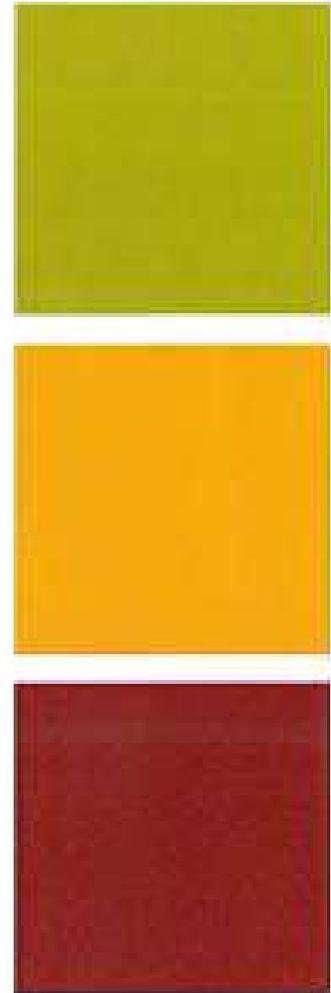


# **SCHEME FOR THE RECOVERY OF BUILDING REGULATION CHARGES AND ASSOCIATED MATTERS**



**NMD Building Control is a partnership between North  
Devon & Mid Devon District Council's**

Date this scheme came into effect: 1 April 2018

To be read in conjunction with the Building [Local Authority Charges] Regulations 2010, the 2010 edition of the CIPFA guidance for Local Authority Building Control Accounting, and the guidance in the Department for Communities and Local Government (CLG) Circular 01/2010 and CLG Circular letter to building control bodies dated 25 February 2010



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

This scheme and tables of charges relate to the service provided by North Devon and Mid Devon District Council's has been prepared in accordance with the Building (Local Authority Charges) Regulations 2010, and may be amended, revoked or replaced by North Devon and Mid Devon District Council's at any time.

## **PART ONE**

### **1 DEFINITIONS**

The following definitions apply to this Charging Scheme and should be read in conjunction with the other clauses and tables which constitute the Charging Scheme:

**'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(2A)(a) and 13 of the Building Regulations 2010.

**'building work'** means:

- (a) the erection or 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 22 (requirements relating to thermal elements);
- (h) work required by building regulation 23 (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 building work for which plans have been deposited with the council in accordance with the Building Regulation 2010 (as amended) 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 (as amended)

- (d) the consideration of building work reverting to the council under the Building (Approved Inspectors etc.) Regulations 2010 (as amended)
- (e) the consideration of a regularisation application submitted to the council under regulation 18 of the Building Regulations 2010 (as amended).

**'cost'** does not include any professional fees paid to an architect, quantity surveyor 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 premises 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 that 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 a plan charge, inspection charge, reversion charge or building notice 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'

## 2 PRINCIPLES OF THIS SCHEME

The set charges or method of establishing 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:

- **A plan charge**, payable when plans of the building work are deposited with the Local Authority.
- **An inspection charge**, payable on demand after the authority carry out the first inspection in respect of which the charge is payable.
- **A building notice charge**, payable when the building notice is given to the 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(2)( of the Approved Inspectors Regulations, or
  2. In respect of which plans for further building work have been deposited with the Authority in accordance with the Regulation 19(3) of the

Approved Inspectors Regulations, 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**, the Council can make a charge for giving advice in anticipation of the future exercise of their chargeable functions (ie 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.

### 3 BUILDING CONTROL CHARGES

The above charges are payable by the relevant person (see page 3 for definition).

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. If the applicant and the authority are agreeable, an inspection charge can be fully or partly paid up front with the plans charge.

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:

- a) The existing use of a building or the proposed use of the building after completion of the building work;
- b) The different kinds of building work described in regulation 3 of the Building Regulations;
- c) The floor area of the building or extension;
- d) The nature of the design of the building work and whether innovative or high risk construction techniques are to be used;
- e) The estimated duration of the building work and the anticipated number of inspections to be carried out;
- f) The estimated cost of the building work;
- g) Whether a person who intends to carry out part of the building work is a person mentioned in regulation 12(6) or 43(4) of the Building Regulations (i.e. related to competent person/self certification schemes);
- h) 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;
- i) 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;

- j) Whether chargeable advice has been given which is likely to result in less time being taken by a local authority to perform that function;
- k) Whether it is necessary to engage and incur the costs of a consultant to provide specialist advice in relation to a particular aspect of the building work.

#### **4 PRINCIPLES OF THE SCHEME IN RESPECT OF THE ERECTION OF DOMESTIC BUILDINGS, GARAGES, CARPORTS AND EXTENSIONS**

Where the charge relates to the erection of 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 areas of all such extensions may be aggregated to determine the relevant charge payable, providing that the building work for all aggregated extensions is carried out at the same time.

#### **5 EXEMPTION FROM 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 exit 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 Authority has not fixed by means of its scheme, nor intends to recover a charge for the purpose of providing accommodation or facilities designed to secure the greater health, safety, welfare or convenience of a 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 or 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 Authority 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 words 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.

## **6 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 building 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 innovative or 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).

## **7 ESTABLISHING THE CHARGE**

The authority has established standard charges using the principles contained within The Building (Local Authority Charges) Regulation 2010. Standard charges are detailed in the tables below. In these any reference to number of storeys includes each basement level as one-storey and floor areas are cumulative.

If the building work that you are undertaking is not listed as a standard charge it will be individually determined in accordance with the principles and relevant factors contained within 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.

When the charge is individually determined the authority shall calculate the charge in the same way a standard charge was set by using the average hourly rate of officers' time, multiplied by the estimated time taken to carry out their building regulation functions 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.

The building regulation charges for the following types of building work will be individually determined and the authority will state which factors in regulation 7(5) of the charges regulations it has taken into account in establishing a standard or individually determined charge.

Charges for the following work types will be determined on an individual basis:-

- Reversion charge
- The building work is in relation to more than one building
- Building work consisting of alterations where the estimated cost exceeds £100,000
- The work consists of the erection or conversion of 11 or more dwellings
- The work consists of a domestic detached garage with a floor area over 100m<sup>2</sup>
- The work consists of the erection or conversion of a building to a dwelling, dwelling house or flat(s) over 300 m<sup>2</sup>
- Where work does not fall within any of the standard charge categories of tables A to C (inclusive) the charge will be individually determined.

## **8 OTHER MATTERS RELATING TO CALCULATION OF CHARGES**

- In calculating these charges, refunds or supplementary charges, an officer hourly rate of £66.00 (*not including VAT*) has been used.
- Any charge payable to the authority shall be paid plus 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 accept payment by instalment in respect of all building work where the total charge exceeds £5,000 (*not including VAT*) The Authority on request will specify the amounts payable and dates on which instalments are to be paid.

## **9 REDUCTIONS**

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 for that work.

Where there is significant repetition in construction work the authority may reduce standard charges to more accurately reflect costs of performing the chargeable function for that work.

If a standard fee is unreasonably high when calculated using the standard table due to multiple fee categories applying to the work the fee may be reduced to reflect the cost of performing the chargeable function for that work.

## **10 REFUNDS AND SUPPLEMENTARY CHARGES**

NDBC will, on request, refund any Inspection Charge element that has been paid in advance of any relevant commencement of work where that work has not proceeded on the basis of the application for which it was paid less an administration charge.

The Authority may on request refund charges where the cost of performing the chargeable function for that work is substantially lower than the standard charges when all inspection notifications have been received. The authority will also provide a written statement setting out the basis of how the refund has been calculated. In the calculation of refunds no account shall be taken of the first hour of an officer's time

If the basis on which the charge has been set or determined changes resulting in increased costs to the authority the authority may request a supplementary charge and will provide a written statement setting out the basis of the supplementary charge and also state how this has been calculated. In the calculation of supplementary charges no account shall be taken of the first hour of an officer's time.

Supplementary Charges may be charged for additional services using the average hourly rate of officers' time, multiplied by the estimated time taken to carry out the functions where the local authority consider that additional costs have been incurred due to:

- abortive pre-arranged site visits
- works that are required to be re-inspected because of incomplete work
- changes in the scope of the work, and/or the program of the work

## **11 NON-PAYMENT OF A CHARGE**

Your attention is drawn to Regulation 8(2) of the Building (Local Authority Charges) Regulations 2010, which explains that plans are not treated as being deposited for the purposes 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.

## **12 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 partnerships website at [www.nmdbuildingcontrol.gov.uk](http://www.nmdbuildingcontrol.gov.uk)

### **13 TRANSITIONAL PROVISIONS**

The North Devon and Mid Devon District Council's schemes for the recovery of charges made under the Building (Local Authority Charges) Regulations 2010 dated prior to 1 April 2017 continue to apply in relation to building work for which plans were first deposited, a building notice given, a reversion charge became payable, or a regularisation application was made.

The Partnerships scheme for the recovery of charges made under the Building (Local Authority Charges) Regulations 210 and dated on 01 May 2015 continues to apply in relation to building work for which plans were first deposited, a building notice given, a reversion charge became payable, or a regularisation application was made, between 01 May 2015 and 31 March 2018 (inclusive).

The Partnerships scheme for the recovery of charges made under the Building (Local Authority Charges) Regulations 2010 and dated on 1 April 2018 applies in relation to building work for which plans were first deposited, a building notice given, a reversion charge became payable, or a regularisation application is made, from the 1 April 2018