

# Building Regulations – 2023 Amendments

## FAQs

The recent amendments to the Building Regulations have a significant impact on building control providers, but also introduce formal roles and responsibilities for dutyholders; clients, contractors and designers.

Compliance Building Control (CBC) has made the necessary changes to our processes and documentation to enable us to fulfil our additional duties, but building control is only responsible for ensuring compliance with certain elements of the regulations.

Whilst CBC now needs to obtain certain notices and statements, dutyholders are responsible for meeting their own obligations under Part 2A of the regulations. Failure to comply with these duties is a breach of the regulations and may be subject to prosecution but is not enforceable by the Approved Inspector.

The following representative questions have been asked by designers:

- 1. What is the correct procedure to follow if we have been a duty holder (principal designer - PD) up to the building regulations approval stage and we are not thereafter. I understand you have your online appointment form where we can complete the duty holder details. How do we officially inform you that we are no longer PD on a project?**

The **Client** is required to providing dutyholder notifications to Building Control including the dates on which appointments begin and end (see item 2 below).

If the PD withdraws from the scheme at 'plans acceptance' stage, they should make the Client aware of the implications for them and the principal contractor.

Building Control surveyors can no longer be expected act as a 'designer' when issues arise during construction, so contingency measures will need to be put in place.

- 2. If the PD withdraws from the scheme at plans acceptance stage, will CBC contact the client to ask for the new PD details?**

Notices for advising CBC of dutyholder appointments and changes to dutyholders are now included in the Initial Notice acceptance letter which is sent to the Client.

Not providing this information is a breach of the amended Building Regulations but the Approved Inspector cannot enforce it.

It is our understanding that the designer should remain in communication with the Client and PC during the construction phase to assist with solutions when design issues arise. If a PD withdraws from the scheme before completion, it could be argued that they have not fulfilled their duty.

3. **Compliance Declaration: We as the designers are happy to sign a declaration that the design complies with the building regulations. However, if we have not been on site doing inspections, we cannot sign any declaration that it complies based on what has been built – only what was on our drawings. Can this declaration be made from the new duty holder which we assume can be the client or Principal Contractor acting as PD or someone else they appoint as the PD?**

The PD compliance declaration confirms that the **designer has fulfilled their duty under Part 2A of the Building Regulations**; not that the building work itself is compliant.

Clients, designers, and contractors must familiarise themselves with their duties and responsibilities under Part 2A; **these duties do not form part of the Building Control function.**

We do not believe designers are expected to provide site supervision; however, regulation 11J(3) states that *“In providing a design, a designer must take all reasonable steps to provide sufficient information about the design, construction and maintenance of the building to assist the client, other designers and contractors to comply with all relevant requirements”*. This suggests that Principal Designers should remain available during construction to resolve design-related queries.

The Client is responsible for providing a compliance statement to their Approved Inspector when the work is complete. Forms for this purpose are included in the Initial Notice Acceptance letter, and the online forms can be used by the PC and PD to provide their statements directly

The compliance declaration consists of the ALL of the following:

- a. Client contact details
  - b. Contact information for the PC and PD
  - c. A statement that the building work is complete
  - d. A statement, signed by the client, confirming that to the best of the client’s knowledge the work complies with all applicable requirements of the building regulations.
  - e. Signed statements given by each PC and each PD, which include:
    - i. Their contact details
    - ii. Their appointment dates
    - iii. Confirmation that they have fulfilled their duties under Part 2A (dutyholders and competence) of the Building Regulations.
4. **What happens where a domestic client appoints a Principal Contractor to carry out most of the construction works such as new walls, roof, etc, but then the client also appoints a sub-contractor directly such as a window manufacturer/installer or kitchen company to fit a new kitchen, appliances, and drainage? Does this just fall to the client to ensure their directly appointed sub-contractors are competent? Again, who confirms this work is in compliance with the building regulations?**

The Client must take all reasonable steps to ensure any designer or contractor they appoint is sufficiently competent and can fulfil their duties under Part 2A. For domestic clients, this responsibility must be carried out by the Principal/Sole Contractor (or Principal Designer if agreed in writing).

5. **What happens when a client has no builder lined up and decides they might even do it themselves with varying friends (who may or may not be in the trade)? Are we as designers supposed to visit them every time things like steelwork is inserted to make sure the padstones are in correct etc?**

The person carrying out the work is responsible for complying with all relevant building regulations and must be sufficiently competent. This applies equally to DIY builders as those 'in the trade'.

Matters of competence could now be considered as a contravention of the building regulations and may lead to Initial Notice cancellation and enforcement action.

Designers have a duty to satisfy themselves that the client is aware of their responsibilities before starting any design work, but responsibly for complying with these obligations then falls to the client themselves.

The level of site supervision by designers is not a building control matter and should be agreed between the dutyholders. However, everyone involved in this situation should be made aware that their Building Inspector is not a clerk of works and is not responsible for checking the compliance of every element of construction.

In this situation, a DIY client effectively becomes the principal contractor and takes on all the associated duties, including providing a signed declaration on completion that the work is in compliance with the regulations.

6. **In previous jobs we have had, we have specified on plans a foundation depth for an extension to be 1m minimum subject to site conditions etc. and BC approval. Is this something we are able to continue to say, with the foundation depth to be agreed between the builder and yourselves on site? Or do we need to be more specific?**

The building control body can only comment on the suitability of a proposed design, not specify it.

Designers and contractors should also take note of all trees within 40m of the proposal and evidence of drainage when carrying out their site surveys to ensure these issues are considered BEFORE the first building control inspection.

If responsibility for the foundation design is transferred to the contractor, they must be sufficiently competent to provide a proposal for building control to comment on, with reference to information such as trial holes, geological maps and NHBC Chapter 4.2 etc. If the contractor is not sufficiently competent to design the foundations, they are expected to seek further advice from the designer and/or a structural engineer.

CBC will continue to offer advice as far as possible but will need to take a more cautious approach to determining elements such as soil plasticity etc., and will not be able to propose design solutions.

**Responsibility for interpreting and complying with the building regulation amendments lies with the individual dutyholders. We would therefore encourage everyone who could be considered to be a dutyholder to familiarise themselves with Part 2A:**

<https://www.legislation.gov.uk/uksi/2010/2214/part/2A>