



**FIRE AND RESCUE SERVICE
AND BUILDING CONTROL
-
ACHIEVING CONSENSUS**



1 General Introduction

In the majority of cases, Building Control Bodies and Fire and Rescue Services work together to achieve safe buildings by meeting fire safety regulatory requirements of the Building Regulations (as amended) and the Regulatory Reform (Fire Safety) Order (the FSO).

The Building Regulations and Fire Safety Procedural Guidance and associated consultation proforma, is a framework that helps ensure potential problems are limited by timely consultation.

There may be rare occasions when consensus is not immediately reached. This document is intended to offer a framework for resolution of such situations by consensus decision making.

This document has no legal stature and will not be appropriate in all cases, however debate through this process will demonstrate that all parties have examined the issues in a professional and structured manner coming to considered and agreed conclusions.

This document and the Achieving Consensus process have been created involving representatives from:

- The Association of Consultant Approved Inspectors (ACAI)
- The Health & safety Executive (HSE)
- The Home Office
- LABC
- The Local Government Association (LGA)
- The Ministry of Housing, Communities and Local Government (MHCLG)
- The National Fire Chiefs Council (NFCC)
- NHBC
- The Welsh Government

Background

Current legislation surrounding fire safety is non-prescriptive, this allows a flexible and innovative approach to compliance. However, this entails interpretation of wide and varied guidance and fire engineered solutions which can result in differences of opinion and interpretation.

In this environment it is inevitable that professionals from Building Control Bodies and Fire and Rescue Services may find themselves in a situation where the most effective and mutually beneficial solution is not immediately obvious. In these situations, formal intervention may be needed using third-party subject matter professionals to help reach consensus.

Reason for the consensus reaching process

This consensus reaching process offers building control bodies and the fire and rescue service an opportunity to gain further insight into any differences without the need to expose those differences to the applicant, who may otherwise be exposed to more formal determination or legal measures to resolve technical differences of opinion and avoid abortive work.

The consensus reaching process can consider any case not already determined or set before the courts in relation to the fire safety aspects of the Building Regulations in proposed new and refurbishment projects, and considers legislation and guidance in determining best practice.

What this consensus reaching process cannot address

Any application made to the panel will be closely scrutinised to ensure it is within scope of the Consensus Reaching Process.

This process is not intended to:

- Replace the MHCLG or Welsh Ministers' Determinations process whereby technical and regulatory differences of opinion between a building control body and 'dutyholders' are determined.
- Intervene in how well Building Control Bodies and Fire and Rescue Services apply the consultation process i.e. it is not a complaints process.
- Replace the timely and sufficiently informed consultation between Building Control Bodies and the Fire and Rescue Service as detailed in Building Regulations and Fire Safety Procedural Guidance, supported by the consultation proforma.

Panel Constitution & Governance

The panel was formed by the Joint Regulators Group (JRG) Task and Finish Group and consists of named representatives from each of the following:

- National Fire Chiefs Council (NFCC)
- LABC
- Association of Consultant Approved Inspectors (ACAI)

These named representatives have the current competence to deal with complex building regulation applications. CVs and full details of those involved on behalf of each representative organisation are held by the secretariat.

Two representatives from each organisation will be called upon to act on an individual case, ensuring all panel participants are independent of the case being considered and there is no real or perceived bias.

Scheme Coordination for the Panel is provided by LABC contact details are consensusscheme@labc.co.uk tel 020 8616 8120.

Decisions

The Fire and Rescue Services, NFCC, ACAI and LABC would not wish to require or instruct members to use this service but they, along with MHCLG, the Home Office and the Welsh Government strongly recommend, encourage and endorse its use..

If jointly entered into, both parties will agree (by joint declaration) to take account of the outcome of the process in fulfilling their statutory responsibilities. If the issues move to stage 2 then parties will be deemed to have agreed to equal responsibility for costs unless confirmation is received as to other agreed arrangements.

Once consensus is reached, cases will not be further reviewed as a result of any additional debate or input by other individuals or organisations.

The scheme has no legal stature and merely offers an alternative means of reaching consensus in a timely fashion to help obviate the need for the duty-holder to enter into a more formal process.

Expenses

The second and third stages may be subject to the cost of reasonable expenses on a non-profit basis. Charges will be the direct costs of the panel participants in time and travel and of any required third-party experts and will be agreed with all participants in advance.

Timeframes

Every effort will be made to deal with applications for stage 2 and 3 panels within the following timeframes, however these may be extended by agreement subject to the complexity and requirement for third party involvement in the process.

The statutory timeframes for Building Regulation decisions by local authorities are somewhat restrictive and it is likely that the process may impact significantly on those; as such, the aim is to ensure that the process is as swift as possible.

2 Stages of Issues Resolution

Cases can be referred unilaterally but the second party must be informed of the approach and be invited to participate.

The scheme has three stages:

Stage 1

Prior to entry into Stage 1 it is considered the respective body will have carried out an internal Building Control Body / Fire and Rescue Service Peer Review.

It is envisaged that consensus can be quickly reached in many cases by involving the respective representative body. As such, an informal review should be carried out in the first instance by the relevant representative bodies. Fire and Rescue Services should refer the issue to the NFCC, Local Authority Building Control to LABC and Approved Inspectors to ACAI using form 1. This is a peer review process which should be used before entering Stage 2. This does not preclude the respective body seeking peer review which is always considered good practice.

Stage 2

Stage Two involves an informal review of the case by a group made up from the Consensus Panel. Whilst stage 2 is an informal stage of the process, there is still the need for both sides to provide sufficient information to support their case and to allow the panel to make a fully informed decision.

Stage 3

A formal review will be undertaken by a six-person Consensus Panel to advise the parties involved. The third stage is a more structured approach. Stage 3 may be used where a party is uncertain whether all the facts have been adequately presented at Stage 2 or may wish to fully develop their considered opinions further, together with additional supporting evidence (over and above that supplied as part of the consultation process detailed in the Building Regulations and Fire Safety Procedural Guidance).

Statements in support of opinions can include third party reports and reasonable time should be allowed for the preparation of such reports. It is not the intention of Stage 3 to provide a second opinion of the same case presented at Stage 2 on the basis that the case was not fully developed at that time. It is expected that Stage 2 cases should be supported by full and considered supporting evidence. Requests for cases to proceed to Stage 3 should clearly set out the basis for the request. This may include additional third-party reports and reasonable time should be allowed for the preparation of such reports.

This stage may attract additional expenses if expert review by independent Fire Engineering companies is deemed necessary.

3 Procedure

Stage 1

One or both parties should contact (by e-mail) their respective organisation's Consensus Coordinator and the Scheme Coordinator with basic details of the issues for a Stage 1 review including a Stage 1 Application Form (see appendix 1). Details of the Consensus Reaching Coordinators and the Scheme Coordinator can be found using this link.

It is important that affected applicants / dutyholders are informed of the application for the Consensus Reaching process and are kept informed of its progress.

Each party will be provided with a nominated Independent Person from their relevant Organisation within 2 working days. This will provide the basis for an informal discussion on a peer review basis.

If this does not resolve the situation, the parties can request the issues are heard at Stage 2.

Stage 2

The parties should contact (by e-mail) the Scheme Coordinator with the completed Stage 2 Application Form (Appendix 2).

The parties should give basic details of the issues as they see them and any information resulting from the stage 1 process.

The Scheme Coordinator will convene (by e-mail) a Panel having a minimum of three people, one from each of the relevant peer bodies. The Panel will not contain any person that is party to the case or has any potential bias.

Within 5 days, the Panel, via email, telephone, f2f meeting or video conference, will discuss the issues and arrive at an initial view.

The views of the Panel will be communicated by e-mail to the parties within 5 working days.

Where consensus is achieved, a general record of the case and decision will be held by the Scheme Coordinator.

If the Panel cannot form a consensus view, they may suggest the issue is heard at Stage 3 or suggest that the matter may need to be pursued by the duty-holder through more formal channels.

Stage 3

A panel will be convened within 2 working days, of up to six people, with equal representation from each of the respective bodies. This Panel will be provided with the Stage 1 and 2 representations and the completed Stage 3 Application Form (Appendix 2). Stage 3 allows for further evidence to be presented. It may be that a consensus can be met with further written evidence or a formal meeting may be convened.

In either case both parties must provide: -

1. Relevant plans and documentation
2. A statement setting out the views / opinions
3. Any supporting evidence or expert opinion

The above information is to be provided within 10 days of request and will be circulated to the Panel members no less than seven days before the panel meets.

The panel should meet within fifteen working days of receipt of the information.

Formal Meeting Procedure

1. The parties present the issue and their opinions and evidenced solutions
2. The Panel questions the parties
3. The Panel will retire to discuss an initial view
4. The Panel will present its initial view
5. The parties can make any final comments
6. The Panel will retire to come to a recommendation

Panel Recommendation

The Panel's recommendation will be made in writing within 48 hours.

A general record of the case and decision will be held by the Scheme Coordinator.

Notes:

- The aim is to achieve consensus within 28 days.
- It is important that affected applicants / dutyholders are informed of the application for the Consensus Reaching process and are kept informed of its progress.
- A general record of the case and decision will be recorded.
- All outcomes are to be reported to the NFCC, LABC Board and ACAI Executive.
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- General trends / learnings / outcomes will be reported to Welsh Ministers / The Home Office / MHCLG / The BSR.
- Where the outcome is considered to offer good general guidance or required learning, the provision of a guidance note may be recommended.

Appendix 1 – Stage 1 Application Form (for submission to representative body NFCC/LABC/ACAI and copied to Consensus Coordinator)

STAGE 1 APPLICATION		
Applicant (please delete)	Fire and Rescue Service	Building Control Body
Date		
Building Control Body		
Address		
Contact Name		
Email Address		
Phone Number		
Fire and Rescue Service		
Contact Name		
Email Address		
Phone Number		
Description of work		
Location of work		
Brief description of issue for resolution.		

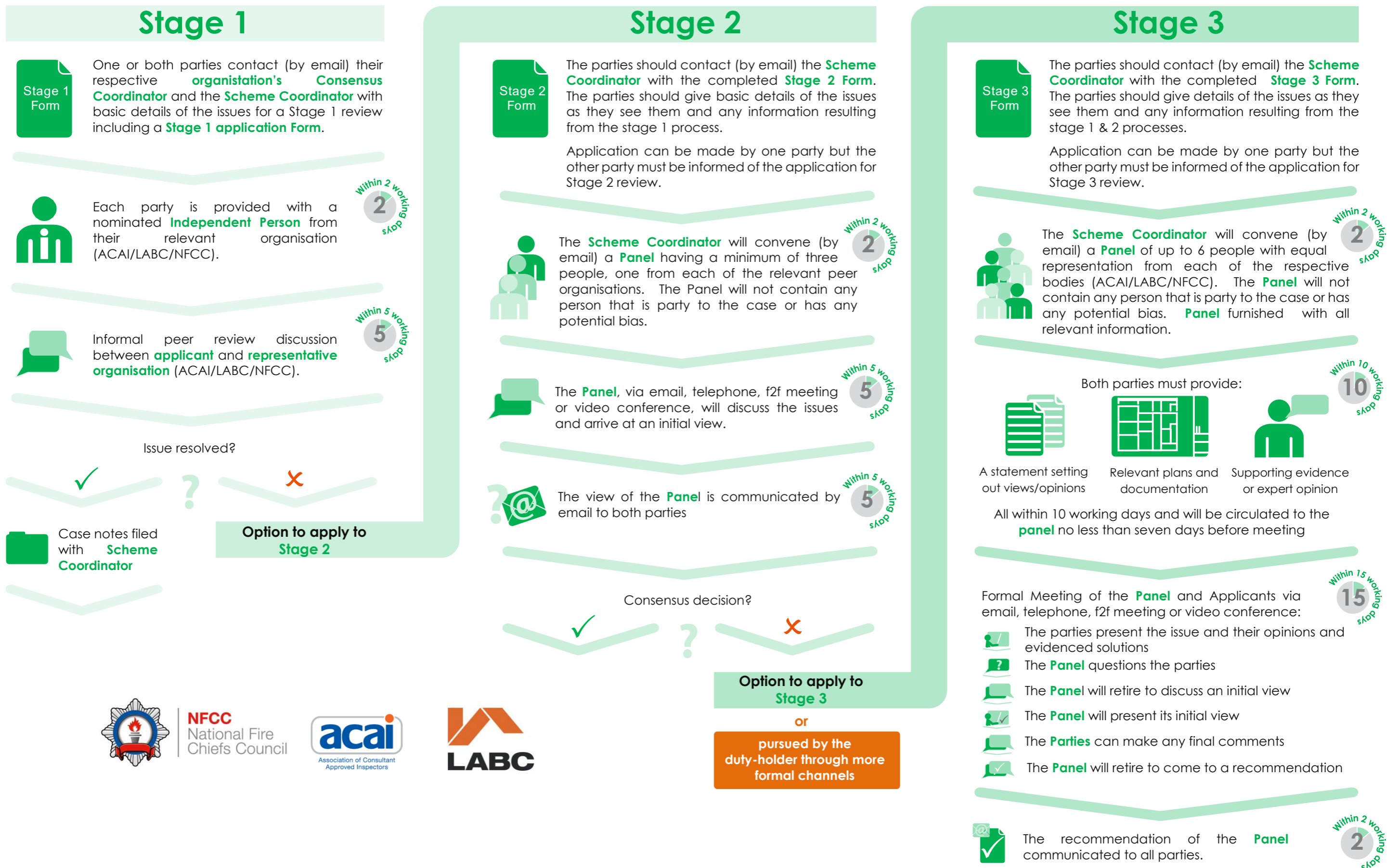
Statement of case	
Relevant legislation	
List of supporting plans, documents and information	
OUTCOME / RECOMMENDATION	

Appendix 2 – Stage 2 / 3 Application Form (for submission to Consensus Reaching Panel)

STAGE (please indicate): Stage 2 Stage 3	
Date	
Building Control Body	
Address	
Contact Name	
Email Address	
Phone Number	
Fire and Rescue Service	
Contact Name	
Email Address	
Phone Number	
Description of work	
Location of work	
Brief description of issue for resolution.	

Statement of case	
Relevant legislation	
List of supporting plans, documents and information	
OUTCOME / RECOMMENDATION	

Appendix 3 – Consensus Reaching Process Map



NFCC
National Fire Chiefs Council

