



Llywodraeth Cymru  
Welsh Government

GUIDANCE, DOCUMENT

# The strategic context for the regulatory framework Wales

Demonstrates the connection between the competence of the regulated building control profession and the performance of building control.

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# 1. Introduction

1.1 This sets out the strategic context for the regulation of the building control framework as set out in Part 2A of the Building Act 1984 (the Act). It demonstrates the connection between the competence of the regulated building control profession and the performance of building control.

1.2 It also reinforces that it is the responsibility of those commissioning and carrying out building works to comply with the Act and Building Regulations. Building Regulations are made under by Part I of the Act, as amended.

1.3 This strategic context guides building control bodies (local authorities and Registered Building Control Approvers) in their prioritisation of regulatory activities. This will help ensure the effective delivery of building control functions using the principles of good regulation.

1.4 It sets out sensible, risk-based and proportionate steps to ensure:

1. risk ownership by those responsible for compliance with the Act and Building Regulations
2. the safety of people in and around buildings
3. the improvement of building standards
4. intervention and enforcement activities are carried out consistently
5. effective use of resource

1.5 This guidance adopts the definitions within the Act, including:

1. building control functions in section 58Z(3)
2. Code of Conduct in section 58F
3. regulatory authority in section 58A
4. local authority in section 126
5. Operational Standards Rules in sections 58Z

6. Professional Conduct Rules in section 58R
7. Registered Building Control Approver in section 58N

## 2. Scope

2.1 This guidance focuses on four objectives:

Objective 1 - clarifying the roles and responsibilities of:

1. dutyholders
2. building control (Registered Building Control Approvers and local authorities)

Objective 2 - outlining a risk-based approach using the principles of good regulation that building control should adopt. This includes the need to target relevant and effective interventions focused on:

1. influencing dutyholder behaviours
2. checking for compliance with Building Regulations and taking appropriate action where necessary
3. an informed and intelligence-led understanding of emerging risks to building standards

Objective 3 - integrating building control competence requirements

Objective 4 - monitoring and assessing the performance of building control

## 3. Roles and responsibilities

### Building Control

3.1 There are three types of regulators in the regulatory framework. They are the regulatory authority, and two building control bodies – Registered Building Control Approvers and local authorities.

#### The regulatory authority:

1. regulates the building control profession including Registered Building Control Approvers and local authorities in Wales (see Part 2A of the Act)

#### Registered Building Control Approvers:

1. are private sector building control
2. will be required to meet their registration conditions (see section 58P of the Act), Professional Conduct Rules and comply with the Operational Standard Rules (OSRs)
3. regulates works outside of the higher-risk buildings regime

#### Local authorities:

1. are public sector building control
2. will be required to comply with the OSRs
3. regulates works on higher-risk buildings and works outside of the higher-risk buildings regime

3.2 Building control should direct their resources to best effect to ensure

compliance with the Act and Building Regulations.

3.3 Building control will use their findings and professional judgements to support, encourage and, where appropriate, hold dutyholders to account.

3.4 Building control should consider the overlaps in enforcement responsibilities with other regulatory bodies and cooperate appropriately.

## Dutyholders

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

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

3.7 Building control should expect dutyholders 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:

1. identified risks and their management arrangements
2. evidence on which guidance informed design and construction
3. evidence on how dutyholders have assessed the appropriateness of the guidance used to demonstrate specific elements of compliance.

3.8 Dutyholders 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.

## Self-certification

3.9 Competent person scheme operators enable the delivery of building work through their building control self-certification schemes. Such building work is specified in Schedule 3 of the Building Regulations.

## 4. A risk-based approach

4.1 Building control will apply a risk-based approach to their regulatory methods. Regulatory methods include:

1. providing published information and guidance
2. inspecting buildings and building works (remotely and on-site)
3. reverting projects to the local authority for enforcement
4. stopping certain activities
5. recommending and bringing prosecutions

4.2 A risk-based approach is based on the principles of good regulation. The principles are:

1. targeting
2. proportionality
3. transparency
4. consistency
5. accountability

4.3 All breaches of the 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.

## Targeting

4.4 Building control interventions and enforcement should target those dutyholders or situations:

1. that cause the most serious risks of contravention of Building Regulations
2. where risks of contravention of the Building Regulations are least well controlled

4.5 Building control should use intelligence to develop inspection and intervention plans. This includes, for example:

1. emerging issues
2. past performance of dutyholders
3. analysis of higher-risk activities

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

## Proportionality

4.7 Building control should expect dutyholders to ensure building work complies with Building Regulations.

4.8 Interventions and enforcement should be proportionate to the gravity and extent of any contravention of the Act and Building Regulations.

4.9 Building control's regulatory intervention and enforcement arrangements, such as policies and procedures, should be guided by their risk-based approach.

4.10 Building control activities should align with relevant regulatory and



enforcement arrangements.

4.11 Building control's regulatory and enforcement actions will inform their assessment of how far below an expected standard a dutyholder has fallen.

## Consistency

4.12 Building control can achieve consistency by, for example:

1. applying published guidance from the regulatory authority, as appropriate
2. adopting a consistent approach to regulatory competence
3. setting clear expectations for the delivery of their building control functions
4. allowing appropriate comparison via peer review

4.13 Maintaining a consistent approach to all building control functions ensures best use of resources.

## Transparency

4.14 Transparency ensures dutyholders know what they can expect from building control.

4.15 Building control records should be kept digitally and updated regularly. This will help with business continuity and transparent decision-making.

4.16 Building control should be open about their activities and processes by:

1. publishing their enforcement policies, procedures, principles and standards
2. sharing relevant and permissible information
3. using benchmarking
4. peer reviewing
5. employing good practice

## Accountability

4.17 Building control should provide dutyholders with information on what to expect when inspectors visit and how to raise a complaint.

4.18 Building control are accountable to all who are impacted by their actions (or inaction), as well as the regulatory authority.

## 5. Competence

5.1 Persons delivering building control functions must be competent in applying a risk-based approach (see section 4). Achieving and maintaining such competence may include, for example:

1. availability of appropriate policies, procedures and enforcement guidance tools
2. training relevant to risk-based decision making
3. professional development
4. supervision
5. review of risk-based decisions

5.2 Building control should plan for relevant training and professional development of all persons involved in the delivery of their building control functions.

5.3 Building control should ensure their registered building inspectors meet their registration conditions and Code of Conduct.

5.4 Building control should ensure persons delivering their building control functions are competent and up to date. This includes:

1. technological advances
  2. modern methods of construction
  3. changes in dutyholder obligations
  4. changes in legislative requirements (and their practical application)
- 5.5 Building control should implement advice and guidance provided by the regulatory authority.

## 6. Monitoring

- 6.1 Building control should identify and implement improvements in performance within clear timescales.
- 6.2 The regulatory authority will assess the performance of local authorities and Registered Building Control Approvers.
- 6.3 Building control may appeal against specific decisions taken by the regulatory authority if they consider it unreasonable or disproportionate. Appeals are explained by section 103 and paragraph 1(I) of Schedule 1 of the Act.
- 6.4 The regulatory authority will publish its findings on the performance of building control.

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