

## **Mediation Case**

No initial Notice served but a final certificate issued The Council is refusing to accept the validity of the Final Certificate due to the failure to serve and have accepted, the Initial Notice

## **The Case**

The Approved Inspector has issued an electronic copy of a final certificate for works carried out on a garage conversion. On receipt of the final certificate, the Local Authority have asked the AI to provide evidence of the submission of the Initial Notice as they have no record on their system of receiving the Notice.

The Approved Inspector has provided hard copy evidence of the instruction to serve the notice but cannot provide a copy of the email communication to the Local Authority containing the Initial Notice.

The Approved Inspector did not receive any confirmation of receipt or a rejection or acceptance of the Initial Notice. It would appear that based on a 'deemed acceptance' the Approved Inspector carried out the building control function and inspected the works during construction concluding in the issue of the final certificate.

## **Decision**

The panel have reviewed the information provided by both parties and conclude that based on the legal position, as there was not a valid Initial Notice in place the Approved Inspector had no authority to control the works. The final certificate should have been rejected within the 10 day period (as a non- valid Initial Notice is grounds for rejection under section 3 of Schedule 4 of the Building (Approved Inspector) Regulations) however it is clear that contact was made to try and obtain evidence around the Initial Notice within the 10 day period.

As such the panel concludes that the Local Authority have acted correctly albeit that they should have formally rejected the Final Certificate.

The panel suggests that the best course of action is for the homeowner to submit a regularisation application to the Local Authority and the Local Authority to obtain plan & inspection information from the Approved Inspector to minimise disruption to the homeowner.