

# **Service Level Agreement**

**Between**

**The Building Control Service of Belfast City  
Council**

**and**

**The Construction Procurement Division of the  
Department of Finance and Personnel**

**Effective Date:**

# 1. Overview

- 1.1 This Agreement represents a Service Level Agreement (the Agreement) between the Building Control Service of Belfast City Council (hereinafter BCC) and the Construction Procurement Division of the Department of Finance & Personnel (hereinafter CPD) for the provision of services in respect of assisting CPD in fulfilling its statutory obligation to comply with the Building Regulations.
- 1.2 BCC has a duty to enforce the Building Regulations. The power for the Council to carry out its Building Regulations function is contained within Building Regulations (Northern Ireland) Order 1979 (as amended 1990 and 2000). This states that anyone carrying out works to which the Regulations apply must make application to the district council in which the building is situated to ensure their works comply with these Regulations.
- 1.3 Crown Authorities are under a legal obligation to comply with the substantive requirements but not the procedural requirements of the Building Regulations and associated legislation. While the Crown must ensure their buildings meet the regulatory requirements they do not have to apply to the Council nor are they subject to enforcement by the Council in respect of those buildings for any failure to comply with the Regulations. This is by virtue of Section 7 of the Interpretation (NI) Act 1954 which provides that the Crown is not bound by any enactment unless so stated therein. CPD is responsible for the design and construction on many of the government's buildings which fall within this exemption.
- 1.4 While the Council has a duty to enforce the Building Regulations in its district, it is considered that the exemption afforded to Crown buildings means that it cannot employ any of its usual enforcement procedures against the Crown as this would breach the statutory immunity afforded to them and therefore be illegal. Since the Interpretation (NI) Act 1954 is an Act of Parliament, it is considered that it should take precedence over the Building Regulations (NI) Order 1979 as amended.
- 1.5 Crown Buildings are not in a position to demand that Building Control enforces the Building Regulations against them, even if they facilitate the process by submitting applications and permitting inspections on the basis that Crown buildings cannot volunteer to be prosecuted where statute does not permit this. Enforcement although a mandatory duty, is a discretionary function in terms of the method used and the Council cannot fetter its discretion by selecting which aspects of its procedure could legitimately apply to Crown buildings and which should not. The Building Regulations do not permit the Council to do this. Furthermore, Crown Buildings do not have the authority to decide which procedural aspects should bind them and which should not. As a consequence, it is not practically or legally possible for Building Control to enforce the Building Regulations against Crown Buildings under the current statutory framework.
- 1.6 This Agreement shall enable BCC to consider applications submitted by CPD, to perform inspections and enable it to give assurances that CPD is in compliance with its statutory duties. CPD will submit applications; pay the requisite fees as defined in the regulations and have their plans and building works assessed and inspected by the Council's Building Control Officers.
- 1.7 BCC has no power to enforce the Building Regulations through the service of notices or summons and in lieu of same shall withhold issue of Certificates which CPD shall make a

pre-requisite under their procedures for approving funding for specific projects if plans or works are non-compliant.

1.8 If the plans and works are compliant, the Council shall issue to them the necessary plan approvals and completion certificates.

1.9 This Agreement remains valid until superseded by a revised agreement mutually endorsed by the parties.

## 2. Purpose of this Document

2.1 The **purpose** of this Agreement is to ensure that the proper elements and commitments are in place to provide consistent Building Control support, advice and to provide a guideline procedure which will enable CPD to comply with its obligations under the Building Regulations.

The Agreement has been designed to allow the parties to operate a pilot scheme to give effect to the following main **objectives**:

- (a) To enable Building Control, Belfast to provide assurances that the Building Regulations have been complied with in respect of building works to Crown buildings falling within the scheme. This means that building works should be carried out in a safe and proper manner and the health and safety of persons in and around buildings is consistently assured;
- (b) In providing these assurances, CPD shall take direction from Building Control and submit applications, plans and permit Building Control to inspect building works. It shall also pay any reasonable fee as required by Building Control in remuneration for these services.
- (c) Building Control shall consider such applications, plans, and inspect works and issue Certificates where it considers that the works comply with the Building Regulations;
- (d) CPD shall make Building Control Certificates a prerequisite to specific projects;
- (e) To provide assurances in so far as it is possible to do so, that the buildings which fall within the remit of the scheme comply with the Building Regulations to such standard as is generally required by Building Control and which satisfies the requirements of the relevant legislation.

2.2 A further key purpose of this Agreement is to allow the parties to record the basis on which they will work together. This Agreement sets out:

- (a) the principles underpinning the Agreement;
- (b) the scope and duration of the scheme;

- (c) the respective roles and responsibilities of the parties;
- (d) the accountability of each party and confidentiality of information obtained by either party;
- (e) the liability of each party;
- (f) the financial arrangements;
- (g) the arrangements for monitoring performance in relation to the Scheme;
- (h) the arrangements for reviewing and varying the Scheme;

2.3 Each party shall at all times act in good faith towards the other party in interpretation and delivery of this Agreement.

### **3. Principles**

- (a) The parties shall collaborate and co-operate in Building Control's delivery of the Services described herein to ensure that CPD comply with their statutory obligation to ensure compliance with the Building Regulations;
- (b) The parties will be accountable to each other for performance of the respective roles and responsibilities as set out by this Agreement;
- (c) There will be open communication about major concerns or issues pertaining to this Agreement;
- (d) Information shall be shared and the parties shall work collaboratively to support achievement of the key objectives;
- (e) The parties shall adhere to statutory requirements and best practice; they shall comply with applicable laws and standards including data protection and freedom of information legislation.
- (f) Matters shall be dealt with in a timely and effective manner and all issues shall be dealt with through the provision of best practice advice, discussion and mutual agreement between the parties.

### **4. Termination**

- (a) Once entered into the SLA can be terminated with three months written notice from any Party. Any party may also terminate the Agreement without notice, for any of the following reasons:

- (i) Any breach by the other of its obligations under this Agreement, and in the case of a breach capable of rectification, where such breach has not been rectified by the other party within 14 days of it being given notice of same.

## **5. Liability**

The function of Building Control under this Agreement is to objectively determine whether or not CPD has complied with its statutory obligations under the Building Regulations and to inform CPD whether it complies or not. Building Control shall provide information or advice which will assist CPD to take steps to help it to fulfill its statutory duties. Irrespective of any opinion, advice or information provided by Building Control or not, the statutory duty falls on CPD to comply with the Building Regulations, and CPD expressly acknowledges that it shall be the responsibility of CPD alone to ensure that the recommendations of the Council are complied with. The Regulations are publicly available and it is acknowledged that CPD is free to employ its own experts or advisers to assist it in this purpose, given that it is not possible for BCC to take enforcement action either by issue of a contravention notice or commencement of prosecution proceedings.

BCC shall have no liability to any person for any personal injury loss or damage that may be sustained by that person as a result of BCC carrying out its activities under this agreement, and CPD shall indemnify BCC against any claims that do arise.

## **6. Scope and Duration**

This Pilot aims to run for a period of six months from 1<sup>st</sup> January 2015

## **7. Roles and Responsibilities**

### **The Department for Social Development**

The following detailed service parameters are the responsibility of CPD in the ongoing support of this Agreement.

(a) The Construction Procurement Division of the Department for Social Development shall:

- Ensure that Building Control Completion Certificates are a pre-requisite under their procedures for approving funding for specific projects;
- Ensure the availability of a customer representative when resolving Building Regulations related requests or related matters;

- Submit an Application Form to Building Control where works are to be carried out to a property owned or occupied by them for which Building Control approval would be required but for the Crown Exemption;
- Upon request of BCC, submit application fee which shall be set at the same level as the fee paid to Building Control under any other circumstances;
- Comply with the Building Regulations as required by the relevant legislation and take direction by Belfast Building Control;
- Provide Building Control with Notifications for inspection at the following various points ( foundation excavations, foundation concrete, damp proof courses or membranes, site concrete or any other material laid over a site, drainage, any above ground structural elements and any sound insulation measures. or at any other time CPD considers to be necessary (but the decision whether or not to inspect is a discretionary matter for BCC);
- Seek advice from BCC on any matter for which it is considered that advice and support is required;
- Permit Building Control officers access to any premise for the purpose of carrying out inspections in order to assess whether or not CPD is in compliance with the Building Regulations;
- Submit any documents requested by BCC to enable Building Control to consider whether or not CPD has complied with the Building Regulations;
- Where CPD considers that the local authority's procedure should not or cannot be followed in any circumstance, it should set out its reasons in writing and forward to the local authority as soon as is reasonably practicable and no later than seven calendar days of the matter arising or having been brought to the attention of the Deputy Director. Such reasons may include but are not limited to issues such that compliance with the Building Regulations would cause the Crown Authority to be in breach of or in conflict with any other legal provision or requirement.
- Any conflict shall be resolved by mutual agreement and if this is not possible, the Agreement shall be terminated as described herein;
- CPD acknowledges that it is responsible for ultimately ensuring that Building Regulations are complied with, and further acknowledges, therefore, that it shall have sole Legal responsibility for any breach of the Building regulations. CPD shall not seek to recover from BCC any loss it may incur as a result of any breach of the Building regulations.

**(b)** The following detailed service parameters are the responsibility of BCC in the ongoing support of this Agreement.

## **Belfast City Council**

- Shall undertake pre-submission consultations and inform CPD of their obligations under the Building Regulations:

### **Full Plans Applications:**

- When the application is made, the Council will validate it and advise of the fee within 7 days of the application being made.
- The Council will assess the plans and where compliant they shall be approved, or if they do not meet the requirements of the Building Regulations the Council shall advise the applicant of what is required to make the plans comply with the Building Regulations, or where additional information is required to notify the applicant within 7 days of receipt.
- The Council will forward a letter to the applicant setting out details which will enable them to comply.
- When the applicant submits the amendments, they are assessed by Building Control.
- A letter is sent out to the applicant providing the result of the assessment.
- If works are compliant a completion certificate is sent to the applicant to indicate that the works are compliant.

### **Regularisation Applications:**

- When the application is made the Council will validate it and advise of the fee within 7 days of the application being made.
- Following the initial inspection of the works and where the works do not comply with all of the relevant requirements, shall notify the applicant of any parts that require adjustment to enable the work to comply with the Building Regulations.
- If works are compliant a completion certificate is sent to the applicant to indicate that the works are compliant.

### **Site Inspections:**

- Carry out inspections in relation to Full Plans applications when notified (by phone, fax, letter, e-mail or in person) and at a time mutually agreed between the parties.
- Regularisation inspections shall be arranged within 3 days of validation of application submissions.

- Carry out inspections to examine areas of work falling within the remit of the most up-to-date version of the Building Regulations.
- Surveyors will record details of any observations which they consider relevant and necessary in the Inspection Log kept in the application file.

## **General**

- Belfast Building Control Service shall be available to CPD in its current format for the provision of advice and assistance in ensuring compliance with the Building Regulations.
- Manned free phone and mobile telephone and e-mail support shall be available;
- Belfast City Council will have officers available to provide assistance and advice on specific queries (including provision of legal opinions related to the Building Control Regulations when required) within one week of receiving query;
- Any reports and variations will be discussed among the parties and any changes shall be notified promptly and in writing no later than 3 days after implementation.
- Provision of advice, guidance and interpretation of the Building Regulations with the aim to achieve consistent compliance with the Building Regulations.
- Offer guidance and support with Building Regulations procedure upon request.
- Provision of Building Control advice leaflets and literature;
- Any revision or amendment to the SLA will be communicated and documented to all building control managers.

## **8. Financial Arrangements**

The Department will provide remuneration as required by Building Control by paying any required fee. Other than that each of the parties shall be responsible for their own finances and budgets.

## **9. Monitoring & Reporting**

CPD is responsible for monitoring the Scheme and will meet regularly with the Building Control Service to ensure that any matters for which CPD is statutorily obliged to comply with the Building Regulations are notified to Building Control. CPD and the Building Control Service shall meet where either party considers it necessary to discuss the project. Progress reports will be issued monthly by the Building Control Service to CPD.



CPD and the Building Control Service shall consider any recommendations to improve the management of the Scheme.

## **10. Accountability**

Overall accountability and responsibility for compliance with the Building Regulations rests with the Accounting Officer of CPD. However, each organisation is accountable for its own finances and ensuring that appropriate controls are in place in order to provide them with necessary assurances. Each receiving organisation will remain responsible for assessing progress against its own performance indicators.

## **11. Confidentiality and Data**

BCC shall treat any information acquired from CPD in accordance with the Data Protection Act, Freedom of Information and Environmental Information legislation. No party will disclose such information to any other person, directly or indirectly, except where disclosure is required by law or is with the relevant parties' prior written consent. Should the information provided under this Agreement include personal data, the Parties shall enter into an appropriate Data Sharing Agreement, to ensure that all data is handled in accordance with the parties' legal responsibilities.

## **12. Variations**

There may be circumstances during the year which prevent the full discharge of the Service Level Agreement through no fault of any party. Circumstances in which variations may occur during the period of the Service Level Agreement will include:

- Non-provision of responsibilities by BCC or CPD;
- Significant changes in the anticipated workload;
- New regulations or change in policy;
- Performance of Hardware / Software.

All parties will discuss the need for any variation to the Service Level Agreement at the earliest opportunity and will make any variation by mutual agreement.

## **13. Periodic Review**

This Agreement is valid from the Effective Date outlined herein and is valid until further notice. This Agreement should be reviewed at a minimum once per fiscal year; however, in lieu of a review during any period specified, the current Agreement will remain in effect.

The Document Owner is responsible for facilitating regular reviews of this document. This Service Level Agreement will be reviewed at monthly intervals between the Head of Building Control and the Deputy Director responsible for the Construction Procurement Directorate. Contents of this document may be amended as required, provided mutual agreement is obtained from the primary stakeholders and communicated to all affected parties. The Document Owner will incorporate all subsequent revisions and obtain mutual agreements / approvals as required.

**Document owner:** Building Control Manager

**Review Period:** Monthly from date of review

**Previous Review Date:**

**Next Review Date:**

## 14. Service availability

Coverage parameters specific to the services covered in this Agreement are as follows:

- Telephone support : 0900 to 1700 Monday – Friday
  - Calls received out of office hours will be forwarded to a mobile phone and best efforts will be made to answer / action the call, however there will be a backup answer phone service
- Email support: 0900 to 1700 Monday – Friday
  - Emails received outside of office hours will be collected, however no action can be guaranteed until the next working day
- On-site assistance guaranteed within 72 hours during the business week

## 15. Request for Service

In support of services outlined in this Agreement, the Service Provider will respond to service related incidents and/or requests submitted by the Customer within the following time frames. The priority level will be determined by the Service Provider.

- 0-5 hours (during business hours) for issues classified as **High** priority.
- Within 12 hours for issues classified as **Medium** priority.
- Within 5 business days for issues classified as **Low** priority.

Remote assistance will be provided in line with the above timescales dependent on the priority of the support request.

**Belfast City Council**

**November 2014**

## FORMAL COMMITMENT TO MEMORANDUM

By signing below, the parties agree to all terms and conditions outlined in this SLA.

Signed  
On behalf of the Construction Procurement  
Division of DSD

Dated

Signed  
On behalf of Belfast City Council

Dated