

# THE BUILDING INSPECTORS

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## Enforcement Policy



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## 1.0 Introduction

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As Registered Building Control Approvers (RBCAs) in England. We are responsible for administering The Building Regulations across a wide sector of building types excluding Higher Risk Buildings in accordance with Professional Conduct Rules and in compliance with Operating Standard Rules.

Our primary aim is to protect the safety of people in or around buildings.

## 2.0 Scope

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This policy statement sets out our approach to enforcement where one of our Registered Building Inspectors take action to enforce the law under The Building Regulations when issues of non-compliance or serious risk have been identified.

## 3.0 Strategic delivery

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We apply a risk-based approach to our regulatory function. Our regulatory methods are:

- Providing published information and guidance
- Inspecting buildings and building works (remotely and on-site)
- Reverting projects to the local authority for enforcement
- Stopping certain activities
- Recommending and bringing prosecutions

Our risk-based approach is based on the principles of good regulation. These principles are:

- Targeting
- Proportionality
- Transparency
- Consistency
- Accountability

## 4.0 Operational policy

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All breaches of the Building Act and Building Regulations are deemed to be risks. This includes any actual or potential risk arising from any breach, the gravity and extent of the breach, its likelihood, and the impact of action taken.

### 4.1 Targeting

Our interventions and enforcement will target those duty holders or situations which:

- cause the most serious risks of contravention of Building Regulations
- risk a contravention of the Building Regulations that are least well controlled.

We will use intelligence to develop inspection and intervention plans. These are based on:

- emerging issues
- past performance of duty holders
- analysis of higher-risk activities

We will work in partnership with fellow regulators, such as the fire and rescue services, to help target building control resource appropriately.

### 4.2 Proportionality

We expect duty holders to ensure building work complies with Building Regulations.

Our interventions and enforcement will be proportionate to the gravity and extent of any contravention of the Act and Building Regulations.

### **4.3 Consistency**

Our company will achieve consistency by, for example:

- Applying published guidance from the Building Safety Regulator, as appropriate
- Adopting a consistent approach to regulatory competence
- Setting clear expectations for the delivery of our building control functions from inception of our services to completion
- Allowing appropriate comparison via peer review

### **4.4 Transparency**

To maintain transparency, we will ensure duty holders know what they can expect from us as registered building control approvers.

We will maintain building control records digitally and updated regularly. This will help with business continuity and transparent decision-making.

We will be open about our activities and processes by:

- Publishing our enforcement policies, procedures, principles and standards
- Sharing relevant and permissible information
- Using benchmarking
- Peer reviewing
- Employing good practice

### **4.5 Accountability**

We will provide duty holders with information on what to expect when inspectors visit and how to raise a complaint.

## THE BUILDING INSPECTORS

The Building Inspectors Ltd. will only engage registered and competent people to provide building control services. They will work within the scope of their registration, within their contractual arrangements and in accordance with:

- The Building Inspector Competence Framework<sup>1</sup>
- The Code of Conduct for Registered Building Inspectors<sup>2</sup>
- The Professional Conduct Rules for Registered Building Control Approvers<sup>3</sup>
- Professional Body Codes of Conduct RICS<sup>4</sup>, CABE<sup>5</sup>, Engineering Council<sup>6</sup> & IFE<sup>7</sup>
- The Building (Registered Building Control Approvers etc.) (England) Regulations 2024<sup>8</sup>

Our risk management strategy contains the risk-based assessment made to use regulatory intervention and enforcement tools.

Reasonable steps will be undertaken through our standard operating procedures to update enforcement and intervention records within 5 working days.

Any potential contraventions will be identified at a Plan Check stage or if information is requested and not received within reasonable timescales to allow a compliance assessment to be undertaken. Records of each contravention will be documented, including evidence of resolution, and will have a Registered Building Inspectors (RBI's) contraventions resolution agreement.

The Building Inspectors Ltd. will cancel their Initial Notice as soon as possible where contraventions cannot be resolved, (reversion).

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<sup>1</sup> <https://www.hse.gov.uk/building-safety/assets/docs/building-inspector-competence-framework.pdf>

<sup>2</sup> <https://www.hse.gov.uk/building-safety/assets/docs/code-of-conduct.pdf>

<sup>3</sup> <https://www.hse.gov.uk/building-safety/assets/docs/professional-conduct-rules.pdf>

<sup>4</sup> <https://www.rics.org/profession-standards/rics-standards-and-guidance/conduct-competence/rules-of-conduct>

<sup>5</sup> [https://cdn.ymaws.com/cbuilde.com/resource/resmgr/documents/rules\\_of\\_professional\\_conduc.pdf](https://cdn.ymaws.com/cbuilde.com/resource/resmgr/documents/rules_of_professional_conduc.pdf)

<sup>6</sup> <https://www.engc.org.uk/ethics>

<sup>7</sup> [https://www.ife.org.uk/write/MediaUploads/Membership/IFE\\_Code\\_of\\_Conduct.pdf](https://www.ife.org.uk/write/MediaUploads/Membership/IFE_Code_of_Conduct.pdf)

<sup>8</sup> <https://www.legislation.gov.uk/uksi/2024/110/contents/made>

## 4.6 Duty holders

Duty holders are those that commission and carry out building works. They are responsible for complying with the Act and Building Regulations made under it.

Duty holders are responsible for preventing, managing, and controlling their building risks from design to demolition on any building project.

Building control should expect duty holders to proactively demonstrate how their project will comply with Building Regulations. This should include an explanation of how their project meets the functional requirements of the Building Regulations from design into occupation. This should include:

- Identified risks and their management arrangements
- Evidence on which guidance informed design and construction
- Evidence on how duty holders have assessed the appropriateness of the guidance used to demonstrate specific elements of compliance.

Duty holders should engage with occupiers, for example for refurbishment works. This will help them check, improve and maintain the standard of their buildings in compliance with the law.

## 4.7 Procedures

Where one of our Registered Building Inspectors becomes aware of a breach of the Building Act 1984 (as amended), or associated legislation such as the Building Safety Act 2022, Building Regulations 2010 (as amended), or The Building (Registered Building Control Approvers etc.) (England) Regulations 2024, we will use our building control functions to secure compliance.

We will notify you in writing of each contravention and set out the process for dealing with the non-compliance.

If we are unable to secure compliance within a reasonable timescale, we will report non-compliant work to the relevant local authority.

Please refer to Section 35<sup>9</sup> of the Building Act 1984 Contravention below for further reference.

## Section 35. The Building Act 1984 Contravention

### **35[F1 Penalty for contravening building regulations.][F1 Offence of contravening building regulations etc]**

**[F1]** If a person contravenes any provision contained in building regulations, other than a provision designated in the regulations as one to which this section does not apply, he is liable on summary conviction to a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £50 for each day on which the default continues after he is convicted.]

**[F1(1)]** A person who contravenes a provision of building regulations, or a requirement imposed by virtue of any such provision, commits an offence.

(2) Building regulations may provide that subsection (1) does not apply in relation to a prescribed provision of the regulations.

(3) Building regulations may provide that, in relation to a prescribed provision of the regulations, it is a defence for a person charged with an offence under this section to prove such matters relating to the contravention as may be prescribed.

(4) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.]

### **35B Compliance notices**

(1) The building control authority may give a compliance notice to a person who appears to the authority to have contravened, be contravening or be likely to contravene—

(a) a relevant provision of building regulations, or

(b) a requirement imposed by virtue of such a provision.

(2) A “compliance notice” is—

(a) a notice requiring the recipient to take specified steps within a specified period, or

(b) a notice requiring the recipient to remedy the contravention or the matters giving rise to it within a specified period.

(3) A notice of a kind mentioned in subsection (2)(a) may specify any steps relating to—

(a) the remedying of the contravention, or

(b) avoiding the contravention occurring.

<sup>9</sup> <https://www.legislation.gov.uk/ukpga/1984/55/section/35>



(4) A person who, without reasonable excuse, contravenes a compliance notice commits an offence.

(5) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.

(6) A compliance notice may not be given in respect of a contravention which occurred more than 12 months before the day on which the notice is given.

### **35C Stop notices**

(1) The building control authority may give a stop notice to a person appearing to the authority to be in control of any work if it appears to the authority that—

(a) the carrying out of the work would contravene a provision of building regulations prescribed for the purposes of this paragraph,

(b) a compliance notice relating to the work has been contravened, or

(c) the work contravenes a provision of building regulations or a requirement imposed by virtue of such a provision, and the risk of serious harm condition is met.

(2) For the purposes of subsection (1)(c) the “risk of serious harm condition” is that use of the building in question without the contravention having been remedied would be likely to present a risk of serious harm to people in or about the building.

(3) A “stop notice” is a notice prohibiting, either immediately or from a specified time, the carrying out of specified work until the occurrence of such of the following as may be specified—

(a) the taking of specified steps;

(b) the occurrence of specified circumstances;

(c) the remedying of a specified contravention or the matters giving rise to it.

(4) Where a stop notice is contravened, the person to whom the notice was given commits an offence.

(5) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.

(6) It is a defence for a person charged with an offence under this section to prove that the person took all reasonable precautions and exercised all due diligence to avoid the contravention of the stop notice.

(7) In this section “specified” means specified in the notice. ]

### **35D Compliance and stop notices: supplementary**

(1) Building regulations may make provision about compliance notices or stop notices.

(2) The regulations may in particular make provision about—

(a) the form and content of notices;

(b) the giving of notices;

(c) the amendment or withdrawal of notices;

(d) the extension of any period specified in a compliance notice for the doing of a thing.

(3) The regulations may require a building control authority which gives a notice to a person to take reasonable steps to notify other prescribed persons.

(4) A compliance notice, or a stop notice under section 35C(1)(a), may not be given in respect of a contravention (including a future contravention) where—

(a) an application for building control approval was made to a building control authority in respect of any work that is not higher-risk building work,

(b) the application was granted, and

(c) the contravention consists (or would consist) of the carrying out of work or the doing of anything else in accordance with—

(i) the plans, or any other document, approved by the grant of building control approval, and

(ii) any requirement imposed by the building control authority in connection with the work or other thing. ]

Please refer to Regulation 19: ‘Events causing initial notice to cease to be in force’ of The Building (Registered Building Control Approvers etc.) (England) Regulations 2024 below for further reference:

19.—

(1) Where a final certificate given in respect of work described in an initial notice is rejected, the initial notice ceases to be in force in relation to the work described in the final certificate on the expiry of a period of four weeks beginning with the date on which notice of rejection is given.

- (2) Paragraph (3) applies where work described in an initial notice includes the erection, extension or material alteration of a building, and—
- (a) the building or, as the case may be, the extension or any part of the building which has been materially altered is occupied, and
  - (b) no final certificate is given.
- (3) The initial notice ceases to be in force in relation to the building, extension or part of a building which is occupied—
- (a) if the building is an FSO building, except where it contains only flats and common parts for those flats, on the expiry of a period of four weeks beginning with the date of occupation, and
  - (b) in any other case, on the expiry of a period of eight weeks beginning with the date of occupation.
- (4) Where work described in an initial notice involves a material change of use of a building, and—
- (a) no final certificate is given, and
  - (b) that change of use takes place,
- the initial notice ceases to be in force in relation to that change of use on the expiry of a period of eight weeks beginning with the day on which the change of use takes place.
- (5) In any other case where no final certificate is given, an initial notice ceases to be in force on the expiry of a period of eight weeks beginning with the day on which the work described in the initial notice is substantially completed.
- (6) An initial notice does not cease to be in force by virtue of paragraphs (2) and (3) because part of a building or extension is occupied if a final certificate has been accepted in respect of that part.
- (7) A local authority may extend any period referred to in this regulation either before or after its expiry.

Please refer to Regulation 21: ‘Cancellation of initial notice: notice of contravention of building regulations’ of The Building (Registered Building Control Approvers etc.) (England) Regulations 2024 below for further reference:

21.—

- (1) Except where paragraph (3) applies, where an approver is of the opinion that an initial notice should be cancelled under section 52(1)(c) of the 1984 Act for contravention of any provision of building regulations (including for contravention of any provision in Part 2A of the 2010 Regulations except regulation 11D(3)(a), (8) and (9)) the approver must first give notice in writing to the person carrying out the work (C) or, in the case of contravention of any provision in Part 2A of the 2010 Regulations, the client specifying—
  - a. (a) the requirement of building regulations which in the approver’s opinion has not been complied with, and
  - b. (b) the location of the work which contravenes that requirement.
- (2) Except in a case where the contravention is of any provision in Part 2A of the 2010 Regulations, a notice given in accordance with paragraph (1) must inform C that if, by the end of the period specified in paragraph (4), C has neither pulled down nor removed the work nor effected such alterations in it as may be necessary to make it comply with building regulations, the approver will cancel the initial notice.
- (3) Where the contravention to which the notice under paragraph (1) relates is of a provision in Part 2A of the 2010 Regulations then the notice given in accordance with paragraph (1) must inform the client that the approver will cancel the initial notice if, by the end of the period specified in paragraph (4), the client has not effected such alterations to the arrangements for carrying out the work and such improvements to the competence of persons carrying out the work (or as the case may be, the client), the principal contractor or principal designer as may be necessary to ensure the carrying out of the work complies with provisions of the building regulations referred to in the notice.
- (4) The period within which the person carrying out the work or, as the case may be, the client is to remedy the contravention is three months beginning with the working day on which the notice under paragraph (1) is given.

## 5.0 Monitoring and reporting

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The practice is committed to using effective and efficient resources to deliver our function and in assuring the safety and standard of building control is maintained whilst protecting the safety of people in or around buildings through proportionate risk management and a consistent approach.

To support the Operation Standard Rules<sup>10</sup> (OSRs) we will report data and key performance indicators (KPIs) to the Building Safety Regulator and other professional regulatory bodies.

The data provided by us as Registered Building Control Approvers should provide adequate information for the Building Safety Regulator and other professional regulatory bodies to analyse the data and monitor our delivery of our functions and outputs.

Updated February 2024  
Jason Dunn

Compliance team review  
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<sup>10</sup> <https://www.hse.gov.uk/building-safety/assets/docs/operational-standard-rules.pdf>