

Scheme for the Recovery of Building Regulation Charges and Associated Matters

For

East Midlands Building Consultancy

South Kesteven District Council, Newark and
Sherwood District Council and Rushcliffe
Borough Council

To Be Read in Conjunction With
The Building [Local Authority Charges] Regulations 2010

Date this Scheme came into effect: 01 October 2010

Fees updated each year on 01 April

Definitions

The following definitions apply to this charging scheme and should be read in conjunction with the other clauses and tables which constitute the charging scheme:

‘Building’ means any permanent or temporary building, but not any other kind of structure or erection, and a reference to a building includes a reference to part of a building.

‘Building notice’ means a notice given in accordance with Regulations 12(2)(a) and 13 of the Building Regulations 2010.

‘Building work’ means:

- (a) the erection or extension of a building;
- (b) the provision or extension of a controlled service or fitting in or in connection with a building;
- (c) the material alteration of a building, or a controlled service or fitting;
- (d) work required by building regulation 6 (requirements relating to material change of use);
- (e) the insertion of insulating material into the cavity wall of a building;
- (f) work involving the underpinning of a building;
- (g) work required by building regulation 23 (requirements relating to thermal elements);
- (h) work required by building regulation 22 (requirements relating to a change of energy status);
- (i) work required by building regulation 28 (consequential improvements to energy performance);

‘Chargeable function’ means a function relating to the following –

- (a) the passing or rejection of plans of proposed building work which has been deposited with the council in accordance with section 16 of the Building Act 1984 (as amended).
- (b) the inspection of building work for which plans have been deposited with the council in accordance with the Building Regulation 2010 and with section 16 of the Building Act 1984 (as amended)
- (c) the consideration of a building notice which has been given to the council in accordance with the Building Regulations 2010
- (d) the consideration of building work reverting to the council under the Building (Approved Inspectors etc.) Regulations 2010
- (e) the consideration of a regularisation application submitted to the council under regulation 18 of the Building Regulations 2010.

‘Cost’ does not include any professional fees paid to an architect, quantity surveyor or any other person.

‘Disabled person’ means a person who is within any of the descriptions of persons to whom Section 29(1) of the National Assistance Act 1948, as extended by virtue of Section 8(2) of the Mental Health Act 1959, applied but disregarding the amendments made by paragraph 11 of Schedule 13 to the Children Act 1989. The words in section 8(2) of the Mental Health Act 1959 which extend the meaning of disabled person in section 29(1) of the National Assistance Act 1948, are prospectively repealed by the National Health Service and Community Care Act 1990, section 66(2), Schedule 10, as from a day to be appointed.

‘Dwelling’ includes a dwelling-house and a flat.

‘Dwelling-house’ does not include a flat or a building containing a flat

‘Flat’ means a separate and self-contained premises constructed or adapted for use for residential purposes and forming part of a building from some other part of which it is divided horizontally.

‘Floor area of a building or extension’ is the total floor area of all the storeys which comprise that building. It is calculated by reference to the finished internal faces of the walls enclosing the area, or, if at any point there is no enclosing wall, by reference to the outermost edge of the floor.

‘Individually determined charge’ A charge that has been compiled using factors and details specific to the particular project, as outlined in Regulation 7 of the Building (Local Authority Charges) Regulations 2010.

‘Relevant person’ means:

- (a) in relation to a plan charge, inspection charge, reversion charge or building notice charge, the person who carries out the building work or on whose behalf the building work is carried out;
- (b) in relation to a regularisation charge, the owner of the building; and
- (c) in relation to chargeable advice, any person requesting advice for which a charge may be made pursuant to the definition of ‘chargeable advice’

‘Risk based inspection’ an inspection of a stage of building work based on an assessment of the risk of breach of the Building Regulations if an inspection is not carried out of the work as defined in Regulation 16 of The Building Regulations 2010 as amended.

Principles of this Scheme

The set charges or method of establishing the charge have been established in this scheme for the functions prescribed in the Building (Local Authority Charges) Regulations 2010 (referred to as the chargeable functions), namely:

- A plan charge, payable when plans of the building work are deposited with the Local Authority.
- An inspection charge, payable on demand after the authority carry out the first inspection in respect of which the charge is payable.
- A building notice charge, payable when the building notice is given to the authority,
- A reversion charge, payable for building work in relation to a building;
 1. Which has been substantially completed before plans are first deposited with the Authority in accordance with Regulation 20(2)(a)(i) of the Approved Inspectors Regulations, or
 2. In respect of which plans for further building work have been deposited with the Authority in accordance with Regulation 20(3) of the Approved Inspectors Regulations, on the first occasion on which those plans are or have been deposited.
- A regularisation charge, payable at the time of the application to the authority in accordance with Regulation 21 of the Building Regulations.

Chargeable advice, Local Authorities can make a charge for giving advice in anticipation of the future exercise of their chargeable functions (i.e. before an application or notice is received for a particular case), which is payable after the first hour of advice, on demand after the authority has given notice required by Regulation 7(7) of the Building (Local Authority) Charges Regulations 2010 (i.e. the charge has been confirmed in writing following an individual determination). This charge will be discounted from a subsequent application or notice received for the work in question where the Building Control Manager considers it applicable.

- The above charges are payable by the relevant person (see page 3 for definition)
- Any charge which is payable to the authority may, in a particular case, and with the agreement of the authority, be paid by instalments of such amounts payable on such dates as may be specified by the authority. If the applicant and an authority are agreeable, an inspection charge can be fully or partly paid up front with the plans charge.
- The charge for providing a chargeable function or chargeable advice is based on the principle of achieving full cost recovery. The charges will be calculated by using the Council officers' average hourly rate stated in the charging scheme, multiplied by the time taken to carry out the functions/advice, taking the following factors into account, as applicable, in estimating the time required by officers to carry out the function/advice:

1. The existing use of a building, or the proposed use of the building after completion of the building work;
2. The different kinds of building work described in Regulation 3(1)(a) to (i) of the Building Regulations;
3. The floor area of the building or extension;
4. The nature of the design of the building work and whether innovative or high risk construction techniques are to be used;
5. The estimated duration of the building work and the anticipated number of inspections to be carried out;
6. The estimated cost of the building work;
7. Whether a person who intends to carry out part of the building work is a person mentioned in Regulation 12(6) or 20 of the Building Regulations (i.e. related to competent person/self-certification schemes);
8. Whether in respect of the building work a notification will be made in accordance with Regulation 41 of the Building Regulations (i.e. where design details approved by Robust Details Ltd have been used);
9. Whether an application or building notice is in respect of two or more buildings or building works all of which are substantially the same as each other;
10. Whether an application or building notice is in respect of building work, which is substantially the same as building work in respect of which plans have previously been deposited or building works inspected by the same local authority;
11. Whether chargeable advice has been given which is likely to result in less time being taken by a local authority to perform that function;
12. Whether it is necessary to engage and incur the costs of a consultant to provide specialist advice in relation to a particular aspect of the building work.

Principles of the scheme in respect of the erection of buildings, garages, carports and extensions

- Where the charge relates to the erection of a building(s), dwelling(s), garage(s), or carport(s) the charge will be individually determined, taking into account risk-based inspections.
- Where any building work comprises or includes the erection of one or more extensions to a building, the charge will be individually determined, taking into account risk based inspections.
- Where any building work comprises or includes alterations as well as extension(s) to a building, the charge will be individually determined, taking into account risk based inspections.

Principles of the scheme in respect of the alteration of a building, or controlled service or fitting, and the change of use of existing buildings

- Where any building work comprises such work the charge will be individually determined, taking into account risk based inspections.

Principle of the scheme in respect of the Regularisation of building work

- Where there is a request to regularise any building work, the fee will be individually determined, taking into account risk-based inspections.

Principle of the scheme in respect of the reversion of building work to the local authority

- Where work is reverted to the local authority, the fee will be individually determined, taking into account risk-based inspections.

Exemption from charges

The Authority has not fixed by means of its scheme, nor intends to recover a charge in relation to an existing dwelling that is, or is to be, occupied by a disabled person as a permanent residence; and where the whole of the building work in question is solely-

(a) for the purpose of providing means of access for the disabled person by way of entrance or exit to or from the dwelling or any part of it, or

(b) for the purpose of providing accommodation or facilities designed to secure the greater health, safety, welfare or convenience of the disabled person.

The council has not fixed by means of its scheme, nor intends to recover a charge for the purpose of providing accommodation or facilities designed to secure the greater health, safety, welfare or convenience of a disabled person in relation to an existing dwelling, which is, or is to be, occupied by that disabled person as a permanent residence where such work consists of-

(a) the adaptation or extension of existing accommodation or an existing facility or the provision of alternative accommodation or an alternative facility where the existing accommodation or facility could not be used by the disabled person or could be used by the disabled person only with assistance; or

(b) the provision of extension of a room which is or will be used solely-

(i) for the carrying out for the benefit of the disabled person of medical treatment which cannot reasonably be carried out in any other room in the dwelling, or

(ii) for the storage of medical equipment for the use of the disabled person, or

(iii) to provide sleeping accommodation for a carer where the disabled person requires 24-hour care.

The council has not fixed by means of its scheme, nor intends to recover a charge in relation to an existing building to which members of the public are admitted (whether on payment or otherwise); and where the whole of the building work in question is solely-

(a) for the purpose of providing means of access for disabled persons by way of entrance or exit to or from the building or any part of it; or

(b) for the provision of facilities designed to secure the greater health, safety, welfare or disabled persons.

Note: 'disabled person' means a person who is within any of the descriptions of persons to whom Section 29(1) of the National Assistance Act 1948, as extended by virtue of Section 8(2) of the Mental Health Act 1959, applied but disregarding the amendments made by paragraph 11 of Schedule 13 to the Children Act 1989. The words in section 8(2) of the Mental Health Act 1959 which extend the meaning of disabled person in section 29(1) of the National Assistance Act 1948, are prospectively repealed by the National Health Service and Community Care Act 1990, section 66(2), Schedule 10, as from a day to be appointed.

Information required to determine charges

If the authority requires additional information to enable it to determine the correct charge the authority can request the information under the provisions of regulation 9 of The Building (Local Authority Charges) Regulation 2010.

The standard information required for all applications is detailed on the authority's Building Regulation application forms. This includes the existing and proposed use of the building and a description of the building work.

Any or all of the following information may be taken into account when determining the relevant charge;

- The floor area of the building or extension
- The estimated duration of the building work and the sequence of construction.
- The use of competent persons or Robust Details Ltd.
- The relevant skills of the builder or other members of the design team.
- The nature of the design of the building work and whether innovative or high-risk construction is to be used.
- Local ground conditions, or evidence of contaminated land/radon/ground gas issues
- The estimated cost of the building work. If this is used as one of the factors in establishing a charge the 'estimate' is required to be such reasonable amount as would be charged by a person in business to carry out such building work (excluding the amount of any value added tax chargeable).

Establishing the Charge

The authority will individually determine all charges taking into account factors identified within this scheme under the Building (Local Authority Charges) Regulations 2010 and Building Regulation 2010 as amended.

If the authority considers it necessary to engage and incur the costs of a consultant to provide specialist advice or services in relation to a particular aspect of building work, those costs shall also be included in setting the charge.

When the charge is individually determined the authority shall calculate the charge by using the average hourly rate of officers' time, multiplied by the estimated time taken to carry out their building regulation functions in relation to that particular piece of building work and taking into account the applicable factors listed in regulation 7(5) of the charges regulations.

Individually determined charges will be confirmed in writing specifying the amount of the charge and the key factors that have been taken into account in determining the charge.

Other matters relating to calculation of charges

- In calculating these charges, refunds or supplementary charges, an average officer hourly rate of £60 has been used.
- Any charge payable to the authority shall be paid with an amount equal to any value added tax payable in respect of that charge.
- Charges are not payable for the first hour when calculating an advice charge.

Reductions

Reduced charges may be made in relation to individually assessed charges when work, or the relevant part of the work, has been, or intends to be carried out by a person mentioned in regulation 12(6) or 43(4) of the Principal Regulations in respect of that part of the work, (i.e. competent person/self-certification schemes or other defined non-notifiable work).

The authority may make a reduction in an individually determined charge when chargeable advice has been given before receipt of an application or notice for proposed building work, which the Building Control Manager considers likely to result in less time being taken by the local authority to perform the chargeable function for that work.

Where in accordance with Regulation 7(5)(j) of the charges regulations a Full Plans application is in respect of building work which is substantially the same as building work in respect of which plans have previously been deposited and rejected, a 100% reduction in the plan charge will be made for the first resubmission where the Council considers it appropriate. Thereafter all further resubmissions will be individually determined.

Refunds and additional charges

If the basis on which the 'individually determined' charge has been set or determined alters, the local authority will refund a proportionate amount of the original charge or request an additional charge and provide a written statement setting out the basis of the refund/additional charge and also state how this has been calculated. In the calculation of refunds/additional charges no account shall be taken of the first hour of an officer's time.

Where an application is submitted and the work will no longer proceed, the following will apply at the discretion of the Council:-

- Building Notice – an element of the fee will be retained which will be equal to the cost incurred by the authority, plus the cost of providing a refund. Please note that in this situation the application will be made invalid.
- Full Plans – Where an application has been deposited and the application determined, there will not be any refund of the application charge. Any underpayment of an application charge will need to be paid to the authority.
- Full Plans – Where an application has been deposited, but not determined, a partial refund may be offered if it is economic for the authority to do so. The authority will retain an amount equal to the time incurred in processing the application, including any refund costs it would incur. Please note that in this situation the application will be made invalid.
- Full Plans – Where work has commenced on site, but stops due to unforeseen circumstances, the authority will require payment of an inspection fee invoice based on the actual number of inspections incurred.
- Regularisation – Where work does not proceed, then there will be a partial refund of any amounts paid to the authority taking into account the time incurred by the authority, and any refund costs it would incur. Please note that in this situation the application will be made invalid.

A refund will not be offered where the key stages for inspection, as outlined in the local authority's inspection plan have not been requested by the person carrying out the work.

Non-Payment of a Charge

Your attention is drawn to Regulation 8(2) of the Building (Local Authority Charges) Regulations 2010, which explains that plans are not treated as being deposited for the purposes of Section 16 of the Building Act or building notices given unless the Council has received the correct charge. In other words, relevant timescales do not start until the agreed payment has been made. The debt recovery team of the authority will also pursue any non-payment of a charge.

Complaints about Charges

If you have a complaint about the determination of any charge you should initially write or e-mail your concern to East Midlands Building Consultancy, Council Offices, The Picture House, St Catherines Road, Grantham, NG31 6TT or info@eastmidlandsbc.com.

Your complaint should set out clearly the issues of concern.

The council has a comprehensive complaint handling process, if your complaint is not satisfactorily responded to by the officer concerned, details of how to resolve your complaint is available on request and can be viewed on the council's web site: www.southkesteven.gov.uk.

Transitional Provisions

The Council's scheme for the recovery of charges in force up to (and including) the 3rd May 2011 continues to apply in relation to building work for which plans were first deposited, a Building Notice given, a reversion charge becoming payable or a Regularisation application is made, before the 4th May 2011.