



Department for Communities and Local Government

**Government response to the Communities and
Local Government Select Committee Report:
Building Regulations applying to electrical and
gas installation and repairs in dwellings**

July 2012

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Presented to Parliament by the Secretary of State
for Communities and Local Government
by Command of Her Majesty

July 2012

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Introduction

1. The Communities and Local Government Select Committee announced in December 2011 its inquiry into the Building Regulations applying to electrical and gas installation and repairs in dwellings. Following submission of written evidence and two evidence sessions the Committee published its report on 30 March 2012.
2. The Government is grateful to the Committee for its considered and detailed report and the Committee's support for the ultimate objective of the Government's current review of the Building Regulations – to keep regulatory measures relevant and proportionate, reducing where possible red tape and burdens on trade and business.
3. The Government has recently consulted on changes to the Building Regulations. The public consultation closed on 27 April 2012 and we are currently analysing all the comments and suggestions generated by the consultation and will respond in due course. The Select Committee's report is an important contribution to that consultation.

Committee conclusions and recommendations

4. Set out below are the Committee's recommendations and the Government's response, under the headings as set out in the report.

Gas

CLG Select Committee recommendation 1: Under the legislation, the ultimate responsibility for Building Regulation compliance rests with the building owner as the procurer of the work, even though in reality they rely on those carrying out the work to advise them adequately. During the evidence sessions, we raised the possibility of removing liability from the householder. We accept that such a step would remove a key component from the system of compliance and would set gas and electrical work at odds with the rest of the building control regime. But the operation of the current arrangements is unsatisfactory. In order to work properly, householders must become aware of their responsibilities. Much of our evidence pointed out that, in order to protect homeowners adequately from those who would mislead them (and who are also most likely to fail technically), much more needs to be done to raise the public level awareness of homeowners' obligations, and where independent advice can be gained. The Government needs to be far more proactive—working with the gas industry, DIY shops, planning authorities—in promoting a campaign of awareness about gas safety and homeowners' liabilities and responsibilities. We recommend that, in responding to this Report, the Government sets out a programme of measures to raise awareness and that in two years it provides us with a memorandum estimating the effectiveness of the measures. (Paragraph 12)

5. The Government acknowledges the importance of public awareness about gas safety. The Gas Safe Register has undertaken significant campaigns, including national TV advertising, coverage on a wide variety of consumer programmes and national and regional press and radio, along with regional and community events to raise public awareness of gas safety risks. Research by the Gas Safe Register has shown that 81% of consumers in Great Britain are aware of gas safety risks and the Gas Safe Register.
6. However, we are mindful that to ensure effectiveness of the message it must be kept simple and to the point to avoid creating any confusion. The key safety message is that householders should use only a Gas Safe registered engineer. By following this advice the risk of a householder falling foul of the Building Regulations is extremely low. As such we do not consider that it would be beneficial to dilute the existing gas safety messages with references to the remote risk of liability arising from the Building Regulations.
7. The Government agrees to update the Committee by the end of 2014 on the effectiveness of measures undertaken.

CLG Select Committee recommendation 2: We welcome the fact that the Government's current consultative exercise includes the strengthening of enforcement under the Building Regulations, and that the Government is working closely with the HSE to examine if there are ways to address the problem of non-compliant engineers working on gas installations. The level of failure to meet the requirements of the regulatory regime is worrying. It must follow that more stringent enforcement of requirements will reduce illegal and potentially unsafe works being carried out. We recommend that the Government produces a programme of measures to strengthen enforcement of the regulatory regime, and that it provides us with a memorandum in two years' time, with statistical details showing any improvement or otherwise in compliance on gas installations. (Paragraph 15)

8. The Government accepts this recommendation. The Gas Safe Register undertakes an average of 40,000 inspections per year. The Gas Safe Register can and do request to inspect the work of any registered engineer and have a risk-based inspections process for identifying work for inspection which takes account of factors such as:
 - Qualifications and experience of an engineer;
 - Engineer profiles;
 - Business Status and work delivery;
 - Demographics;
 - Type of work i.e. installation or maintenance;
 - Type of gas product i.e. boiler, cooker etc.;
 - Problematic appliance types;
 - Inspection history;

- Management audit outcomes;
 - LPG vs mains gas;
 - Customer complaints.
9. In 2011 the Gas Safe Register completed an industry review of the investigation and enforcement activities undertaken by all parties involved in the enforcement of gas safety legislation. The Health and Safety Executive reviewed the relevant recommendations on regulation and securing justice, and is considering appropriate action.
10. As part of the recent consultation the Government proposed a number of measures to strengthen the enforcement measures for non-compliance with the Building Regulations, which would include non-compliance with those parts of the Building Regulations controlling aspects of the installation of gas-fired combustion appliances:
- Lengthening the time in which local authorities can bring a prosecution from two years to three years after the completion of the work so that defects that come to light only after some time can still be prosecuted in appropriate cases.
 - Increasing the level of fine available (now a maximum of £5000) on conviction for a breach of the Building Regulations to a level that would more effectively penalise serious breaches of health and safety or persistent offenders and which would also act as a greater deterrent to non-compliance.
 - Introduction of civil sanctions under the provisions in the Regulatory Enforcement and Sanctions Act 2008, including monetary penalties, compliance notices and stop notices which can be used where appropriate during the course of the building work better to prevent a job non-complying at completion of work.
11. It would be impossible to indicate with certainty any action to be taken forward or a timetable for the introduction of these measures as we are currently analysing all the comments and suggestions generated by the consultation. The Department would be happy to provide the Committee with a memorandum two years after any such measures are introduced.

Carbon monoxide alarms

CLG Select Committee recommendation 3: Carbon monoxide alarms can make a significant difference to safety in the home, by the early detection of the odourless, invisible and potentially lethal fumes of carbon monoxide. The Government has already agreed that the new Green Deal will include a requirement that all installers must assess the impact of their work on the air tightness of the property, and any associated increase in risks of carbon monoxide poisoning that might

occur as a result. Where there is an increase in risk of poisoning, the Government has agreed that installers will have to fit a carbon monoxide alarm, and will have to check that existing carbon monoxide monitors are in working order. We welcome the inclusion of carbon monoxide alarms in the Green Deal standard. Confusion between government departments, particularly in respect of public safety issues, is unacceptable and we conclude that the Government needs a comprehensive policy. We recommend that Part J should go even further and require audible, wired-up EN 50291-compliant carbon monoxide alarms to be fitted wherever a relevant heating appliance is installed in any new-build or existing homes. (Paragraph 24)

12. The Government agrees that carbon monoxide alarms can make a significant difference to safety in homes. However, they should not be regarded as a replacement for regular maintenance or adequate ventilation.
13. Research carried out in 2010 concluded it would be disproportionate to require carbon monoxide alarms in all new homes, but a requirement to provide them in homes where new solid fuel appliances are being fitted was justified. The Government consulted widely on possible changes to the Building Regulations in October 2010. Although some concern was expressed that the provision of carbon monoxide alarms was limited to solid fuel appliances, there was no new evidence put forward supporting any change to the current approach. However, we will continue to keep this under review.
14. The Government does not accept that there is confusion between government departments on this issue. DECC has introduced robust processes in the Green Deal to ensure carbon monoxide safety when carrying out energy efficiency installations. These processes are designed to ensure that energy efficiency work will be carried out so it will not adversely affect the safe operation of combustion appliances. Carbon monoxide alarms will be required only where called for by the Building Regulations.

Gas safety: public awareness

CLG Select Committee recommendation 4: We recommend that the Government co-ordinate a concerted effort by the various industry organisations to continue to raise public awareness of carbon monoxide poisoning, to be overseen by the Government. Too little is still known by householders about the danger of carbon monoxide in the home, and the greater the number of households that have carbon monoxide alarms, the less the risk of death or injury through carbon monoxide poisoning. (Paragraph 27)

15. The Government welcomes the Committee's support for the objective of raising public awareness of carbon monoxide poisoning. Gas safety and more broadly carbon monoxide awareness is a truly cross-government issue with the majority of government departments, the devolved administrations and other governmental bodies having an interest from their particular perspective.
16. In fact, the Cross Government Group on Gas Safety and Carbon Monoxide (CO) Awareness reconvened in June 2009 to ensure a co-ordinated approach across departments, the devolved administrations and other governmental bodies to improve gas safety and tackle carbon monoxide risks from all fuels.
17. The members of the Group are:
- Department for Business, Innovation and Skills;
 - Department for Communities and Local Government;
 - Department of Health;
 - Health and Safety Executive;
 - Health and Safety Executive for Northern Ireland;
 - Health Protection Agency;
 - Office of Gas and Electricity Markets;
 - Partnerships for Schools;
 - The Scottish Government;
 - Welsh Assembly Government.
18. The work of the Health and Safety Executive and Gas Safe Register to raise awareness of the risks of carbon monoxide poisoning includes, for example, engagement with vulnerable groups such as the elderly and students. Gas Safe Register ran their first Gas Safety Week in September 2011 and reached millions of consumers with key gas safety messages via television, radio, national press and consumer events. The week was well supported by almost 1,000 organisations such as the Royal Society for the Prevention of Accidents, National Landlords Association and boiler manufacturers. The Gas Safe Register will continue to build upon the success of this work.

CLG Select Committee recommendation 5: Householders need to be more aware of current legislation surrounding the installation of gas appliances, and the fact that they are liable for the consequences of not using certified engineers. We recommend that there be a major publicity campaign, involving all relevant bodies—including the Government, local authorities and the gas industry—to ensure that householders know the legal and safety consequences of not choosing a Gas Safe engineer. (Paragraph 28)

19. As set out in our response to recommendation 1, the Government acknowledges the importance of public awareness about gas safety. The Gas Safe Register has and will continue to undertake national and regional campaigns to raise public awareness of gas safety risks. Research by the Gas Safe Register has shown that 81% of consumers are aware of gas safety risks.
20. The Cross Government Group on Gas Safety and Carbon Monoxide (CO) Awareness also has as one of its key objectives the aim to develop effective government strategies and promote knowledge and understanding of gas safety and carbon monoxide risks and how to manage them.
21. The Group's latest report, published in November 2011, provides a summary of the work carried out by all members of the Group under four key themes:
- Consumer awareness;
 - Supporting professionals;
 - Research;
 - Legislation and securing justice.
22. For example, the Health and Safety Executive has revised and re-launched the domestic gas website which supports landlords and letting agents in understanding their legal duties. The website also includes advice for engineers on how to become Gas Safe registered. The Health and Safety Executive continues to work to secure justice and provide consumer protection where gas safety incidents are highlighted. This may be through the issue of an enforcement notice or prosecution in the event of a breach of the law.

Electrical work: scope of Part P

CLG Select Committee recommendation 6: From the evidence we received, we are satisfied that Part P has been successful in driving up standards and in reducing the number of electrical faults. We would therefore be reluctant to endorse any diminution of the scope or operation of Part P, which might reverse that trend. We require the Government to seek research and evidence to show that safety would not be reduced. (Paragraph 33)

23. The Government agrees that any changes should not unduly diminish safety. We are still considering proposals to amend Part P put forward in the recent public consultation, which aim to reduce the bureaucracy and costs for electricians and DIY-ers, particularly when doing simpler jobs in the home. The proposed changes are expected to cut down on the

number of inspections that local authorities have to carry out and strip away unnecessary cost and bureaucracy while maintaining public safety.

24. As part of the consultation process we are actively seeking all available evidence to ensure that the Final Impact Assessment is as robust as possible.

CLG Select Committee recommendation 7: In its consultation exercise, the Government is suggesting that certain installation work currently classified as ‘notifiable’—because the work is carried out in parts of dwellings considered in 2005 to be of higher risk (in kitchens, bathrooms and gardens)—could be reclassified as non-notifiable, which would remove some of the associated regulatory burden. Again we do not endorse any diminution of Part P, taking minor works in areas of higher risk such as kitchens, bathrooms and gardens out of its reach. Any proposals to remove work from notifiable status need to weigh the reduction in the regulatory burden carefully evaluated against the impact on safety, to show clearly that such a change would not result in more death and injury. (Paragraph 34)

25. The Government agrees that any changes should not unduly diminish safety. The Government will consider all responses to the consultation in relation to Part P and electrical safety carefully before implementing any changes.

Electrical work: Competent Person Scheme

CLG Select Committee recommendation 8: Concern has been raised about the potential conflict of interest that exists in the three approval authorities of the Competent Person Scheme under Part P. These Scheme operators obtain their finance from the very same companies whose work they judge and they are in competition with each other. We consider that the Government needs to put stronger controls in place over the Competent Person Scheme, to show that the Scheme is serving the best interests of the safety of the public. The current arrangements need greater independent supervision to offset the pressures to compromise safety standards and actively to seek out conflicts of interest and distortions of the market. (Paragraph 40)

26. The Government accepts this recommendation. There are nine Competent Person Schemes authorised for Part P of the Building Regulations. It is true that most of the income of the scheme operators comes from fees levied on installers registered with the schemes. The Department has recently published new conditions of authorisation for competent person self-certification schemes.
27. One of the changes is that all scheme operators will have to seek and achieve UKAS (United Kingdom Accreditation Service) accreditation to standard EN 45011, which sets out general requirements for bodies

operating product certification systems. In future, UKAS will regularly monitor the operation of the schemes, which will provide independent supervision of the schemes and help ensure that there are no conflicts of interest.

CLG Select Committee recommendation 9: There have been calls for a mandatory requirement to use qualified electricians to install any electrical installation—in effect, the Gas Safe model applied to electrical work—with its mandatory use of registered installers. On balance, we are not convinced that such a scheme would be justified for electrical works at the present time. In our view it is better to improve the current arrangements, as we have suggested in our Report, and that a strengthened Part P Building Regulation regime would be better than a fully mandatory scheme at the present time. However, we recommend that the Government reports back to us in two years, on the success of the Government’s changes, and in the report review the possibility of a mandatory use of registered installers. (Paragraph 44)

28. The Government notes and agrees with the Committee’s conclusions that on balance a mandatory scheme to register electrical installers is not justified at present. The Government accepts the Committee’s recommendation to monitor the success of any changes made to Part P as a result of the consultation process. The Government agrees to report back to the Committee its findings and evidence on whether a mandatory use of registered installers would be required within two years of when any changes take effect. The next set of changes to take place is proposed for April 2013.

CLG Select Committee recommendation 10: Competent Person Schemes should work more closely with the Local Authority Building Control, to assist more closely with adherence to the Building Regulations. We see force in a requirement for work to be notified to the relevant Building Control before that work is carried out, and we recommend that the Government studies such representations in the consultation exercise seriously. We also see scope in allowing a member of a Competent Person Scheme being able to take over responsibility for inspection and testing of DIY and non-registered electricians’ work from the Building Control Body. (Paragraph 46)

29. The Government accepts this recommendation in part. A requirement for work to be notified to a local authority before it is carried out would escalate the cost to the person commissioning work and be passed on to the householder. However, if responses to the consultation provide evidence and suggest such notification is desirable, the Government would consider them.

30. Local authorities currently have enforcement powers available if work carried out by registered installers does not comply with the Building Regulations, and there are no plans to change this. We would welcome Competent Person Schemes forging closer links with the Local Authority

Building Control depending on local needs and resources to improve compliance.

31. The Government is grateful for the Committee's support for the proposals allowing competent third parties to inspect and validate DIY work, as proposed in the Part P consultation.

Electrical work: public awareness

CLG Select Committee recommendation 11: We recommend that sockets and other electrical equipment sold by DIY stores should carry a health warning that it is illegal for an unregistered person to carry out most electrical works in the home without checks being completed by the Building Control service or, if our earlier recommendation is accepted, by a member of a Competent Person Scheme, acting instead of the Building Control service. This will encourage the general public to use registered electricians, and reinforce the general health and safety message that electrical work can potentially be extremely hazardous. (Paragraph 49)

CLG Select Committee recommendation 12: Householders, not installers, are legally responsible for any electrical work in their homes, yet—as with gas installation work—the majority of householders are unaware of the regulations and of this legal responsibility, and, instead, rely on those carrying out the work to advise them adequately. Many observed that, in order to protect them better from those who would mislead them (and who are also most likely to fail technically), more needs to be done to raise awareness levels within the public of their obligations and where independent advice can be gained. (Paragraph 50)

32. The Government acknowledges the importance of raising public awareness about electrical safety and the benefits of using competent installers. There are already good examples of retailers providing the public with information on the Building Regulation and safety requirements. The Government would welcome further voluntary action by retailers and manufacturers but at present the Government does not believe there is a need for regulation.
33. The responsibility for compliance with the Building Regulations lies with the person carrying out the work. It is very unlikely that a local authority would choose to prosecute a householder who had employed a contractor to carry out the electrical work. In the last resort, a local authority may serve a notice on a householder for non-compliant work to be brought up to the required standard.
34. The Government has introduced new provisions, which require scheme operators to promote and publicise the benefits of Competent Person Schemes and raise public awareness of the responsibility to comply with

the Building Regulations. We see merit in the scheme providers working in partnership with retailers and manufacturers and will encourage them to do so.

Publicity

CLG Select Committee recommendation 13: There is a need for greater public awareness about the dangers of sub-standard electrical repairs and installations, in order to increase the public's understanding both of the dangers of using unqualified electricians and of the need to have regular maintenance checks on the electrical circuits in their homes. The Government should join with the other main players—especially the scheme operators—to ensure that the public are better informed of their responsibilities. We support the Government's efforts to support Competent Person Scheme operators to promote and publicise Building Regulations. We reiterate our recommendation that in responding to this Report the Government sets out a programme of measures to raise awareness and that in two years it provides us with a memorandum estimating the effectiveness of the measures. (Paragraph 55)

35. The Government accepts this recommendation. The Government agrees that greater public awareness of the dangers of sub-standard electrical installations needs to be encouraged. We would welcome further coordinated effort from the scheme providers, for example, through the Electrical Safety Council.

36. Currently, under the recently revised conditions of authorisation for Competent Person Schemes the scheme operators will be required to promote and publicise the benefits of competent person schemes, both to those installers not already in Competent Person Schemes and to the general public. As part of its monitoring of Competent Person Schemes UKAS will be assessing whether the schemes have met this condition of authorisation. The Government agrees to share these findings with the Committee in the set out period.



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