

To:

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

Approved Inspectors

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

Cc: The Chief Executive:
County Councils in England
National Park Authorities in England and Wales

08 September 2008

Our Ref: CI/43/15/06

ELECTRONIC COMMUNICATION OF BUILDING CONTROL DOCUMENTS

1. I am writing to inform you about The Building (Electronic Communications) Order S.I. 2008/2334 which was made on 28 August 2008 and laid in Parliament on 4 September 2008. The provisions come into force on 1 October 2008.
2. The Order was made to enable certain specified notices and other documents under the Building Act to be given or served electronically.
3. The main change is the addition of a new section 94A to the Building Act which sets out the conditions under which the specified notices and documents may be given or served electronically.

4. Amendments have also been made to the Building Regulations and the Approved Inspectors Regulations to list notices and documents provided for in those Regulations which will be subject to section 94A.

Background

5. Section 94 of the Building Act 1984 sets out the various methods by which certain kinds of documents authorised or required by or under the Act to be given or served on a person may be given or served, where no other provision is made by the Act. These methods do not include electronic communication.
6. The Order enables some but not all of those documents to be transmitted electronically. This could provide a number of benefits including significant reductions in the administrative burden associated with obtaining building control consent, and improvements to the efficiency and effectiveness of the Building Control system.
7. We undertook a public consultation on this issue in 2007 and received 33 formal responses. All the respondents supported this proposal. We also consulted on two other proposals which we have not made provision for in this Order. We withdrew the proposal to remove the need for signatures from some documents as this was not well received by many respondents. We have also not made provision for electronic signatures in this Order, as this is already enabled through other legislation¹.

The changes

8. The provisions in the Order allow the use of electronic communication. However, this will be entirely discretionary. Those who do not wish, or do not have the means to communicate electronically will be able to continue to use the paper based methods prescribed by the current legislation.
9. For those who choose to use electronic communication, the provisions will allow them to ensure that any documents sent to them electronically are capable of being accessed and properly viewed using the particular software installed on their computer. Recipients will need to have consented in advance to electronic communication and should not have withdrawn this consent. They will be able to limit their consent to documents of a specified description and specify in advance the electronic form that documents must take if they are sent using electronic communications.
10. It will be for each organisation or individual to carry out their own research and analysis of the available technologies, taking any necessary advice from specialists/professionals to ensure that any technical solutions they choose fully meet their needs and the needs of those with whom they communicate.

¹ Part II of the Electronic Communications Act 2000.

11. However, we will be working with stakeholders to explore a range of options to facilitate and support the e-enablement of the Building Control System. This will include the development of a broader strategy for electronic communication, exploring how electronic communication of Building Control documents could be streamlined through a single channel and examining how best practice guidance can help organisations and individuals develop their electronic communication capability.
12. The Order does not make provision for electronic service for all documents subject to section 94 of the Act. The Order only specifies those documents where the recipient is likely to agree and be able to receive documents electronically. We believe that such consent is unlikely to be forthcoming where the document alleges a breach of building control or is part of an enforcement procedure and therefore those documents have been omitted. Those documents provided for in the Act which are not subject to the requirements as to their giving or serving in section 94 are not included as it should normally be possible for them to be sent or received electronically.

Publications

13. The Building (Electronic Communications) Order S.I 2008/2334 is available from the Office of Public Sector Information website (<http://www.opsi.gov.uk/>).
14. We have published a CLG Circular (05/2008) on the Communities and Local Government website (<http://www.communities.gov.uk/>) which explains the amendments made by the Order. We have also published brief guidance to facilitate the use and adoption of electronic communication.

Enquiries

15. Any enquiries on this Circular Letter should be addressed to Florence Otim, Sustainable Buildings Division, Department for Communities and Local Government, Zone 2/H6, Eland House, Bressenden Place, London SW1E 5DU (Tel: 020 7944 4698, e-mail: Florence.Otim@communities.gsi.gov.uk).

Yours faithfully



Jessica Matthew

ELECTRONIC COMMUNICATION OF BUILDING CONTROL DOCUMENTS

GENERAL GUIDANCE (September 2008)

SECTION 1: INTRODUCTION

1. This document outlines changes that have been made to the Building Act and supporting regulations to allow certain documents referred to in that legislation to be sent and received electronically. It explains the conditions under which electronic communication may be used and provides some simple guidance on sending and receiving documents electronically.
2. These changes have been made because a significant number of individuals and organisations are required to pass various types of Building Control documents and information to other parties. Section 94 of the Building Act sets out methods by which certain documents may be given or served (where an acceptable method is not specified elsewhere in the Act). These methods do not include electronic communication. Advances in technology since the Act came into effect means that electronic communication is now possible and could bring significant benefits to organisations and individuals. The Act has therefore been amended to add electronic communication as a method for giving or serving some, but not all, of the documents referred to in section 94 (see paragraph 9).
3. The changes are introduced following a public consultation in 2007 and come into effect on 1 October 2008.

SECTION 2: THE CHANGES AND CONDITIONS

What changes have been made?

4. The main change that has been made to the legislation is the addition of a new section 94A to the Building Act 1984 which sets out the conditions under which specified documents and notices may be sent or received electronically.
5. Certain notices and documents have also been listed in the regulations which will be subject to the new section 94A in the Building Act.

Is the use of electronic communication mandatory?

6. No. Many organisations and individuals are at varying levels of electronic communication capability so the use and adoption of this method is optional for both those sending and for those receiving the specified notices and documents.
7. This means that those who do not wish, or do not have the means to communicate electronically can continue to send and receive documents using the other methods prescribed by the Act (such as posting hard copies of documents or hand delivering them).

What are the conditions for using electronic communication?

8. Conditions for electronic communication have been set in the new legislation so that those who choose to use electronic communication will be able to:
 - (i) ensure that any documents sent to them electronically can be accessed and viewed properly using the particular software installed on their computers.
 - (ii) discuss and agree in advance to use electronic communication with the person or organisation sending the information.
 - (iii) change their minds about using electronic communication at any point. If they do so, the person or organisation sending the information will be expected to accept this and not send documents to them electronically.
 - (iv) specify the document or documents that can be sent to them electronically.
 - (v) specify the form that the document or documents must be in (for example in PDF format or MS Word) if sent electronically.
 - (vi) specify which e-mail address the documents should be sent to.

SECTION 3: THE DOCUMENTS

Which documents can be sent or received electronically?

9. The list of documents that have been e-enabled is in the Annex. This does not include all Building Control documents. Only those documents where the person receiving them is likely to agree and be able to receive documents electronically have been included. Those documents where this agreement is unlikely or those that can already be sent or received electronically have not been included.

SECTION 4: THE BENEFITS

What are the benefits of using electronic communication?

10. Sending and receiving documents electronically has a number of advantages. It will contribute to significant reductions in the costs associated with obtaining building control consent. It will reduce the time spent sending or processing hard copies of documents. It will also contribute to improvements in the efficiency and effectiveness of the Building Control system.
11. These benefits were expanded upon by the Department for Business, Enterprise and Regulatory Reform (BERR) (previously DTI) who said that all businesses need to exchange information speedily, accurately and securely, both internally and externally. Doing this electronically, rather than on paper, provides significant advantages:
 - Information arrives nearly instantaneously, regardless of distance.

- Once set up, the cost of sending each item is virtually nothing – no stamps, no post room, no envelopes, no fax machine, no fax paper.
- Information can move directly from individual to individual – desk to desk – without any other humans being involved.

SECTION 5: DEFINITION

What does electronic communication mean?

12. For the purpose of these changes, electronic communication means an electronic communication as described by the Electronic Communications Act 2000. This says:

"electronic communication" means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) -

(a) by means of a telecommunication system (within the meaning of the Telecommunications Act 1984); or

(b) by other means but while in an electronic form;

SECTION 6: DEVELOPING OR UPGRADING SYSTEMS

How can those who do not have appropriate systems develop them?

13. If a person or organisation decides that they would like to use electronic communication but they do not have appropriate systems, they will have to carry out their own research and analysis of the available technologies. They will need to take any necessary advice from specialists or professionals to ensure that any technical solutions they choose fully meet their needs and the needs of those they will be sending documents to, and receiving documents from.
14. However, below is some general advice that individuals and organisations may find useful.

General Public

15. As members of the general public are likely to communicate less frequently with Building Control Bodies, it is important they are able to use software which they are likely to already have. Most members of the general public who may wish to make use of electronic communications are likely to have access to an e-mail system and will probably be able to produce documents which could be sent as attachments, for example in MS Word format, as simple text files or (for drawings and scanned documents) in simple graphics files which are widely supported such as tiff, jpeg and png. Virtually all organisations can now accept documents in Adobe Acrobat format (pdf) but in the past the software needed to produce such files was probably too expensive for home users. This has now changed and such software is now widely available at very low cost or even free.

Organisations

16. Organisations should make sure that any systems they set up and use do not impose undue costs on those with whom they will be communicating, that these systems are compatible with their existing systems/files/software etc and that they are compatible and can communicate effectively with the systems of those they will be sending documents to and receiving documents from.
17. Some actions they may need to take and costs they should consider include:
- researching available technologies
 - acquiring relevant technologies
 - document management systems
 - staff training
 - setting up and maintenance costs (including IT posts)
 - licensing
 - data storage systems
 - data retrieval systems
 - hardware
 - software
 - publicity/marketing
18. Costs will vary in scale depending on the nature of the electronic communication system adopted. For example, setting a basic e-mail system such as Outlook or Groupwise will cost less than setting up and maintaining a more complex document management system. Purchasing proprietary software may be a sound investment for some but not good value for others.
19. Where Building Control Bodies set up web-based systems for their clients they should give careful consideration to the ease of use from the clients' point of view. A well designed system would be expected to assist the client by providing help and guidance at each stage of the process and to minimise errors by checking the responses given before acceptance by the system where possible.
20. The format in which documents are transmitted is likely to be a key feature of a successful electronic communications system, and organisations may wish to start by focussing on document formats which are already supported by the widest range of available software. The most common formats already used – and hence most likely to gain wide acceptance most quickly - include:

Filetype	File extension
MS Word	.doc
MS Excel	.xls
Open document format	.odf
Text format	.txt
Rich Text format	.rtf
Adobe Acrobat	.pdf
Graphics files	.jpg .jpeg .tiff .png

21. Where drawings are produced using Computer Assisted Design (CAD) systems, it is particularly important that both parties to the communication have the correct software to both open the document and process the information contained in it. It is unlikely that it would be economic for organisations receiving files produced by some of the leading CAD software packages to purchase the software simply to be able to view the files. Most CAD software can, however, save drawings in some common file formats and it is likely that these will gain wide acceptance most quickly. Again the most widely accepted format is currently Adobe PDF, but formats for which free viewers are available, such as DWG and DXF, could also be considered.
22. Where Building Control Bodies accept applications electronically they should give careful consideration to how payments for the service should be made. Ideally clients should have the opportunity to pay the relevant charges as a seamless part of the electronic process, but not all will wish to do so, and flexibility should be built into the system wherever possible to accommodate the clients' preferred payment method.
23. All transactions between organisations are likely to involve the use of address information and, depending on how this information is obtained and presented, it can have a significant effect on the efficiency of the system. Ideally, address information used in electronic Building Control communications should itself use a common format and the national standard is based on BS 7666. This information is available as part of the National Land and Property Gazetteer (NLPG) and more information about how this address data can be obtained and used to make electronic communications more efficient can be obtained by visiting www.nlpg.org.uk

SECTION 7: USING ELECTRONIC COMMUNICATION

What practical advice is available for those who wish to start using electronic communication?

General Public

24. Contact your chosen Building Control Body before submitting any information electronically to make sure that:
- a. you read and understand any advice and guidance given by the Building Control Body on the use of their electronic systems;
 - b. they can accept information electronically in a format you can provide;
 - c. you are sending information to the correct e-mail address; and
 - d. you agree what documents can be sent back to you electronically and in what file format.

Organisations

25. Many organisations already have electronic systems in place, and will have plans for their development. Ideally such systems should be designed to be simple to use, to automate processes wherever possible and to maximise advantages gained by increased speed of communication.
26. For organisations just starting out, e-mail systems can be set up very quickly, and are often very effective, but it is recommended that from the beginning you –
 - a. Use a dedicated e-mail address to send and receive electronic Building Control communications and not that of an individual.
 - b. Ensure the e-mailbox is regularly monitored, and that provisions are made to maintain the monitoring during periods of staff leave or sickness etc.
 - c. Restrict the file types you will accept or use as attachments (see advice on common formats above) and determine any limitation on the file size of attachments your system can accept.
 - d. Make sure you communicate this information clearly to your clients and perhaps produce a simple guidance note to help clients use the system which could then be made available on your website.

SECTION 8: SUPPORT AND ADDITIONAL INFORMATION

What support is available?

27. We will be working with stakeholders to explore a range of options to facilitate and support the e-enablement of the Building Control System. This will include:
 - the development of a broader strategy for electronic communication
 - exploring how electronic communication of Building Control documents could be streamlined through a single channel
 - examining how best practice guidance can be developed to help organisations and individuals develop their electronic communication capability

Where can I find more information on electronic communication?

28. The Department for Business, Enterprise and Regulatory Reform (BERR) (previously DTI) website at:

<http://www.berr.gov.uk/sectors/infosec/electronicSIG/page10057.html>

Related publications

29. More information relating to these changes and all the related publications are available from the Communities and Local (CLG) Government website at <http://www.communities.gov.uk/>

30. These include:

- **CLG Circular 05/2008 and Circular letter:** which explain the amendments made by the Statutory Instrument (the legal document (see below))
- **Consultation Paper:** which set out and sought views on this proposal
- **Summary of responses to the consultation:** summarises the responses to the consultation
- **Impact Assessment:** showing the benefits and costs of these changes to a number of sectors
- **The Building (Electronic Communications) Order S.I 2008/2334:** This is the legal document and is available from the Office of Public Sector Information website at <http://www.opsi.gov.uk/>

**Communities and Local Government
September 2008**

ANNEX

List of documents e-enabled by amending legislation

- Notice on the passing or rejecting of plans
- Notices on the giving and acceptance of initial notice and a document containing plans or evidence accompanying an initial notice
- Plans certificate
- Combined initial notice and plans certificate
- Notice of rejection of a plans certificate
- Notice rescinding acceptance of plans certificate
- Final certificate
- Notice of variation of work to which initial notice relates and a document containing plans or evidence accompanying an amendment notice
- Notice of change of person intending to carry out work
- Notice of cancellation of an initial notice
- The giving, acceptance and effect of public body's notice and a document containing plans or evidence which accompanies a public body's notice
- Acceptance of public body's notice
- Public body's plans certificate
- Combined public body's notice and plans certificate
- Rejection of public body's plans certificate
- Rescission of acceptance of public body's plans certificate
- Public body's final certificate
- Building notice and any accompanying statement, description, particulars or plan
- Full plans and any accompanying statement
- Commencement notice
- Completion certificate
- Energy performance certificate for building owner
- Notice that the energy performance certificate has been given to building owner
- Results of sound insulation testing
- Notice of the results of pressure testing
- Commissioning notice
- CO₂ emissions rate calculations notice
- Application for a regularisation certificate
- Regularisation certificate
- Competent persons certificate containing evidence that work complies with regulations
- Competent persons certificate to the occupier
- Notice of specifications to which the building has been constructed
- Notice specifying the requirements not complied with and location of work
- Notice relating to the removal of restrictions preventing the checking of work for compliance where there is no final certificate