

Initial Notice Protocol October 2012

This Initial Notice Protocol document and supporting Policy Advice Notes should be read in addition to the requirements of The Building Act 1984 and The Building (Approved Inspectors etc.) Regulations 2010.



Local Authority Building Control (LABC) and the Association of Consultant Approved Inspectors (ACAI) have approved the content as 'best practice' and strongly encourage all of their members to adopt the protocol as essential policy.

1. BASIC ETHOS OF THE BUILDING CONTROL SERVICE

1.1 It is agreed that all building work should be properly controlled and recorded, no matter which system of Building Control is used.

2. THE STATUS OF THE BEST PRACTICE ELEMENTS

2.1 To ensure a coordinated approach to the giving and acceptance of Initial Notices, the following protocol has been agreed by ACAI and LABC and endorsed by the other member bodies of the Building Control Alliance as good practice for respective members.

2.2 The Initial Notice Protocol is not statute but is an industry agreed best practice standard.

2.3 By following the best practice elements of the Initial Notice Protocol the client can be assured that he may receive his Building Control service from his preferred provider without discord from other parties.

3. COMPETITIVE PHASE

3.1 It is recognised that when an Initial Notice is served, the competitive phase of the Building Control process for the work covered by the Initial Notice is over. This client has chosen an Approved Inspector for this work and the role of the Local Authority is to record the fact formally and issue the appropriate acceptance or rejection within the prescribed period.

3.2 When a formal application has been submitted to the Local Authority, it should also be recognised that the competitive phase is over. An Approved Inspector should not attempt to gain this work to control under an Initial Notice. The Approved Inspector should not submit an Initial Notice until it is sure that it has been appointed to the project.

3.3 Where an Initial Notice has been submitted following a formal application to the Local Authority, it is reasonable for the Local Authority to contact the applicant to advise that they have received an Initial Notice and they should contact the Approved inspector for all inspections. This is a particular issue when the client's architect uses the Local Authority and the contractor appoints the Approved Inspector. In this instance, the Approved Inspector should be made aware of the situation.

3.4 Where an Initial Notice has been served on the Local Authority, the Local Authority shall not use that opportunity to market their service to the Client/Agent in an attempt to gain the work. It is, however, acceptable for a Local Authority to carry out subsequent marketing of a general nature at a later date if they so chose.

4. LEGAL REQUIREMENTS

4.1. An Initial Notice needs to satisfy the relevant legal requirements and enable the Local Authority to properly record building work. This is to ensure continuity of control for:

- the client
- the public and society
- all building control bodies
- the Local Authority's enforcement role

4.2. It is agreed that, at times, information additional to the legal requirements of an Initial Notice is desirable. Approved Inspectors should endeavour to provide this. However, failure to provide information above and beyond that legally required by the Approved Inspector Regulations is, of course, not valid grounds for rejection of an Initial Notice.

5. PREPARATION AND SUBMISSION OF INITIAL NOTICES

5.1 Establishing the location of the building. Normally, the postal address with the correct postcode will suffice. Should this be insufficient to accurately identify the location of the building, additional information, e.g. a site location plan should be made available. This does not need to be a copy of the Ordnance Survey map for the area nor drawn to scale.

A site location plan should always be provided in the case of works involving new buildings or an extension to an existing building. This does not need to be a copy of the Ordnance Survey map for the area nor drawn to scale however if it is not to scale then dimensions to boundaries should be shown.

5.2 Establishing the location of the work within the building. Where the location of work within a building cannot be identified from the address, the postcode, the description of work or the location plan, a site plan should be marked up indicating the location of the work within the building. As an example, a written description of "7th floor" would suffice if the works covered the whole of the 7th floor of the building. If the works only covered part of the 7th floor, a site plan indicating the boundaries of the affected part should be provided.

5.3 Describing the extent and scope of the work. A written description should be sufficient to establish the extent and scope of the controlled work. It is anticipated that this description will not normally exceed 25 words in length.

The Approved Inspector can choose to supplement the written description by drawings as appropriate. Detailed drawings, descriptions or technical specifications are NOT required in support of an Initial Notice.

6. ON RECEIPT OF AN INITIAL NOTICE THE LOCAL AUTHORITY SHOULD:

6.1 Confirm receipt, as soon as possible, preferably by email.

6.2 Check the Initial Notice against the grounds prescribed in the Approved Inspectors Regulations.

6.3 All Initial Notices must be accepted or rejected in writing by the Local Authority. A Local Authority upon receiving an Initial Notice not in their geographical area should contact the Approved Inspector as soon as practically possible giving that information, and must reject the Initial Notice under Schedule 3 paragraph 2 "Wrong

Local Authority” within the prescribed period.

6.4 If grounds for rejection exist, the Local Authority will, if reasonably practicable, discuss any errors or omissions with the Approved Inspector, by telephone, fax or email to allow for additional information to be provided within the prescribed period.

6.5 If not resolved, the Initial Notice must be formally rejected within the prescribed period. Notification of formal rejection should be provided concurrently to the Approved Inspector and the client. This should be in the correct form and can be emailed for expedience.

6.6 Where the Local Authority deem the Initial Notice is invalid by virtue of the work having commenced prior to the Initial Notice being served, (see Appendix A, Commencement of Work), the Local Authority will contact the Approved Inspector by telephone and discuss the matter. Should the Local Authority still consider the Initial Notice to be invalid, the Initial Notice shall be returned to the Approved Inspector by post/email within the prescribed period.

6.7 An Initial Notice cannot be rejected on the grounds that an earlier Building Regulation application has been submitted to the Local Authority.

6.8 The relationship between the Local Authority and the Approved Inspector in relation to Initial Notices is exactly the same as that of any other person required to submit notices. The Local Authority should therefore ensure equality in it's IN policy with that of other regimes particularly Full Plans procedures. It should not carry out any checks that it does not carry out in relation to other similar regimes.

7. CONCURRENT PROJECTS

7.1 In cases where two or more building control bodies are controlling schemes concurrently in the same building (for example the building shell and internal fitting out works), the Local Authority and the Approved Inspector should liaise to ensure completeness and accuracy of Initial Notices and Final Certificates and the inclusion of every part of the work.

8. UNAUTHORISED WORKS

8.1 The Local Authority should search its records to determine if there is any relevant incomplete work, unauthorised work or contravention outstanding against that part of the property affected by the Initial Notice. The Approved Inspector should be notified accordingly. This is to enable the Local Authority and the Approved Inspector to establish the extent of the works and their relationship to the proposal.

8.2 The Local Authority and the Approved Inspector should liaise to assist the Local Authority in exercising its enforcement responsibility.

9. SIGNATURES

9.1 The statute requires that the Initial Notice should include details of the person carrying out the work and the Approved Inspector. For the purposes of clarity “the person carrying out the work” shall be taken as the person procuring the work. This will normally be the owner but may be another person such as a tenant. An Initial Notice may be signed by a third party on behalf of the “person carrying out the work” or the Approved Inspector providing they have the necessary authorisation to do so from that person. Confirmation from the Approved Inspector that such permission exists which preferably should be on an accompanying letter will be sufficient.

9.3 In the case of volume housing the “person carrying out the work” will usually be the developer or builder.

9.4 To avoid the possibility of the Local Authority being approached for inspections or queries on projects which are subject to Initial Notices the Approved Inspectors should ensure that all interested parties are clear about their involvement as the Building Control service provider. The Local Authority may choose to advise the client in writing that they have received an Initial Notice and therefore not to contact the Local Authority for inspections. The Local Authority should not use this opportunity to discuss the role of the Approved Inspector.

9.5 All signatures should be accompanied by a clear block capital version of the signatory’s name.

10. COMMUNICATIONS

10.1 It is accepted that all written communications, including Initial Notices, Plans Certificates, Final Certificates, Local Authority responses and decisions, etc can also

be by fax or by electronic communication subject to the Local Authorities ability to accept such electronic communication. The Approved Inspector should check the Local Authority's ability to accept electronic communication before sending their Initial Notice. The submission of electronic data is subject to following the particular Local Authorities requirements in regard to acceptable postbox details. All Local Authorities should make details of that postbox available on their website. Please refer also to appendices to this document

APPENDIX A - Commencement of Work link to document Work starting before the submission of an Initial Notice will cause the Initial Notice to be invalid in that it can not be regarded as a "Notice of Intent". This is no different to the situation appertaining to Full Plans.

The question of what constitutes "Commencement" has been the subject of debate. The Building Control Alliance has published guidance on the matter. Work commencing within the prescribed period is work carried out at risk. The Initial Notice is valid but does not come into force until it is either accepted or the expiration of the prescribed period has passed.

The BCA has provided clarity and guidance on this matter.

Where work has commenced prior to the submission of the Initial Notice, in instances where work consists of different elements or different plots, an Initial Notice can be given for parts of work not yet commenced.

APPENDIX B – Mediation link to document Mediation is available to both organisations to consider and arbitrate in matters of non agreement of procedure relating to a project between an Approved Inspector and a Local Authority, or vice versa. Mediation can take place in the instance of one party not agreeing to the process, however, the involvement of both parties will provide a fuller account of the matter.

Mediation will take into account BCA Best practice as detailed in this protocol.

Full details of the BCA Mediation Scheme can be found on the BCA website (www.buildingcontrolalliance.org).

BCA will nominate four members to a case panel ensuring an even representation of

Public and private sector experience. If necessary, joint consultation will be carried out between the representatives to an agreed outcome. It is anticipated that this process would take no longer than 48 hours.

The outcomes of each Mediation case will be posted on the BCA website and those of the LABC and ACAI at www.labc.uk.com and www.approvedinspectors.org.uk. Building Control bodies are encouraged to refer to these published cases in the instance of uncertainty to see whether the matter has been subject to mediation in the past.