

Enforcement Policy

This policy is applicable to RBIs & Non-RBIs to outline the process by which enforcement action is taken / enabled (by other regulators) & by OWL BCS as an RBCA. This policy meets the requirements of Section 1.7 of the RBCA Professional Conduct Rules. All RBIs are also subject to the RBI Code of Conduct.

1. Contraventions are to be raised in accordance with relevant statutory requirements and relevant guidance.
2. Contraventions and interventions are to be raised expediently and raised with the relevant duty-holders in accordance with relevant guidance.
3. Contraventions notices are to be issued in accordance with Regulation 21 of the RBCA Regulations 2024 (extract below).
4. Should an RBI be aware of events causing the initial notice to cease to be in force – actions in accordance with Regulation 19 of the RBCA Regulations 2024 (extract below) shall be completed.
5. All actions shall be completed in accordance with OWL Process guidance.

RBCA Regulations 2024

Events causing initial notice to cease to be in force

19.(1) Where a final certificate given in respect of work described in an initial notice is rejected, the initial notice ceases to be in force in relation to the work described in the final certificate on the expiry of a period of four weeks beginning with the date on which notice of rejection is given.

(2) Paragraph (3) applies where work described in an initial notice includes the erection, extension or material alteration of a building, and—

(a) the building or, as the case may be, the extension or any part of the building which has been materially altered is occupied, and

(b) no final certificate is given.

(3) The initial notice ceases to be in force in relation to the building, extension or part of a building which is occupied—

(a) if the building is an FSO building, except where it contains only flats and common parts for those flats, on the expiry of a period of four weeks beginning with the date of occupation, and

(b) in any other case, on the expiry of a period of eight weeks beginning with the date of occupation.

(4) Where work described in an initial notice involves a material change of use of a building, and—

(a) no final certificate is given, and

(b) that change of use takes place,

the initial notice ceases to be in force in relation to that change of use on the expiry of a period of eight weeks beginning with the day on which the change of use takes place.

(5) In any other case where no final certificate is given, an initial notice ceases to be in force on the expiry of a period of eight weeks beginning with the day on which the work described in the initial notice is substantially completed.

(6) An initial notice does not cease to be in force by virtue of paragraphs (2) and (3) because part of a building or extension is occupied if a final certificate has been accepted in respect of that part.

(7) A local authority may extend any period referred to in this regulation either before or after its expiry.

Cancellation of initial notice: notice of contravention of building regulations

21.(1) Except where paragraph (3) applies, where an approver is of the opinion that an initial notice should be cancelled under section 52(1)(c) of the 1984 Act for contravention of any provision of building regulations (including for contravention of any provision in Part 2A of the 2010 Regulations except regulation 11D(3)(a), (8) and (9)) the approver must first give notice in writing to the person carrying out the work (C) or, in the case of contravention of any provision in Part 2A of the 2010 Regulations, the client specifying—

(a) the requirement of building regulations which in the approver's opinion has not been complied with, and

(b) the location of the work which contravenes that requirement.

(2) Except in a case where the contravention is of any provision in Part 2A of the 2010 Regulations, a notice given in accordance with paragraph (1) must inform C that if, by the end of the period specified in paragraph (4), C has neither pulled down nor removed the work nor effected such alterations in it as may be necessary to make it comply with building regulations, the approver will cancel the initial notice.

(3) Where the contravention to which the notice under paragraph (1) relates is of a provision in Part 2A of the 2010 Regulations then the notice given in accordance with paragraph (1) must inform the client that the approver will cancel the initial notice if, by the end of the period specified in paragraph (4), the client has not effected such alterations to the arrangements for carrying out the work and such improvements to the competence of persons carrying out the work (or as the case may be, the client), the principal contractor or principal designer as may be necessary to ensure the carrying out of the work complies with provisions of the building regulations referred to in the notice.

(4) The period within which the person carrying out the work or, as the case may be, the client is to remedy the contravention is three months beginning with the working day on which the notice under paragraph (1) is given.