



Department for Communities and Local Government

To:

The Chief Executive:

Unitary, Metropolitan, District and
London Borough Councils in England
County and County Borough Councils
in Wales

The Town Clerk, City of London
The Clerk, Council of the Isles of Scilly
The Sub-Treasurer, Inner Temple
The Under Treasurer, Middle Temple

The Head of Building Control:

Unitary Metropolitan, District and
London Borough Councils in England
County and County Borough Councils
in Wales
City of London
Council of the Isles of Scilly

Approved Inspectors

cc: The Chief Executive:

Combined Authorities in England
County Councils in England
National Park Authorities in England &
Wales

The Chief Fire Officer: Fire and Rescue
Authorities in England & Wales

10 July 2017

Dear Sir/Madam

SCHEMES OF INSURANCE FOR APPROVED INSPECTORS PURSUANT TO SECTION 47(6) OF THE BUILDING ACT 1984

I am writing to inform you of changes to the criteria for schemes of insurance for
Approved Inspectors pursuant to section 47(6) of the Building Act 1984.

Scope

This Circular Letter applies to Approved Inspectors carrying out building control functions in England. It also applies to Approved Inspectors in Wales carrying out building control functions in respect of excepted energy buildings¹ in Wales

Background

The approval process of CICAIR Limited ensures that all Approved Inspectors are well qualified to carry out the building control function. However, Approved Inspectors do not have the financial strength of local authorities as permanent, statutory bodies. For this reason, one of the safeguards provided for in legislation is that an Approved Inspector must have public liability and professional indemnity insurance approved by the Secretary of State. This protects clients and others who may be adversely affected by any breach of contract, negligence or misrepresentation on the part of the Approved Inspector, by ensuring that, subject to the limits on cover, the Approved Inspector has the financial resources to comply with any award of damages or out of court settlement.

Under the Building Act 1984 and the Building (Approved Inspectors etc.) Regulations 2010 as amended, an Approved Inspector must declare on the initial notices, amendment notices, plans certificates and final certificates given to local authorities that they hold the relevant insurance. A copy of a declaration signed by the insurer that a scheme of insurance, approved by the Secretary of State, applies in relation to the relevant work must be held on the publicly available register maintained by CICAIR Limited the designated approval body. The insurance cover provided under these schemes indemnifies the Approved Inspector in respect of claims arising from the conduct of their building control functions. To gain approval insurance schemes must comply with a set of criteria for approval.

Changes to the Criteria

The criteria have been revised to clarify that schemes of insurance for Approved Inspectors need to include both public liability and professional indemnity insurance cover. Also that the restriction on the run off cover for non injury claims, to only cover claims by an owner occupier in relation to their only or main residence, has been removed.

A copy of the revised criteria for schemes of insurance for Approved Inspectors can be found at the Annex to this letter.

Current Schemes

Approved Inspectors will wish to note that public liability and professional indemnity insurance for Approved Inspectors is currently supplied by the following schemes:

- Griffiths & Armour Limited
- Howden Limited
- NHBC (who only insure their own Approved Inspector - NHBC Building Control Services Limited)

¹ "Excepted energy buildings are defined in the schedule to the Welsh Ministers (Transfer of Functions) (No.2) Order 2009 (S.I. 2009/3019)

Coming into force date

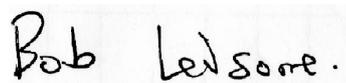
The revised criteria will apply to all new and annual renewal of an Approved Inspector's insurance on or after 1 June 2017.

Enquiries

Telephone enquiries on this Circular Letter should be addressed to Sandra Simoni on 0303 44 41781.

All e-mail enquiries to: enquiries.br@communities.gsi.gov.uk.

Yours faithfully,

A handwritten signature in black ink that reads "Bob Ledsome." The signature is written in a cursive style and is positioned above the printed name.

R J LEDSOME

**Deputy Director
Building Regulations and Energy Performance Division**

Criteria for schemes of insurance for approved inspectors pursuant to section 47(6) of the Building Act 1984

a) Public liability and professional indemnity insurance cover

Schemes of insurance for approved inspectors must provide for public liability and professional indemnity insurance covering the inspector for losses arising from claims in respect of the performance of duties as an approved inspector.

The following minimum levels of cover apply:

i) for claims against the approved inspector in respect of personal injury (including illness, disease and death) a minimum limit of not less than £5m per claim (all claims attributable to one occurrence shall be treated as one claim)

ii) for other claims against the approved inspector, a minimum limit of not less than £1m per claim (all claims attributable to one occurrence shall be treated as one claim)

(iii) the minimums in subparagraphs (i) and (ii) are subject to an overall minimum cover of £15m for all claims against the approved inspector in respect of work carried out by the inspector in any one period of 12 months.

b) Defence costs

Cover is to extend to the approved inspector's defence costs, which are to be treated on a "costs in addition basis", i.e. such costs will not be taken into account for the per claim minimums, though they will count towards the overall minimum of £15m.

c) Automatic run off cover

In relation to:

(i) any personal injury claims as set out in subparagraph (a)(i); and

(ii) non-injury claims as set out in subparagraph (a)(ii) other than under the law of contract,

cover must be provided in respect of claims notified to the insurer within 10 years of the date of completion of the approved inspector's work in respect of the relevant building project, whether that date is that of giving of a final certificate, which is not subsequently rejected by a local authority, relating to the project, or of some other event marking the practical termination of the approved inspector's involvement in the project.

The minimum per claim levels set out in subparagraphs (a)(i) and (ii) above apply in respect of this cover, as does the overall minimum of £15m in subparagraph (a)(iii).

d) Index linking

Not required.

e) Excess

Not more than £5,000 per claim.

f) Voiding of cover

In line with commercial practice, reasonable provisions for voiding of cover will be allowed for example: for failure to disclose material information, failure to adhere to the terms and conditions of the policy, or failure to pay the premium.