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Building Regulations Wales

Circular

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Title:	Changes to the Building Control Performance Standards		
Issued by:	Francois Samuel, Head of Building Regulations		
Addressed to:	Please forward to:		
Local Authority Chief Executives Welsh Local Government Association Association of Corporate Approved Inspectors Construction Industry Council Competent Persons Forum	Local Authority Building Control Officers Assembly Members		
Summary:	This circular provides information on changes to Standard 6 and Standard 7 of the Building Control Performance Standards.		
For further information contact:			
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Introduction

This circular letter informs you of changes to the Building Control Performance Standards. The Standards are a set of performance standards for all building control bodies, both local authorities and Approved Inspectors, to help them deliver a comprehensive and consistent service in carrying out their statutory building control functions.

Scope

This Circular Letter applies to all building work carried out in Wales except building work on *excepted energy buildings*¹ in Wales.

Status of Building Control Performance Standards

Building control bodies are reminded that Approved Inspectors are required under the CICAIR Code of Conduct to adhere to the Building Control Performance Standards; local authorities have given an undertaking to comply with the Standards.

Changes to Building Control Performance Standards

Standard 6 which covers site inspections has an additional requirement for Building Control Bodies to include, as a minimum, certain information in their site inspection records.

Standard 7 which covers communications and records has two additional requirements:

- for Building Control Bodies to provide site inspection records to the building owner, on request, for all building work that has been issued with a final/completion certificate or where an initial notice has been cancelled. Building Control Bodies may charge for this on a cost-recovery basis.
- for Building Control Bodies, where the client is not the building owner, to take all reasonable steps to ensure that the building owner is aware of whether the local authority or an Approved Inspector is carrying out the Building Control function for the building work to their property.

Additional guidance on how the new requirements might be achieved is also included in the revised Standards.

A copy of the revised Standards can be found at the Annex to this Circular Letter and will be available on the Welsh Government website at:

<http://gov.wales/topics/planning/buildingregs/bracw/building-control-performance-standards-advisory-group/?lang=en>

¹ “Excepted energy buildings are defined in the schedule to the Welsh Ministers (Transfer of Functions) (No.2) Order 2009 (S.I. 2009/3019)

Coming into force date

The revised Building Control Performance Standards 6 and 7 come into force on 1 April 2017 in respect of building work where an initial notice, building notice or full plans application has been given on or after 1 April 2017.

Avenues of Appeal

Local authorities are bound by the Freedom of Information Act. Any complaints about the refusal of a local authority to release site inspection records can be raised with the Information Commissioner's Office. Further details can be found on the Information Commissioners Office website at: <https://ico.org.uk/about-the-ico/who-we-are/wales-office/>

Approved Inspectors are not covered by the Freedom of Information Act. However any complaints about the refusal of an Approved Inspector to release site inspection records to a building owner can be raised with CICAIR Limited. Further details can be found on the Construction Industry Council website at: <http://cic.org.uk/services/approved-inspectors.php>

If after receiving copies of site inspection reports a building owner considers the Building Control Body has not carried out its building control function a complaint can be raised about local authorities with the Local Government Ombudsman in Wales (<http://www.ombudsman-wales.org.uk/en/Making%20a%20complaint.aspx>) and about Approved Inspectors with CICAIR Limited (<http://cic.org.uk/services/approved-inspectors.php>).

ENQUIRIES

5. Any enquiries on this Circular Letter should be addressed to:

Colin Blick, Building Regulations, Welsh Government, Rhydycar, Merthyr Tydfil, CF48 1UZ.

Telephone: 03000 628144.

E mail: enquiries.brconstruction@wales.gsi.gov.uk

Yours faithfully,



Francois Samuel
Head of Building Regulations

Annex: Revised Building Control Performance Standards 6 and 7

6. Site inspection

Standard

Site inspection regime: Building Control Bodies shall deliver a site inspection plan matched to client and project needs.

Relevant factors should be assessed at the outset and regularly reviewed so that effective control is maintained for the duration of each project, with adequate site inspections and sufficient records, to demonstrate the application of reasonable skill and care by the Building Control Body.

Site inspection records: records of each inspection, including the information required in the guidance below, shall be maintained. Records shall identify the work inspected and any non-compliance together with any re-inspection. Where plans are not available for the work, these records will be more detailed.

Contraventions: details of non-compliant work (contraventions) should be communicated promptly and clearly to the responsible person, identifying the contravention(s) and indicating any measure(s) believed to be necessary. Any mechanisms for appealing against or disputing a decision of the Building Control Body shall be clearly made known to the responsible person.

Notification of consultees: During the inspection phase, the Building Control Body shall ensure that all statutory consultees are notified of any significant departures from plans.

Guidance

Building Control Bodies develop and maintain Inspection Plans and many provide guides for their clients. In Wales although the statutory notifications still apply to local authorities, site inspection plans can be used where the building work is outside the scope of the statutory notifications. LABC have produced guidance² in the form of 'Inspection Service Plans' which provides consistency in the way Local Authorities risk assess inspection requirements.

Approved Inspectors have applied the Risk Assessment model for many years based primarily on the guidance in this document.

It is good practice for Local Authorities to be notified of commencement and completion of projects constructed under Initial Notice's.

² <http://www.labc.uk.com>

Building control bodies use professional skill and judgement in their selection of priorities for inspection.

The inspection regime considered necessary will be dependent on many factors including:

- type, scale and complexity of work proposed
- ground conditions
- the extent of prior assessment of plans
- how complicated or relatively straightforward the method of construction is
- whether experience indicates problems with builders/contractors interpreting and/or achieving compliance with certain requirements
- whether the builder is in need of a greater degree of inspection, requested or otherwise
- how serious the consequences of a particular contravention might be
- the impracticability or impossibility of subsequent inspection of hidden work
- speed of build, or methods of fast track construction.

Inspection frequency: the scope and frequency of inspection should be determined, and incorporated in a formal written plan. This plan should be kept under review as the project proceeds. It should take into account the inspection regime factors above.

All sites should be inspected at sufficient frequency to ensure compliance with the Building Regulations.

Remote inspection techniques such as the use of photographs, video or other remote media should not be relied upon as a complete alternative method of ascertaining the compliance of work on site.

Effective follow up procedures are essential to ensure that previously noted errors have been corrected.

Tests at completion: at completion, certain tests may need to be witnessed by Building Control Bodies, in order to demonstrate compliance e.g. drainage, air tightness, flue spillage tests. The Building Control Body should consider the need for such tests at the earliest possible stage, include them in the inspection plan, and inform the client of its requirements as far in advance as possible.

Site inspection records: adequate records should be maintained to show what work was inspected, the results of the inspection and any remedial action considered necessary. Records should be as specific as circumstances require but should include, as a minimum, the following information:

Core Information

- Name of Building Control Body
- Project Number/Site reference
- Site Address
- Client name and Reference Number
- Person(s) carrying out the work and contact address (e.g. primary contractor, sub contractor)
- Date initial notice given or building notice/full plans received
- Date final or completion certificate given

Note: This inspection report is restricted to requirements covered by Building Regulations current at that time. It does not constitute evidence that the Building Regulations have been satisfied until a Completion/Final Certificate has been issued for the project. It remains the responsibility of the person carrying out the work to ensure that the work complies with the Building Regulations.

Site Specific Inspection Information for Each Inspection

- Date and time of inspection
- Inspection Items (For each inspection please indicate what was inspected, using the list below. If not included in list please specify under 'Other'):

Excavations	Foundations	Underground Drainage
Damp proofing	Sound insulation	Superstructure
Thermal Insulation	Fire safety	Accessibility
Building Services	Protection from falling, collision and impact	
Completion	Other [specify]	

- Certificates or Notices Received: Yes/No. If Yes provide details
- Photographs: Yes/No

- Inspection made with Builder or Contractor: Yes/No
- Observations/Comments including any non-compliance or possible non-compliance found? Yes/No. If Yes provide details.
- If 'Yes' in previous point, action taken, is non-compliance resolved? Yes/No, date inspected

Contraventions of Building Regulations shall be clearly and promptly communicated in writing, identifying the problem to the client and included in the site inspection records. Building Control Bodies should where appropriate discuss with clients measures which may need to be taken to achieve compliance. Decisions regarding Building Regulations compliance, especially formal notices, shall be clearly communicated to the responsible person, observing any statutory time periods.

The Building Control Body should provide the recipient(s) of the decision with details of any remedies available to them in the event of disagreement with interpretation or procedure.

In the event of a Building Regulation dispute, the Building Control Body shall observe any statutory procedures and shall furnish the client with any information regarding available avenues for resolution of the dispute.

7. Communications and records

Standard

Building Control Bodies should communicate with clients, consultees and others in writing.

Where the client is not the building owner the Building Control Body should take reasonable steps to ensure that the building owner is aware of whether the local authority or an Approved Inspector is carrying out the Building Control function for the building work to their property.

Building Control Bodies are required to provide site inspection records to the building owner on request for all building work that has been issued with a final/completion certificate or where an initial notice has been cancelled. The request must be in writing and made within 15 years of the final/completion certificate being issued.

All records relating to the building control service provided to individual projects shall be stored in a retrievable format and wherever practicable electronically by every Building Control Body for a minimum period of 15 years. Arrangements shall be made for their transfer into safe keeping in the event of a Building Control Body ceasing trading.

Guidance

If the client is not the building owner the Building Control Body shall communicate in writing to the building owner that it is the Building Control Body being used for their building work, or be satisfied, e.g. has seen correspondence between the client and building owner, that the client has informed the building owner of which Building Control Body is being used.

Records relating to each building control project should be retained for at least 15 years as they may be needed in the case of legal action or warranty disputes. Records should if practical be stored electronically. Building Control Bodies must make all records available in the case of court action, warranty disputes, a complaint to the Local Government Ombudsman or a complaint to CICAIR Limited.

In addition, Building Control Bodies shall make available full records of site inspections for building work that has been issued with a final/completion certificate or where an initial notice was cancelled to the building owner where a request is made for them in writing within 15 years of the final/completion certificate being issued or the initial notice cancelled. However, such parts of records that contain personal information covered by the Data Protection Act and/or where there are security considerations may be redacted or withheld. A Building Control Body may charge for the provision of the records on a cost recovery basis.

Where an initial notice is cancelled and the approved inspector passes inspection records to the subsequent Building Control Body, whether a local authority or approved inspector, the subsequent Building Control Body will make these records available to the building owner. If the approved inspector does not pass on any inspection records to a subsequent Building Control Body that approved inspector shall make them available to the building owner on request.

Records kept by Building Control Bodies should include as a minimum:

- approved/accepted proposals and design principles

- records of any work carried out by professional consultants on behalf of the Building Control Body

- records of consultations

- records of site inspections

- client design and contractor details

- certificates and notices including Completion or Final certificates

If a Building Control Body ceases to trade it must ensure the safe transfer and on-going storage of its records for the above periods.