

# Building regulations and building control

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## Overview

This briefing has been prepared to provide an overview of building regulations and building control.

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## What are Building Regulations?

The [Building Regulations 2010](#) set out the legal requirements about how buildings and extensions should be built. They cover for example the structure of the building, fire safety, and the provision of sanitation, hot water safety and water efficiency measures. The Department of Communities and Local Government publishes guidance called '[Approved Documents](#)' on ways to meet the building regulations.

## Getting approval for building work

The role of checking that Building Regulations are being complied with falls to Building Control Bodies (BCBs).

There are two types of BCBs, a Local Authority Building Control service and a private sector Approved Inspector Building Control service.

Customers can choose which type of BCB they use on their project.

Some types of building work can also be self-certified through the government's Competent Person Scheme (CPS), as an alternative to getting building

regulations approval by a Building Control Body. See section on [Competent Person Schemes](#).

### **Using an Approved Inspector**

If an Approved Inspector is used, instead of the Local Authority Building Control Service, then an 'Initial Notice' must be submitted to the local authority jointly by the Approved Inspector and applicant before work commences on site. Once submitted, the local authority should check the details of the Initial Notice within 5 working days – the local authority can reject the notice if the details are found to be incorrect.

Once this notice has been accepted by the local authority the responsibility for plan checking and site inspection will be formally placed on the Approved Inspector.

Upon completion of the work, the Approved Inspector will issue what is known as the 'final certificate' to the local authority and applicant, confirming that the work in the initial notice is complete and that the inspector is satisfied that it complies with the building regulations requirements. The local authority is not required to do any further checks, but will maintain a record of all certificates received from Approved Inspectors. The Approved Inspector is not required to share the detailed documentation on building control applications they process with the local authority.

Private sector Approved Inspectors have existed since 1985 and operate in competition with local authority building control.

### **Making a building control application**

Once it has been established that an application needs to be made to a Building Control Body (BCB) there are three main types of application:

- Full Plans Application

This is the most thorough option. Decision on whether plans meet building regulations within 5 weeks, or 2 months with the consent of the applicant. A completion certificate (or 'final certificate' if process by an Approved Inspector) issued within 8 weeks of completion of the approved building work as long as it complies with building regulations.

A full plans application can apply to any type of building work but must always be submitted for works including:

- Buildings covered under the Regulatory Reform (Fire Safety) Order 2005

Detailed plans are submitted and the applicants will get a formal decision notice. This application includes plans, specifications and where necessary structural calculations.

The details are checked to make sure they comply with building control regulations. Once the application is checked and found to be satisfactory, it will be approved. If not, advice will be provided to the applicant on what amendments and/or additional information are required to enable an

approval to be issued. If no response is received or the revisions are not satisfactory an application can be rejected.

- **Building Notice Application**  
This type of application is only for smaller projects. Work can start 2 days after a notice has been submitted to the relevant BCB. There is no formal approval from the BCB as there is with a full plans applications.
- **Regularisation Application**  
This type of application is for retrospective approval for work already carried out without consent – from a local authority BCB only.

This council building control [flow chart](#) provides an illustrative overview of the building control application process from an applicant's perspective. The process will be similar if an Approved Inspector is used as the building control body, apart from some small differences outlined in the [Using an approved inspector](#) section above i.e. requirement for an 'initial notice' to be submitted to the local authority and issuing of a 'final certificate' to the local authority to confirm that building work has been completed and complies with Building Regulations.

### **Building control site inspections**

Local authority building control officers or Approved Inspectors will make statutory and routine inspections at various stages during building works; to ensure compliance with the building regulations and other relevant legislation and guidance. Here is an [example](#) of a council building control inspection process.

### **Signing-off building works**

Provided the Building Control Body dealing with a building control application has seen all the relevant stages of building work, and they comply with the Building Regulations, the relevant certificates have been provided and the relevant fees paid, a Completion Certificate (or 'Final Certificate' in the case of Approved Inspectors) will be issued.

### **Building control and the [Regulatory Reform \(Fire Safety\) Order 2005](#)**

The Regulatory Reform (Fire Safety) Order 2005 came into force from 1 October 2006. This applies to nearly every type of building and structure.

For example, it applies to:

- offices and shops.
- care providers (including care homes and hospitals).
- community halls, places of worship and other community premises.
- the shared areas of properties several households live in (housing laws may also apply).
- pubs, clubs and restaurants.
- schools and sports centres.
- hotels and hostels.
- factories and warehouses.

It does not apply to people's private homes.

Where a building is to be put to use where the Regulatory Reform Order (RRO) applies or will apply after completion of the work then full plans application must be used (regulation 12 of the Building Regulations 2010).

In addition, for certain types of building works, building control bodies are also required to consult with the fire and rescue authority at certain stages within the process as prescribed by legislation (article 45 of the Regulatory Reform (Fire Safety) Order and regulation 12 of the [Building \(Approved Inspectors etc\) Regulations 2010](#)).

Article 45 of the Regulatory Reform (Fire Safety) Order requires consultation for the following types of work:

- Erection of a building
- Extension or structural alteration
- Change of use

### **Prosecution and enforcement notices**

There are two formal enforcement powers which a local authority can use to achieve compliance with building regulations if informal routes are unsuccessful. Approved Inspectors do not have formal enforcement powers.

#### *Prosecution*

A local authority may prosecute a person (builder, installer or main contractor) in carrying out building work that contravenes the Building Regulations in the Magistrates' Court where an unlimited fine may be imposed (section 35 and 35A of the Building Act 1984). Prosecution is possible up to two years after the completion of building work which breaches Building Regulations.

#### *Enforcement*

As an alternative, or in addition to, the local authority may serve an enforcement notice on the building owner requiring alteration or removal of work which is in breach of building regulations (section 36 of the Building Act 1984). The local authority has the power to undertake the work itself and recover costs from the owner, if the owner does not comply with the enforcement notice.

A section 36 enforcement notice cannot be served after the expiration of 12 months from the date of building work being completed. A local authority also cannot take enforcement action under section 36 if the work that has been carried out is in accordance with a full plans application which a local authority approved.

First, if a person carrying out building work contravenes the Building Regulations, the local authority may prosecute them in the Magistrates' Court where an unlimited fine may be imposed (sections 35 and 35A of the Building Act 1984). Prosecution is possible up to two years after the completion of the offending work. This action will usually be taken against the person carrying out the work (builder, installer or main contractor).

### **Access to building control records**

Unlike planning applications there is no general public right to inspect plans deposited under the Building Regulations.

## **How are Approved Inspectors approved?**

As the body designated by the Secretary of State in England and Welsh Ministers in Wales, CICAIR Ltd maintains and operates the Construction Industry Council Approved Inspectors Register (CICAIR). More detailed information can be found [here](#). The approval process CICAIR Ltd operates provides applicants with a route to registration as an Approved Inspector.

Approved Inspectors are required to seek re-approval *every five years* to maintain their Approved Inspector status. Approved Inspectors can be individuals or organisations.

All Approved Inspectors must have insurance with the mandatory run-off cover from a Scheme approved by the Secretary of State under Section 47(6) of the Building Act 1984.

The Construction Industry Council is the representative forum for the professional bodies, research organisations and specialist business associations in the construction industry.

## **Competent Person Scheme**

Competent Person Schemes<sup>1</sup> (CPS) were introduced by the government in 2002, to allow individuals and enterprises to self-certify that their work complies with the Building Regulations as an alternative to getting building regulations approval by a Building Control Body.

A Competent Person must be registered with a scheme that has been approved by the Department for Communities and Local Government.

Types of building work included in the Competent Person Schemes include:

- Air pressure testing of buildings
- Cavity and solid wall insulation in an existing building
- Combustion appliances
- Electrical installations
- Heating and hot water systems
- Mechanical ventilation and air-conditioning systems
- Plumbing and water supply systems
- Replacement windows, doors, roof windows or rooflights
- Replacement of roof coverings on pitched or flat roofs
- Microgeneration and renewable technologies

More detail about current Competent Person Schemes and how schemes are authorised can be found here.<sup>2</sup>

## **Can councils set additional standards for construction of new dwellings that go beyond those in Building Regulations?**

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<sup>1</sup> <https://www.gov.uk/building-regulations-competent-person-schemes>

<sup>2</sup> <https://www.gov.uk/guidance/competent-person-scheme-current-schemes-and-how-schemes-are-authorised>

In 2015, the government introduced a new approach for the setting of technical standards for new housing<sup>3</sup>.

Local planning authorities can set additional technical requirements exceeding the minimum standards required by Building Regulations relating to access and water. They can also set an optional, nationally described space standard. In order to do this, local planning authorities will need to gather evidence to justify the need to set policies for these additional technical standards, in their Local Plans.

The written ministerial statement, published in March 2015<sup>4</sup> setting out the government's policy on the new technical housing standards, also makes clear that: *"from the date the [Deregulation Bill 2015](#) is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings."*

### **Difference between building regulations and planning permission**

*Building regulations* set standards for the design and construction of buildings to ensure the safety and health for people in or about those buildings. They also include requirements to ensure that fuel and power is conserved and facilities are provided for people, including those with disabilities, to access and move around inside buildings.

*Planning* seeks to guide the way our towns, cities and countryside develop. This includes the use of land & buildings, the appearance of buildings, landscaping considerations, highway access and the impact that the development will have on the general environment.

For many types of building work, separate permission under both regimes (separate processes) will be required. For other building work, such as internal alterations, buildings regulations approval will probably be needed, but planning permission may not be.

### **Further advice and guidance on building control and building regulations**

*Local Authority Building Control (LABC)*

<https://www.labc.co.uk/>

Local Authority Building Control (LABC) represents all local authority building control teams in England and Wales.

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<sup>3</sup> <https://www.gov.uk/guidance/housing-optional-technical-standards>

<sup>4</sup> <https://www.gov.uk/government/speeches/planning-update-march-2015>