

ENERGY PERFORMANCE OF BUILDINGS (CERTIFICATES AND INSPECTIONS) REGULATIONS (NI) 2008 (AS AMENDED) – SERVICE LEVEL AGREEMENT	11th April 2018
TO: ENVIRONMENTAL SERVICES COMMITTEE	
FOR DECISION	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Protecting and Enhancing our Environment and Assets
Outcome	Implementation of statutory requirements
Lead Officer	Head of Health & Built Environment
Cost: (If applicable)	

Energy Performance of Buildings (Certificates and Inspections) Regulations (NI) 2008 (as amended) – Service Level Agreement (as attached)

Background

Enforcement responsibility for the Energy Performance of Buildings (Certificates and Inspections) Regulations (NI) 2008 (as amended) referred to as the 'EPB Regulations' transferred to district councils on 3 December 2009. The exception to this is enforcement relating to district councils' own relevant buildings which remains with the Department of Finance and Personnel (DFP), restructured in 2016 as the Department of Finance (DoF).

Belfast City Council (BCC), with the approval of the other district councils, has coordinated enforcement of the EPB requirements on behalf of all district councils since January 2010 through a dedicated EPB Team funded by the DoF. The Co-ordination, administration and management of EPB activities are carried out in accordance with an Enforcement Protocol (between DoF and BCC) and follows the guiding principles of the Government's Regulators Code. This code requires that regulatory activity is carried out in a way which is transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.

This Service Level Agreement (SLA) clarifies the roles and responsibilities of all parties in satisfying the requirements of the EU Directive, the EPB Regulations and in delivering the requirements of the Enforcement Protocol 2017-2018. The SLA is an essential element which outlines how the EPB Team will work in partnership with district councils to collate data, determine EPB compliance levels and address any matters arising from quarterly feedback.

Recommendation

It is recommended that Causeway Coast and Glens Borough Council grant authority to the Head of Health & Built Environment to sign the above service level agreement.

Service Level Agreement

between

**Causeway Coast and Glens
Borough Council**

and

**EPB Team (facilitating authority)
1 April 2017 - 31 March 2018**

Effective Date: 01 April 2017

Approval of the Service Level Agreement

This document identifies the roles of all parties to ensure effective working in partnership to satisfy the requirements of the EU Directive, the EPB Regulations and in delivering the requirements of the EPB Enforcement Protocol 2017-2018

In signing below, I agree to the terms and conditions outlined in this

Service Level Agreement

Signed

Head of Causeway Coast and Glens Borough Council

Building Control or

Chief Executive of Causeway Coast and Glens Borough Council

Date

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1.0 Forward

Enforcement responsibility for the Energy Performance of Buildings (Certificates and Inspections) Regulations (NI) 2008 (as amended) referred to as the 'EPB Regulations' transferred to district councils on 3 December 2009. The exception to this is enforcement relating to district councils' own relevant buildings which remains with the Department of Finance and Personnel (DFP), restructured in 2016 as the Department of Finance (DoF).

District councils (as the enforcement authority) should be seen to lead the way in demonstrating EPB compliance with regard to council owned/leased relevant buildings. Councils must ensure that the appropriate energy certificates are in place as required: Energy Performance Certificate (EPC); Display Energy Certificate (DEC) and Air-conditioning Inspection Report (ACIR).

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This Service Level Agreement (SLA) clarifies the roles and responsibilities of all parties in satisfying the requirements of the EU Directive, the EPB Regulations and in delivering the requirements of the Enforcement Protocol 2017-2018. The SLA is an essential element which outlines how the EPB Team will work in partnership with district councils to collate data, determine EPB compliance levels and address any matters arising from quarterly feedback.

To date the feedback data from district councils has proved invaluable in providing statistical information and evidence of EPB Regulations enforcement across N.Ireland. This information has been used by the DoF to respond to a number of potential infraction proceedings which Europe has presented to the UK Region. The feedback data documents the EPB activities being carried out by councils: level and nature of compliance, volume of enforcement letters issued, number of site visits and various awareness raising activities.

Meetings between DoF representatives, the EPB Team manager, a representative of the Building Control Managers and a Belfast City Council manager are held on a quarterly basis to review the enforcement activities undertaken by the 11 councils

during the previous quarter. This provides opportunity for all parties to discuss any issues that may have arisen with the operation of the Protocol or this SLA and to agree the emphasis for forthcoming enforcement activities.

2.0 Terms of Reference

For the purpose of this document the following terms of reference include:

Service Provider: The Energy Performance of Buildings (EPB) Team

Customer: Building Control Manager/ Head of Service on behalf of the Council

Stakeholders: Elected Council Members, Building Control staff of the 11 councils in N.Ireland, DoF, members of the public/ members of industry affected by EPB Regulations

Document owner: Head of Building Control or Chief Executive of

Causeway Coast and Glens Borough Council

3.0 Agreement Overview

This Agreement represents a Service Level Agreement (the Agreement) between the Energy Performance of Buildings Team (the Service Provider) and the Council Building Control Manager (the Customer).

Each of the 11 councils in N.Ireland are responsible for the provision of EPB related services required to support and sustain enforcement of the EPB Regulations 2008 and any subsequent amendments to these regulations.

This Agreement remains valid until superseded by a revised agreement mutually endorsed by the Customer.

This Agreement outlines the parameters of all EPB related activities as identified in Section 9.0 Customer responsibilities, these are mutually understood by the stakeholders. This Agreement does not supersede current processes and procedures unless explicitly stated herein.

4.0 Goals & Objectives

The **purpose** of this Agreement is to ensure that the proper elements and commitments are in place to provide a consistent EPB related service support and delivery between the Customers and the Service Provider and to promote positive working in partnership.

The **goal** of this Agreement is to obtain mutual agreement on EPB related service provision between the Service Provider and the Customer.

The **objectives** of this Agreement are to:

- Fulfill the EPB enforcement requirements set out by the EPB Regulations
- Clearly define ownership, accountability, roles and/or responsibilities
- Present a clear, concise and measurable description of service provision to the Customer
- Monitor and raise levels of compliance for properties affected by the EPB Regulations
- Satisfy the requirements of the EPB Enforcement Protocol 2017-18 set out by the Department of Finance (DoF) and agreed with the facilitating council.

5.0 Periodic Review

This Agreement is valid from the Effective Date outlined herein until further notice. This Agreement should be reviewed at a minimum once per fiscal year; however, in lieu of a review during any period specified, the current Agreement will remain in effect.

The Customer is responsible for facilitating regular reviews of this document. Contents of this document may be amended as required, provided mutual agreement is obtained from the primary stakeholders and communicated to all affected parties. The Customer

will inform the Document Owner of all subsequent revisions and obtain mutual agreements / approvals as required.

Amendments and revisions are records in Section 10.0 of this SLA.

Document owner:	Chief Executive of the Council
Customer:	Building Control Manager/ Head of Service on behalf of the Council
Review Period:	as required and within 12 months from 01 April 2017
Review Date:	before 31 March 2018

6.0 Confidentiality

The Service Provider will treat as strictly confidential all information acquired by it from, or about the other councils, and external suppliers. No party will disclose such information to any other party, directly or indirectly, except where disclosure is required by law or is with the relevant parties' prior written consent.

Whilst under the conditions of the Protocol, the EPB Team are required to report to the DoF where any council within which EPB compliance has not been scrutinised during a reporting period; the EPB Team may be required to identify any such council.

The DoF will monitor the EPB Activities of district councils by carrying out an audit of that council's processes, enforcement activities and means to record / act upon findings, and awareness raising activities.

7.0 Variations

There may be circumstances during the year which prevent the full discharge of the Service Level Agreement through no fault of any party. Circumstances in which variations may occur during the period of the Service Level Agreement may include:

- Non-provision of responsibilities by the Service Provider or Customer

- Significant changes in the anticipated workload
- New regulations or change in policy
- Performance of Hardware / Software

All parties will discuss the need for any variation to the Service Level Agreement at the earliest opportunity and will make any variation by mutual agreement.

8.0 Service Agreement

The following detailed service parameters are the responsibility of the Service Provider in the ongoing support of this Agreement.

The following sections provide relevant information as to the extent of services provided by the EPB Team in order to maintain a consistent level of support during this period.

8.1 Service Availability

Service Provider coverage parameters specific to the services covered in this Agreement are as follows:

- Telephone support : 0900 to 1700 Monday – Friday
- Calls received out of office hours will be forwarded to a mobile phone and best efforts will be made to answer / action the call, however there will be a backup answer phone service
- Email support: 0900 to 1700 Monday – Friday
- Emails received outside of office hours will be collected, however no action can be guaranteed until the next working day
- On-site assistance guaranteed within 72 hours during the business week

8.2 Request for Service

In support of services outlined in this Agreement, the Service Provider will respond to service related incidents and/or requests submitted by the Customer within the following time frames. The priority level will be determined by the Service Provider.

- 0-5 hours (during business hours) for issues classified as **High** priority.
- Within 12 hours for issues classified as **Medium** priority.
- Within 5 business days for issues classified as **Low** priority.

Remote assistance will be provided in line with the above timescales dependent on the priority of the support request.

8.3 Service Provider Responsibilities

The following Services to be provided are covered under this Agreement:

- Manned free phone and mobile telephone support available to the general public and 11 council building control services
- Email support available to the general public and all council building control services
- Each district council will have a dedicated support officer from within the EPB Team who will aim to provide assistance and advice on specific queries or opinions related to EPB regulations when required within one week of receiving the query.
- Monthly assistance provided by the dedicated EPB support officer to each council for EPB enforcement activities. This will be commensurate to individual council requirements in relation to EPB activity

- Dissemination of quarterly DoF reports to all councils along with any outcomes and relevant information arising within 10 days of the meeting.
- Provision of advice, guidance and interpretation of EPB legislation with the aim of achieving consistency of EPB enforcement across all councils
- Provision of DoF liaison on behalf of the councils
- Provision of Landmark Register liaison through the DoF on behalf of the councils
- Through DoF liaison, the provision of monthly reports from the Landmark Register to assist with data collection, enforcement and EPB awareness activities
- Provision of training for any revisions / amendments to the EPB Regulations or recasts to the EU Directive
- Provision of EPB related information and web links to use on individual council websites where available
- Presentations to stakeholders as requested or required
- Provision of EPB Regulations related legal opinions
- Provision of EPB related data for individual council committee reports
- Attendance at relevant council committee meetings upon request
- Offer guidance and support with enforcement procedure and proceedings
- Provision of EPB related media information and articles within budget requirements
- Reporting to BCNI Committee and BCNI Managers upon request

- Provision of EPB advisory leaflets and literature within budget requirements
- Any revision or amendment to the SLA will be communicated and documented to the Customer

9.0 Customer Responsibilities

Customer responsibilities in support of this Agreement include:

- Availability of a customer representative when resolving EPB related requests or related incidents
- Councils shall maintain paper and/or electronic records in such a way that enables the DoF to verify enforcement activities undertaken in any given quarter. Such information should identify clearly verification checks or audits on the work being undertaken to enforce the EPB Regulations. If required, the DoF and/or NI Audit office will be given access to all relevant documentation to demonstrate that the EPB Regulations are being enforced.
- To facilitate the requirements of DoF officials (including those from its internal audit and from the NI Audit Office), access may be given to all relevant documentation to facilitate random verification spot checks on the work being undertaken to enforce the EPB Regulations.
- The enforcing council will underwrite the cost of any court proceedings.
- Provision of council EPB feedback data is required to assist in determining levels of compliance (as stipulated by the DoF) in the quarterly report and must be forwarded to the Service Provider within five business days from the end of quarter period

9.1 Provision of quarterly EPB Feedback information

The EPB feedback data required from the Customer (as compiled within the quarterly EPB Team feedback form) includes the following information:

EPC (Energy Performance Certificate):

- number of marketing estate agents or private agents in council area
- number of marketing estate agents or private agents visited/checked for compliance in domestic and non-domestic sectors for properties for both sale and rental (on site, on internet, in press, etc)
- number of properties being advertised by a marketing agent which do not have the EPC energy rating indicator on all their advertising commercial media. To determine if an agent is compliant, if 90+ % of properties have a valid EPC energy rating indicator on commercial media (website, third party website, press, brochure, window display, radio etc.) they may be deemed as being compliant.
- number properties identified as having to display the EPC (where an EPC has been carried out and the building has a floor area over 500m² and which are visited by the public, for example restaurant, retail, school) and the number of properties compliant
- number of new build or buildings modified into units to be used separately
- number of new build or buildings modified into units to be used separately with EPCs lodged on the Landmark Register
- where compliance is not found, the reasons for this
- and the enforcement action taken for any non-compliance

DEC (Display Energy Certificate):

- number of properties visited which require a DEC (with a floor area over 250m² of a building which is whole or part publically funded and which is visited by the public);
- number of properties with valid DEC (in date and correctly displayed) and which have a valid advisory report (AR) issued
- number of advisory reports which are not valid, ie have expired the seven year period and the building is still required to have a DEC
- where compliance is not found, the reasons for this
- and the enforcement action taken for any non-compliance

Air-conditioning Systems:

- number of properties identified as requiring an air-conditioning inspection report (ACIR) to be carried out (system has an output greater than 12kW, is used for the comfort cooling and uses refrigerant gas)
- the number of properties with air-conditioning which are compliant, ie. have a valid ACIR lodged onto the Landmark Register
- number of ACIR which are not valid, ie have expired the five year period and the air-conditioning system is still in use
- where compliance is not found, the reasons for this, and
- any enforcement action taken for non-compliance

Complaints and queries:

- any complaints and queries to council in respect of EPC, DEC or air-conditioning, the action taken and the outcome or action carried out by the council to resolve the situation.

Enforcement Correspondence:

- number and nature of breaches identified,
- number of enforcement letters issued (Letters 1 and 2)
- extent of compliance gained as a result of enforcement letters issued
- action taken and outcome
- where compliance is not found, the reasons for this

- number of Penalty Charge Notices issued by nature of breach and associated income
- number of Penalty Charge Notices (PCN) withdrawn and reason for withdrawal; and details of any County Court appeals.

Document Owner: Head of Building Control / Chief Executive of the 11 District Councils		
Revision reference:	Revision date:	Author:

10.0 Amendments and Revisions to Service Level Agreement

As a result of further grant funding from the Department of Finance, the scope of work carried out by the EPB Team has been extended for a further year, to complete on 31 March 2018.

