

Proposal of how designated EPC officers will work across the 26 Councils Mode of Operation

Background

The Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (NI) 2009 (the regulations) came into effect on 3 December 2009. This legislation empowers all District Councils to enforce the Energy Performance of Buildings (Certificates and Inspection) Regulation 2008.

The Department of Finance and Personnel will retain the power to enforce these regulations against the Councils in relation to their responsibilities under the said regulations.

It has been agreed with DFP and the 26 Councils that this transfer of enforcement will be piloted on a one year basis to assess the effectiveness of District Councils undertaking enforcement of the EPC regulations. ~~If the pilot is successful~~ The success of the pilot will enable the ~~it is likely that the~~ relevant enforcement duties ~~will to~~ transfer to each individual district councils on a permanent basis.

The rationale behind the transfer of EPC enforcement duties from the DFP to the District Councils, was that the District Councils could undertake any enforcement activities in a more effective and efficient manner given their experience as a regulator.

Building Control Northern Ireland (BCNI) agreed that Belfast City Council would be designated as the authority that would employ surveyors for the purposes of enforcing EPC regulations on behalf of all the District Councils for a one year pilot study. For the purpose of this pilot a budget has been agreed with the DFP who will fund the project through the employing authority.

Objectives of the Pilot

The overall objective of transferring this enforcement duty to district councils is to achieve a greater level of compliance with the EPC regulations across Northern Ireland and to inform all of the key stakeholders of their duties and responsibilities.

The pilot as well as aiming to achieve the key objective above also intends to determine:-

- Compliance with the EPC regulations
- Awareness of the key stakeholders on their legal responsibilities
- District councils compliance with the regulations
- Appropriate policies as required to clarify potential conflicting interpretations
- Sustainable process and policies which can be adopted by each council
- Necessary processes and procedures for monitoring and controlling the air conditioning requirements as set out in the regulations
- Resource impact of undertaking enforcement and the promotion of EPCs
- Relations with representative associations, such as Law Society, CML, local solicitors groups, Estate Agents, Landlord Association, developers etc.

Collaborative Working

~~It is anticipated~~In the spirit of mutual agreement that the EPC Officers employed by Belfast City Council for the pilot will be authorised to operate across all Council areas for the purposes of enforcement in~~under~~ the EPC regulations. This will be on the basis of formal authorisation by the District Councils. (Please see attached draft template committee report nominating the relevant officers as the authorised officers).

These Officers are being employed with the sole purpose of enforcing the EPC regulations and as a support to the district councils. The employing authority will seek to apportion as reasonably as possible the resources across the 26 Councils based on identified need in the levels of compliance.

What about education and Training?

The activities of these officers will be subject to ~~these~~ parameters agreed by BCNI aimed at ensuring that the regulations are being consistently implemented and enforced across Northern Ireland, without apportioning blame.

Any formal enforcement work will be undertaken in co-ordination with the relevant District Council to ensure transparency and accountability. The EPCs officers will have

regard to the overall enforcement policy for each District Council and their scheme of delegation and operating procedures. Any enforcement decisions will be taken jointly between the EPC Officer and the authorised Building Control Officer.

The EPC officer will provide quarterly reports to each district council on;

- The current levels of compliance overall and within their district council
- General activities undertaken
- Budgetary analysis of expenditure to date
- Any enforcement work undertaken
- Training and Development

Operating Schedule

EPC Officers must be authorised by the District Council in which they operate to carry out enforcement activities and fulfil the following responsibilities:

- Share all information relating to EPC enforcement with the authorised building control officer of the relevant District Council.
- Ensure that the authorised building control officer for that area is aware that they will be working in that area every time they are due to visit that council area.
- Notify the authorised building control officer if they intend to carry out inspections of premises within their areas.
- Discuss with the authorised building control officer the potential cases for formal enforcement.
- Have regard to the fact that selling and letting agents operate across Council boundaries and therefore the authorised officers in both areas may require joint notification.
- Notify the authorised building control officer in the first instance if there is non-compliance with the buildings in their District Councils.

- Understand and comply with the enforcement policy operated by the relevant District Councils in which they are working.
- Work within the Protocol agreed between the District Councils and the Department of Finance and Personnel for the operation of this one year pilot.
- Ensure monies accrued by the issuing of fixed penalty notices is kept by the Council in the area they were issued with the view that this money should be used where possible for the purposes of increasing levels of compliance of EPC uptake. This may include the EPC requirements associated with building regulations.
- Work with accredited assessors to ensure consistency of approach and appropriate approved software systems are being used.
- [Should it be deemed necessary to have a joint inspection for enforcement purposes within a Council area, the authorised officer of that Council may wish to accompany the authorised EPC officer, as required.](#)
- Make recommendation through BCNI Executive or other appropriate body so as to introduce improvements in the building regulation procedures, common property certificates or other building control matters.

Accountability Procedures

The EPC Officers through the employing authority's Head of Service or his nominated representatives will be answerable through the BCNI Executive in the first instance. In conjunction with this body a working group has been established and the EPC officer/s will have regard for the direction this group may issue on behalf of BCNI.

Also the Senior EPC officer will be available to support the authorised officer of each Council to answer directly to the respective Council when requested to do so.

Upon request the EPC officer will produce an update report for the authorised officer of each Council in addition to the quarterly reports.

~~A thought.....for may satisfy the dissenters.... sitting on the fence~~

~~Should it be deemed necessary to have a joint inspection for enforcement purposes within a Council area, the authorised officer of that Council may wish to accompany the authorised EPC officer, only where it is deemed necessary, but not on every occasion.~~