3.1.3.1 to 3.1.3.3 below.
- 3.1.3.1 A Scheme has compelling evidence that the judgement of the original Scheme is incorrect in which case it shall inform the Scheme Manager (see Section 3 of Appendix 6.2) before taking further action.
- 3.1.3.2 A Scheme has compelling evidence that the initial Scheme suspension was perverse or vindictive in which case it shall inform DCLG (see Section 3 of Appendix 6.2) before taking further action.
- 3.1.3.3 The EA has undertaken sufficient action (e.g. additional training / CPD) for a Scheme to view that the risks of an EA being re-suspended if they should practice, as being very low. In this case the Scheme shall:
- a) Be able to demonstrate that it has undertaken an assessment of the EA's work based on an accompanied visit (see section 3.2) or an equivalent to test continued competence.
 - b) Have in place additional measures for the next six months to check the on-going competence of the EA.
 - c) Inform DCLG as to the reasons why the Scheme believes that it can lift the suspension (paragraph 3.1.3.3 a)), and those measures it has in place to ensure the on-going competency of the EA (paragraph 3.1.3.3 b)), and agrees to implement any additional measures that DCLG believes are necessary.
- 3.1.4 In the instance that a Scheme has implemented the measures in paragraph 3.1.3.3, and after a review at the end of the six month period identified in 3.1.3.3 b), the Scheme has a compelling case that the EA is fully competent to practice as an EA, the Scheme shall formally request to all Schemes who have marked the EA as membership suspended or revoked, to change the status to one which allows the EA to practice across Schemes. This does not necessarily mean that the Scheme has to re-instate the individual. Schemes receiving such a request shall normally comply. In the instance that a Scheme has evidence that the EA continues to be in breach of requirements, and they do not wish to change the EA's status, they shall give reasons to DCLG who will provide a final view to both Schemes.

3.2 Accompanied Visits

- 3.2.1 An accompanied visit is where the EA is accompanied to a dwelling by a QAA. Here the QAA witnesses the work of the EA, whilst at the same time undertaking their own assessment of the dwelling. After the visit concluded the QAA compares their EPC with that of the EA, and identifies any differences between the EA and QAA, and why they have occurred. The QAA shall also check, in so far as they can, that the EA has met the requirements of the Code of Conduct.
- 3.2.2 The EA shall be given feedback by the QAA. Where there is a failure by the EA to meet all requirements associated with an EPC or Code of Conduct, the Scheme shall implement appropriate measures.

Appendix 11, Table 1: Mandatory Information to be Provided by Accreditation Schemes when Uploading Assessor Information onto the EPC Register.

Section 1 - Personal Details			Notes to Schemes
(i)	Name	Prefix First Name Middle Name(s)* Last Name Suffix	<p>The information provided by Energy Assessors and uploaded by Schemes onto the Register shall replicate how this would be recorded on the person's passport or driving licence. Schemes shall treat submission of superfluous punctuation, abbreviation or pseudonyms as a breach of the Code of Conduct. Uploading of incorrect information onto the Register by Schemes shall be deemed non-compliant with the SORs.</p> <p>* Middle name information will not be displayed on the Register websites. The words "Not Applicable" should be entered where no middle name is either given or exists.</p>
(ii)	Address	Address 1 (building name/number) Address 2 Address 3 Town Postcode	As above. Address lines 2 and 3 are optional.
(iii)	Date of Birth	DD/MM/YYYY	As above.
(iv)	E-mail address		The Energy Assessor shall provide the e-mail address that is most up to date and most frequently used by them. Schemes shall treat provision of false or misleading information as a breach of the Code of Conduct.
(v)	Telephone		As above. This entry is repeatable and can accommodate up to 10 different telephone numbers including mobile telephone contact information.

(vi)	Assessor ID	CCCCnnnnnn	The unique identifier assigned to the assessor by the certification scheme by which they can be identified throughout their membership of the certification scheme. The assessor identifier is included in the report.
(vii)	Qualification(s)		The qualification held
(viii)	Qualification Status		The status of the assessors qualification (inactive/registered/suspended/struck off)

General comments – Section 1:

- No additional validation will be carried out by the Register over and above what is currently carried out or proposed in section 1.

Section 2 – Optional Company Details as they Appear on the Registers (To be completed only if relevant and different from the details entered at Section 1 above).			
(i)	Company Name		The Energy Assessor shall provide the full registered name of the company such as would be recorded in official documents Registered with Companies House or on official letterheads or websites associated with the Company. Schemes shall treat failure to provide correct and up to date information as a breach of the Code of Conduct. Uploading of incorrect information onto the Register by Schemes shall be deemed non-compliant with the SORs.
(ii)	Company Registration Number		As above, but in specific connection with the Company Registration Number.
(iii)	Company Address	Address 1 (building name/number) Address 2 Address 3 Town Postcode	As above, but in specific connection with the Company Address.
(iv)	Company Telephone		The Energy Assessor shall provide the current telephone number of the Company, such

			as would be recorded in official documents Registered with Companies House or on official letterheads or websites associated with the Company. Schemes shall treat failure to provide correct and up to date information as a breach of the Code of Conduct. Uploading of incorrect information onto the Register by Schemes shall be deemed non-compliant with the SORs.
(v)	Company Fax		As above, but in specific connection with the Company Facsimile Number.
(vi)	Company Website		As above, but in specific connection with the Company's Website Address.
(vii)	Company Email Address		As above, but in specific connection with the Company's E-mail Address.

General comments - Section 2:

- All of section 2 will be implemented, for the purposes of upload of assessor information to the Register, as repeatable nodes up to 20 times (i.e. the number of occurrences can be anywhere from 0 to 20).
- No additional validation will be carried out by the Register over and above what is currently carried out or proposed in section 2 and what can sensibly be carried through from section 1.

Section 3 – Optional Personal Information (To be completed only if relevant).			
(i)	Base Postcode Location		The full postcode that the assessor works from
(ii)	Postcode Coverage		A list of postcode areas and/or postcode outcodes that the assessor covers - for example: NN, PE18, LE27. This is used by the general public as part of the assessor search to find assessors that take work in a particular area. An empty list means that the assessor does not cover any

			specific areas (which would be the case if they did not take privately commissioned work) and hence would not match on any postcode based search.
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