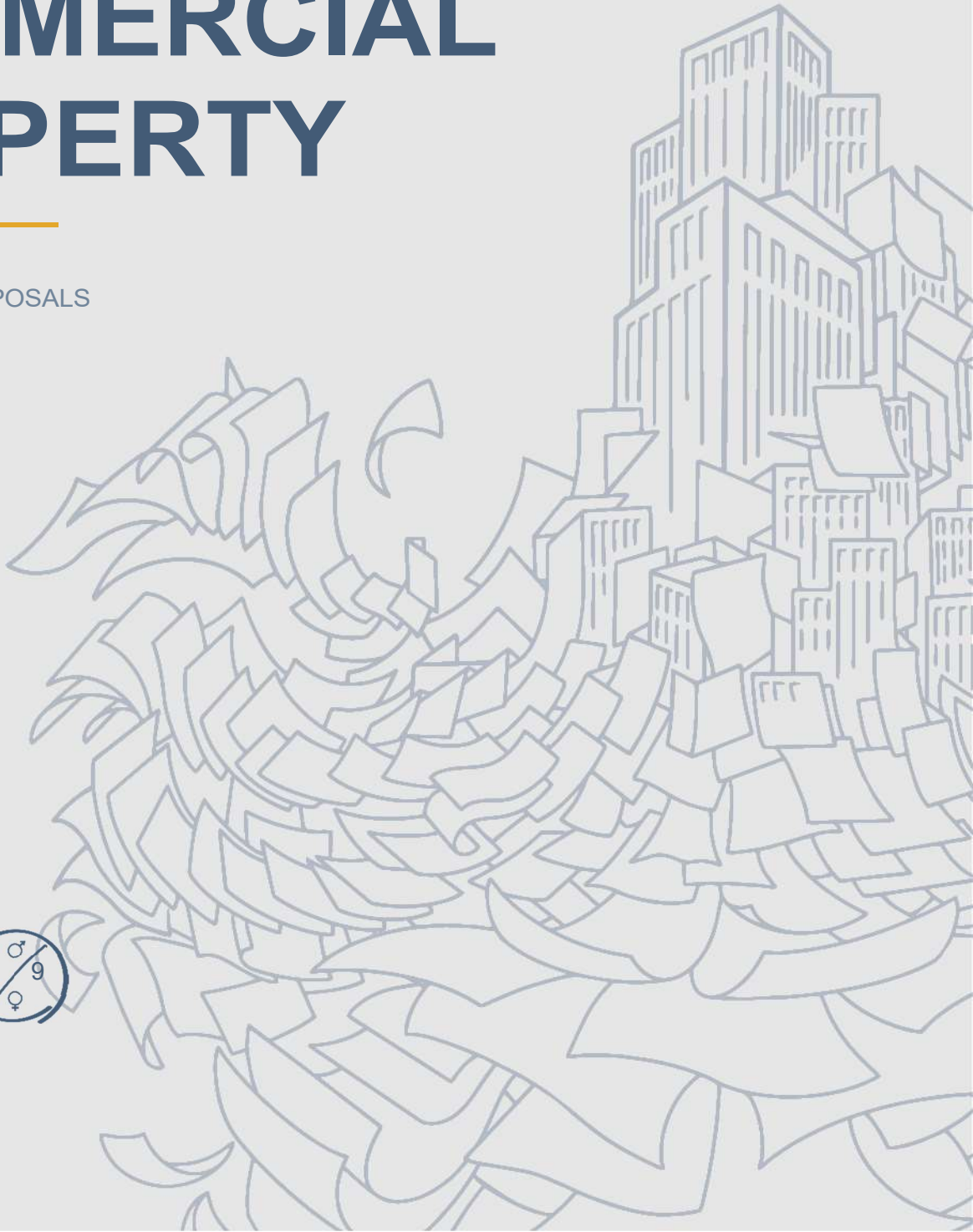


ENERGY EFFICIENCY PROPOSALS IMPACTING COMMERCIAL PROPERTY

GOVERNMENT PROPOSALS

May 2021

50:50
THE EQUALITY PROJECT



FRAMEWORK FOR PERFORMANCE-BASED ENERGY RATINGS IN LARGE COMMERCIAL AND INDUSTRIAL BUILDINGS

GOVERNMENT PROPOSALS

- **Interaction with EPCs:** The Government proposes that prospective tenants and buyers must be made aware of the rating before the building is let or sold and the consultation considers how this will interact with the commissioning of EPCs. The consultation also proposes that instead of needing to obtain EPCs alongside performance-based ratings to prove compliance, landlords will be able to agree the set of cost-effective measures that they need to install under the Minimum Energy Efficiency Standards (MEES) with the scheme administrator when they are first required to obtain annual performance-based ratings.
- **Annual ratings:** The Government proposes:
 - **Performance-based:** the rating will be performance-based on verified meter readings: properly accounting for operating hours, occupancy and location and set against high quality benchmarks. It will only reward a building with a higher score if the building actually reduces measured energy use and carbon emissions.
 - **Benchmarking:** that the energy use and carbon emissions from a building will be benchmarked against similar building types. This will then produce a simple rating, for example between 1-6 stars, where 6 stars could represent the best and 1 the worst. Buildings will not just be benchmarked against their peers, but also assessed in relation to a net-zero trajectory. Benchmarks should be established in collaboration with the industry and updated and reviewed regularly.
 - **Investment grade:** the rating should provide reliable and trusted key information to building owners, occupiers, lenders and investors so they can clearly understand what the rating means and be able to translate that score into value, e.g. lower energy bills, increased asset or rental value for high performing buildings, lower insurance premiums or performance-driven financing packages.
 - **DEC and beyond!:** to introduce a rating which modernises and goes beyond the Display Energy Performance Certificate (DEC): a performance-based rating which currently applies to public sector buildings over 250m². It needs to measure the entire energy consumption of a building and benchmark that performance against similar buildings.
 - **Threshold:** the 1,000m² threshold will be reviewed in each phase for each sector with 1,000m² acting as the default threshold unless there is clear evidence that it should be lower or higher for a given sector.
 - **Voluntary rating:** buildings below 1,000m² will be able to acquire a performance-based rating on a voluntary basis, should they choose to do so. Should this option be progressed, a sensible timeline for delivering this option will be determined with the ratings administrator.
 - **NABERS approach:** the rating framework should broadly follow The National Australian Built Environment Rating System (NABERS) approach which is considered to be the best-known performance-based scheme and is considered to represent best practice internationally.
 - **Improving ratings:** there will initially be no regulatory obligation to improve ratings. This will allow the businesses, building owners and the wider market a chance to respond to the framework. Ratings should improve over time.
 - **Two possible rating types:** “Base building rating” for building owners with tenant space and “Whole building rating” for owner occupier/single tenant sites.
 - **Decarbonisation:** the framework will also support action to decarbonise heating systems in buildings by positively recognising low carbon technologies in the rating.
 - **Net-zero:** the rating framework needs to enable the delivery of net-zero in the largest and most complex buildings. This means incentivising energy storage and demand reductions, to ensure that energy improvements are made in a way that delivers positive results throughout the UK.
- **Sectors:** The performance-based framework should be introduced on a sector by sector basis, with ratings tailored to the needs of each sector or specific building type.
- **Expanding the performance-based rating.** The benefits of covering factors such as water, waste and indoor air quality will be considered.

- **Incentives:** To meet the UK's climate targets, ratings must improve over time to drive those who consistently emit more carbon than their peers to improve. This will require clear incentives, and potentially regulation in the future (examples of possible interventions are included in the consultation).
- **Quality assurance:** buildings in the framework will require site assessments by a chartered professional every four years to make sure the rating is being produced accurately.
- **Positive uses of energy:** Government will look to recognise and reward all positive uses of energy, including flexible energy use and storage, heat networks and on-site renewables.
- **MEES:** The consultation's proposals complement the future target for the Non-Domestic Private Rented Sector MEES of EPC B by 2030 and the consultation on improving the implementation and enforcement of the Non-Domestic PRS MEES regulations. See [here](#).
- **Compliance and enforcement:** There are two main methods of enforcement available:
 - publication of non-compliance (publicise those organisations that have not complied with the framework). This approach may be effective with some businesses/organisations for whom Environmental, Social, and Corporate Governance (ESG) is important. For some, however, it may not be a motivating factor.
 - financial penalties. This is most likely to be in the form of a penalty fine system. There could be a system of notices and warnings followed by a scale of fines with smaller fines for one-off non-compliance and larger fines for persistent breaches. Some possible bodies that could carry out the framework enforcement role include: ratings administrator, BEIS and a Government agency.
- **Exemptions:** The Government is initially of the view that only a small number of large non-domestic buildings should be exempt from the framework. The reasons for a valid exemption need to be properly worked out. All buildings must reach net zero by 2050 and the Government will not consider exemptions that are only based on perceived difficulties in implementation
- **Office sector implementation:** How the framework could be implemented in the office sector will be phase one. A corresponding impact assessment has been published. Phase two and phase three of the rating's introduction will address the remaining sectors
- **Collaboration:** The Government will work with each sector before the framework is applied to make sure it can meet the needs of the sector. To maximise the benefits of the phased approach, the Government is encouraging businesses and buildings owners that operate outside of the office sector to use the consultations to consider where they can take action to ready their buildings for the introduction of the framework.
- **Guidance:** The Government will publish a short guide on the steps that building owners and businesses can take to prepare.

OFFICES

- The Government proposes that individuals or organisations that meet the following criteria will require a performance-based framework rating:
 - owners of a commercial office above 1,000m²;
 - if the owner also occupies the office, a 'whole building rating' will be required or, if the owner rents out the office, a 'base building rating' will be required;
 - single tenants who occupy a commercial office above 1,000m². A single tenant is defined as a tenant in an office above 1,000m² where there are no other tenants in the office. These tenants will typically be responsible for all energy and services in the office and will be required to get a 'whole building rating'.
- These different types of rating are needed to reflect the extent to which the owner or single tenant is responsible for energy use within the office. The Government will explore the feasibility of making the performance-based framework rating available on a voluntary basis for owners and single tenants of offices below 1,000m², and it welcomes views on the impact that this may have.
- The Government considers that landlords and businesses should only be required to improve the performance of the features of the building that are in their control. For example, in the office sector, the Government proposes that landlords of multi-tenanted buildings will only be responsible for getting a 'base building rating' for the building. A base building rating will reflect the performance of central areas and central services, as those are the areas of the building that the landlord has the ability to improve. Single tenants and owner occupiers, on the other hand, will typically have responsibility over all the energy used in the building. They will therefore be assigned a 'whole building rating', which will reflect the performance of the whole building.

**PROBLEMS. POSSIBILITIES.
COMPLEXITY. CLARITY.
OBSTACLES. OPPORTUNITIES.
THE DIFFERENCE IS IMAGINATION.**

addleshawgoddard.com

© Addleshaw Goddard LLP. This document is for general information only and is correct as at the publication date. It is not legal advice, and Addleshaw Goddard assumes no duty of care or liability to any party in respect of its content. Addleshaw Goddard is an international legal practice carried on by Addleshaw Goddard LLP and its affiliated undertakings – please refer to the Legal Notices section of our website for country-specific regulatory information.

If you prefer not to receive promotional material from us, please email us at unsubscribe@addleshawgoddard.com. For further information, including about how we process your personal data, please consult our website www.addleshawgoddard.com or [aglaw.com](https://www.aglaw.com).