

**SCHEME FOR THE RECOVERY OF BUILDING REGULATION CHARGES AND
ASSOCIATED MATTERS**

FOR

New Forest District Council

**TO BE READ IN CONJUNCTION WITH THE BUILDING (LOCAL AUTHORITY
CHARGES) REGULATIONS 2010**

Date this Scheme came into effect: 1st April 2020

SCHEME FOR THE RECOVERY OF BUILDING REGULATION CHARGES

Definitions

The following definitions apply to this Charging Scheme and should be read in conjunction with the other clauses.

'building' means any permanent or temporary building but not any other kind of structure or erection and a reference to a building includes a reference to part of a building

'building notice' means a notice given in accordance with regulations 12(2) and 13 of the Building Regulation 2010.

'building work' means:

- a) the erection of an extension of a building;
- b) the provision or extension of a controlled service or fitting in or in connection with a building;
- c) the material alteration of a building, or a controlled service or fitting;
- d) work required by building regulation 6 (requirements relating to material change of use);
- e) the insertion of insulating material into the cavity wall of a building;
- f) work involving the underpinning of a building;
- g) work required by building regulation 23 (requirements relating to thermal elements);
- h) work required by building regulation 22 (requirements relating to a change of energy status);
- i) work required by building regulation 28 (consequential improvements to energy performance);

'chargeable function' means a function relating to the following –

- a) the passing or rejection of plans of proposed building work which has been deposited with the council in accordance with section 16 of the Building Act 1984 (as amended).
- b) the inspection of the building work for which plans have been deposited with the council in accordance with the Building Regulations 2010 and with Section 16 of the Building Act 1984 (as amended)
- c) the consideration of a building notice which has been given to the Council in accordance with the Building Regulations 2010 and inspection of the relevant work.
- d) the consideration of building work reverting the council under the Building Regulations 2010
- e) the consideration of a regularisation application submitted to the council under regulation 18 Building Regulations 2010

'cost' does not include any professional fees paid to an architect, quantity survey or any other person.

'dwelling' includes a dwelling-house and a flat

'dwelling-house' does not include a flat or a building containing a flat

'flat' means a separate and self-contained premise constructed or adapted for use for residential purposes and forming part of a building from some other part of which it is divided horizontally.

'floor area of a building or extension' is the total floor area of all the storeys which comprise the building. It is calculated by reference to the finished internal faces of the walls enclosing the area, or, if at any point there is no enclosing wall, by reference to the outermost edge of the floor.

'relevant person' means:

- a) in relation to an application charge or reversion charge, the person who carries out the building work or on whose behalf the building work is carried out;
- b) in relation to a regularisation charge, the owner of the building; and

- c) in relation to chargeable advice, any person requesting advice for which a charge may be made pursuant to the definition of 'chargeable advice'

Principles of this Scheme

The method of determining the charge have been established in this scheme for the functions prescribed in the Building (Local Authority Charges) Regulations 2010 (referred to as the chargeable functions), namely:

- **An application charge**, payable when an application or notice for the building work is deposited with the Local Authority.
- **A reversion charge**, payable for building work in relation to a building: -
 1. Which has been substantially completed before plans are first deposited with the Authority in accordance with Regulation 19 of the Building Regulations 2010, or
 2. In respect of which plans for further building work have been deposited with the Authority in accordance with the Regulations 19 of the Building Regulations 2010, on the first occasion on which those plans are or have been deposited.
- **A regularisation charge**, payable at the time of the application to the authority in accordance with Regulation 18 of the Building Regulations.
- **Chargeable advice**, LAs can make a charge for giving advice in anticipation of the future exercise of their chargeable functions (i.e. before an application or notice is received for a particular case), which is payable after the first hour of advice, on demand after the authority has given notice required by Regulation 7(7) of the Building (Local Authority) Charges Regulations 2010 (i.e. the charge has been confirmed in writing following an individual determination). This charge can be discounted from a subsequent application or notice received for the work in question.
- The above charges are payable by the relevant person.

Any charge which is payable to the authority may, in a particular case, and with the agreement of the authority, be paid by instalments of such amounts payable on such dates as may be specified by the authority.

- The charge for providing a chargeable function or chargeable advice is based on the principle of achieving full cost recovery. The charges will be calculated by using the Council officers' average hourly rate stated in the charging scheme, multiplied by the time taken to carry out the functions/advice, taking the following factors into account as applicable, in estimating the time required by officers to carry out the function/advice:
 1. The existing use of a building, or the proposed use of the building after completion of the building work;
 2. The different kinds of building work described in regulation 3(1)(a) to (i) of the Building Regulations;
 3. The floor area of the building or extension;
 4. The nature of the design of the building work and whether innovative or high risk construction techniques are to be used;
 5. The estimated duration of the building work and the anticipated number of inspections to be carried out;

6. The estimated cost of the building work;
7. Whether a person who intends to carry out part of the building work is a person mentioned in regulations 12(6) or 43 of the Building Regulations (i.e. related competent person/self certification schemes);
8. Whether in respect of the building work a notification will be made in accordance with regulation 41 of the Building Regulations (i.e. where design details approved by Robust Details Ltd have been used);
9. Whether an application or building notice is in respect of two or more buildings or building works all of which are substantially the same as each other;
10. Whether an application or building notice is in respect of building work, which is substantially the same as building work in respect of which plans have previously been deposited or building works inspected by the same local authority;
11. Whether chargeable advice has been given which is likely to result in less time being taken by a local authority to perform that function;
12. Whether it is necessary to engage and incur the costs of a consultant to provide specialist advice in relation to a particular aspect of that building work.

Principles of the scheme in respect of the erection of domestic buildings, garages, carports and extensions

- Where the charges relate to a dwelling the charge includes for the provision of a detached or attached domestic garage or carport providing it is constructed at the same time as the dwelling.
- Where any building work comprises or includes the erection of more than one extension to a building, the total floor area of all such extensions shall be aggregated to determine the relevant charge payable, providing that the building work for all aggregated extensions is carried out at the same time.

Exemption for charges

The Authority has not fixed by means of its scheme, nor intends to recover a charge in relation to an existing dwelling that is, or is to be, occupied by a disabled person as a permanent residence; and where the whole of the building work in question is solely-

- (a) for the purpose of providing means of access for the disabled person by way of entrance or exist to or from the dwelling or any part of it, or
- (b) for the purpose of providing accommodation or facilities designed to secure the greater health, safety, welfare or convenience of the disabled person.

The council has not fixed by means of its scheme, nor intends to recover a charge for the purpose of providing facilities designed to secure the greater health, safety, welfare or convenience of the disabled person in relation to an existing dwelling, which is, or is to be, occupied by that disabled person as a permanent residence where such work consists of -

- (a) the adaptation or extension of existing accommodation or an existing facility or the provision of alternative accommodation or an alternative facility where the existing accommodation or facility could not be used by the disabled person or could be used by the disabled person only with assistance; or
- (b) the provision of extension of a room which is or will be used solely –

- (i) for the carrying out for the benefit of the disabled person of medical treatment which cannot reasonably be carried out in any other room in the dwelling, or
- (ii) for the storage of medical equipment for the use of the disabled person, or
- (iii) to provide sleeping accommodation for a carer where the disabled person requires 24-hour care.

The council has not fixed by means of its scheme, nor intends to recover a charge in relation to an existing building to which members of the public are admitted (whether on payment or otherwise); and where the whole of the building work in question is solely –

- (a) for the purpose of providing means of access for disabled persons by way of entrance or exit to or from the building or any part of it; or
- (b) for the provision of facilities designed to secure the greater health, safety, welfare or disabled persons.

Note: ‘disabled person’ means a person who is within any of the descriptions of persons to whom Section 29(1) of the National Assistance Act 1948, as extended by virtue of Section 8(2) of the Mental Health Act 1959, applied but disregarding the amendments made by paragraph 11 of Schedule 13 to the Children Act 1989. The works in section 8(2) of the Mental Health Act 1959 which extend the meaning of disabled person in Section 29(1) of the National Assistance Act 1948, are prospectively repealed by the National Health Service and Community Care Act 1990, Section 66(2) Schedule 10 as from a day to be appointed.

Information required to determine charges

If the authority requires additional information to enable it to determine the correct charge the authority can request the information under the provisions of regulation 9 of The Building (Local Authority Charges) Regulation 2010.

The standard information required for all applications is detailed on the authority’s Building Regulation application forms. This includes the existing and proposed use of the building and a description of the work

Additional information may be required in relation to-

- The floor area of the building or extension
- The estimated duration of the building work and the anticipated number of inspections to be carried out.
- The use of competent persons or Robust Details Ltd.
- Any accreditations held by the builder or other member of the design team.
- The nature of the design of the building work and whether innovation of high risk construction is to be used.
- The estimated cost of the building work. If this is used as one of the factors in establishing a charge the ‘estimate’ is required to be such reasonable amount as would be charged by a person in business to carry out such building work (excluding the amount of any value added tax chargeable).

Establishing the charge

All building works that you are undertaking will be individually determined in accordance with the principles and relevant factors contained with The Building (Local Authority) Charges Regulation

2010. If the authority considers it necessary to engage and incur the costs of a consultant to provide specialist advice or services in relation to a particular aspect of building work, those costs shall also be included in setting the charge.

The charge determined by the authority shall be calculated using the average hourly rate of officers' time, multiplied by the estimated time taken to carry out their building regulation function in relation to that particular piece of building work, and taking into account the applicable factors listed in regulation 7(5) of the charges regulations.

Individually determined charges will be confirmed in writing specifying the amount of the charge and the factors that have been taken into account in determining the charge.

Archived Applications

If you are selling a property that has been extended or altered, you may need to provide evidence to prospective purchasers that any relevant building work has been inspected and approved by a Building Control Body. That evidence is usually in the form of a Building Regulations Completion / Final Certificate and / or an Approval or Initial notice.

Legal entitlement to a Completion Certificate is subject to conditions. In cases where the Council is not told that building work is completed, or the building is occupied without addressing outstanding Building Regulation matters, a certificate is not issued. Despite the best efforts of the Councils Building Control Surveyors, many homeowners who undertake building works fail to obtain a completion certificate and their application is archived. A fee is payable to re-open archived building regulations applications for the purposes of issuing a completion certificate where there has been no recorded inspection within 3 years.

CHARGE is £186.00 plus the appropriate value added tax rate - Process request to re-open archived building control file, carry out any necessary inspections and issue completion certificate

Copy certification £26 plus vat

Structural calculation checks from £210 plus vat minimum charge

Re-Direct Inspection Fees

Process requests to re-invoice the inspection fee to a new addressee will be charged at £46.00 plus the appropriate value added tax rate.

Where building control is employed on a consultancy basis, the charge for this service is £62.00 per hour, plus the appropriate value added tax rate.

Other matters relating to calculation of charges

- In calculating these charges, refunds or supplementary charges, an officer hourly rate of £62.00 has been used.
- Any charge payable to the authority shall be paid with an amount equal to any value added tax payable in respect of that charge.
- Charges are not payable for the first hour when calculating an advice charge.
- The authority may (in exceptional circumstances) accept payment by instalment in respect of all building work where the total charge has been individually determined or such other times as may be agreed. The authority on request will specify the amount payable and dates on which instalments are to be paid.

Reductions and Additional Charges

The authority shall make a reduction in a standard or individually determined charge when chargeable advice has been given before receipt of an application or notice for proposed building work, which is likely to result in less time being taken by the local authority to perform the chargeable function of that work.

When it is intended to carry out additional building work on a dwelling at the same time that any of the work to which a fee has been paid relates, then the charge for this additional work may be individually determined with the agreement of the applicant.

Where in accordance with Regulation 7(5)(i) of the charges regulations, one application or building notice is in respect of two or more buildings or building work all of which are substantially the same as each other a individually determined charge may be made.

When in accordance with Regulation 7(5)(j) of the charges regulations an application or building notice is in respect of building work which is substantially the same as building work in respect of which plans have previously been deposited or building works inspected by the same local authority, a individually determined charge may be made.

Refunds and supplementary Charges

If the basis on which the charge has been set or determined changes, the LA will refund or request supplementary charge and provide a written statement setting out the basis of the refund/supplementary charge and also state how this has been calculated. In the calculation of refunds/supplementary charges no account shall be taken of the first hour of an officer's time.

If withdrawing applications – a non-returnable minimum charge of £62 plus the appropriate value added tax rate will be made to recover administrative costs where an application is withdrawn before the plans are checked. Where the plans have been checked prior to the withdraw request, any refund will also take into account the amount of time spent in checking the application for compliance before any request to withdraw it is received.

Where an application submitted by the relevant person or their agent under this scheme does not commence within 3 years of the application date that application shall be deemed expired under Section 32 of the Building Act 1984. Where this is the case a refund of the inspection element of the paid fee shall be provided back to the relevant person upon request. The inspection element of the paid fee shall be equal to 50% of that fee of a Full Plans submission and 60% for a Building Notice, with a minimum charge of £60 plus the appropriate value added tax rate retained.

Non-payment of charges

Your attention is drawn to Regulation 8(2) of the Building (Local Authority Charges) Regulations 2010, which explains that a submission is not treated as being deposited for the purpose of Section 16 of the Building Act or building notices given unless the Council has received the correct charge. In other words, relevant timescales do not start until the agreed payment has been made. The debt recovery team of the authority will also pursue any non-payment of a charge

Complaints about Charges

If you have a complaint about the level of charges you should initially raise your concern with the relevant officer. The council has a comprehensive complaint handling process. If your complaint is not satisfactorily responded to by the officer concerned, details of how to resolve your complaint is available on request and can be viewed on the council's web site: www.newforest.gov.uk

Transitional Provisions

The Council's current scheme for the recovery of charges continues to apply in relation to building work for which plans were first deposited, a building notice given, a reversion charge becoming payable, or a regularisation application is made prior to 31st March 2020.

Application charge

These charges will be individually determined.

Reversion Charges

These charges will be individually determined.

Regularisation Charges

The fee will be 150% of the calculated net full plans charge.

Please contact us either on 023 8028 5245

Or e-mail building.control@nfdc.gov.uk