EXPLANATORY MEMORANDUM TO

THE BUILDING (LOCAL AUTHORITY CHARGES AND AMENDMENTS RELATING TO CHARGING) (ENGLAND) REGULATIONS 2026

2026 No. 1094

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

1.2 This instrument sets out the charging regime for local authority building functions replacing The Building (Local Authority Charges) Regulations 2010 (S.I. 2010/404) in its territorial application to England. It introduces a number of new chargeable functions for local authority building control services and associated processes for preparing charging schemes, through which local authorities are authorised to set their charges, including the requirement to publish such schemes online.

1.3 As part of this regime this instrument amends the Forms in the Schedule 1 to S.I. 2024/110 to require Registered Building Control Approvers (RBCA) to confirm the payment of these charges when they submitted certain notices. It also amends Schedule 2 of that S.I. to add new grounds to enable local authorities to reject a notice submitted by a RBCA if the charges have not been paid.

2. Declaration

2.1 Baroness Blake, Minister for Building Safety, Fire and Resilience at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Alexandra Parish, Deputy Director for Building Professions Reform, at the Ministry of Housing, Communities and Local Government, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Paul Whittlesea at the Ministry of Housing, Communities and Local Government email: paul.whittlesea@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The legislation:

4.2 Takes advantage of the ability, given through section 105B of the Building Act 1984, for the regulations to include chargeable functions from services provided by local authority building control in England under the Building Act itself, in addition to those under the Building Regulations.

4.3 Requires charging schemes to be published online, through which local authorities set out their charges for users.

4.4 Requires local authorities to publish statements online which set out charges paid, the costs and the amount or any surplus or deficit.

4.5 Makes it explicit that costs incurred by local authorities using the legislation include a reasonable proportion of authorities' overheads, depreciation and cost of capital.

4.6 Removes the exception for building work solely required for disabled persons in relation to existing buildings to which members of the public are admitted (see Regulation 4 (3) of S.I. 2010/404.)

4.7 Redefines "chargeable advice" so that local authorities can now charge for the first hour of time spent by officers in providing such advice, where before they could not. (See Regulation 5 (2) of S.I. 2010/404.)

4.8 Provides the frameworks for who is required to pay local authorities and when payments are to be made; and concerning refunds and supplementary charges.

4.9 Revokes The Building (Amendment) Regulations 2013 in relation to England. Amends Regulation 11(3) of the Building Regulations 2010 by removing Regulations 25A, 25B and 26 of the Building Regulations from the list of regulations which cannot be dispensed with or relaxed by building control authorities under s8 of the Building Act 1984. This enables the relaxation and dispensation of Regulations 25A, 25B and/or 26 of the Building Regulations 2010 by local authority building control bodies and the Building Safety Regulator for all buildings other than educational buildings, buildings of statutory undertakers and buildings of the Crown, including work undertaken for or on behalf of the Crown.

4.10 Amends the Building (Registered Building Control Approvers etc.) (England) Regulations 2024 (S.I. 2024/110) making payment of charges a prescribed matter (so that they can be rejected in the event that a payment is not provided) and amends the template forms used regarding RBCA notices and certificates.

The practical impact of the legislation is:

4.11 to enable fuller cost-recovery of services provided to clients from an expanded range of chargeable functions as a principle of Managing Public Money, thereby reducing or eliminating subsidisation from other local authority funds, or cuts to services – this should enable local authority building control services to become financially sustainable in the longer term;

4.12 to facilitate increased capacity in the building control profession through the fact that allowable chargeable direct and indirect overheads include recruitment, training and development of building inspectors;

4.13 to use that increased capacity to encourage increased use of chargeable compliance-related functions, to tackle poor construction practices and improve public protection (e.g. see paragraph 5.6 of the Building Control Independent Panel's report[1] (published on 20 May 2026)); and

4.14 to improve transparency through the requirement of online publication of charges for clients and the wider public; and online reporting of costs, surpluses and deficits, which will assist with monitoring and evaluating the impacts of this and wider reforms.

4.15 to enable building control authorities to relax or dispense with certain energy efficiency and performance requirements, to avoid the obstruction of developments

[1] https://www.gov.uk/government/publications/building-control-independent-panel-report

where compliance with the Future Homes and Buildings Standards would be considered unreasonable.

Where does the legislation extend to, and apply?

4.16 The extent of this instrument is England and Wales.

4.17 The territorial application of this instrument is England.

5. Policy Context

What is being done and why?

5.1 The context into which this instrument has been laid is the Government's response to the Grenfell Tower Inquiry's final report (see section on Recommendation 22 and paragraphs 93-97[2]). The wider programme includes consideration of the recommendations from the Building Control Independent Panel (BCIP)[3], which was set up as a result of the Inquiry's recommendations; improving digital building control services; and the roll-out of a £55m programme to recruit, train and develop new and existing building inspectors. The Government is considering the BCIP's wider set of recommendations but agrees with their conclusion that the changes resulting from this instrument will help stabilise the services of local authorities over the next few years.

5.2 This instrument will also remove the current restriction within the Building Regulations 2010 that prohibits the relaxation or dispensation of Regulations 25A, 25B and 26, which relate to energy efficiency measures in buildings. This would avoid lowering the ambition of the Future Homes and Buildings Standards whilst not restricting development in the circumstances where the operation of the standards is determined to be unreasonable. The Building Safety Regulator already has powers to charge for its relaxation and dispensation functions. The proposed amendment will extend the circumstances in which these powers can be exercised.

5.3 This power does not extend to educational buildings, buildings of statutory undertakers and buildings of the Crown, including work undertaken for or on behalf of the Crown.

What was the previous policy, how is this different?

5.4 The previous Building (Local Authority Charges) Regulations 2010 were rather limited, predating the broader regulation-making powers for charges and fees determined by local authorities in new section 105B of the Building Act 1984. Previously they were limited to functions relating to building regulations only.

5.5 The intention in 2010 was, as nearly as possible, for local authorities' chargeable income and chargeable costs to equate year on year. Where published online, the annual statements that local authorities prepared under the regulations very often showed that chargeable costs significantly outweighed chargeable income each year. Shortfalls have been filled by other local authority funds, such as Council Tax, or cuts were made to services, or staff not replaced when they left.

5.6 That original intention remains, but now includes a much broader range of chargeable functions and activities, that far better represents the fuller extent of local authorities' building control services. To put it beyond any doubt, the new regulations state that

[2] https://www.gov.uk/government/publications/grenfell-tower-inquiry-phase-2-report-government-response/grenfell-tower-inquiry-phase-2-report-government-response-html
[3] https://www.gov.uk/government/publications/building-control-independent-panel-report/building-control-independent-panel-report#levelling-the-current-system

the chargeable costs incurred by local authorities may include a reasonable proportion of authorities' overheads, depreciation and the cost of capital. This aligns with the principles of HMT's Managing Public Money for such services. Overheads can include recruitment, training and development of staff, which, in turn, will help build and sustain the cohort of building inspectors needed to facilitate the government's construction ambitions.

5.7 Section 105B of the Building Act 1984 allows the new charging regulations to include chargeable functions and activities carried out under the Act itself. These include charges related to securing compliance with building regulations, or stopping work that appears to be contravening building regulations; and the issuing of notices relating to existing buildings where there are defects or insufficient provision of certain facilities. Charges for notices or court orders can now be served relating to dangerous buildings or relating to demolitions. The new charging regulations authorise local authorities to charge for the handling of notices and certificates supplied by Registered Building Control Approvers (RBCAs). A Building Control Digital Roadmap will set out proposals which may streamline the submission and acceptance of such notices and certificates. Therefore, the charges for RBCAs will be subject to review as part of the Government's consideration of the BCIP's recommendations and Building Control Digital Roadmap.

5.8 Local authorities can charge now for provision of the first hour of chargeable advice, previously the first hour of advice on building control was required to be free.

5.9 The prohibition that existed previously has been removed regarding charging for building control services for building work solely required for disabled persons in relation to existing buildings to which members of the public are admitted. This change reflects the fact that the owners or operators of such buildings are subject to Equality Act 2010 requirements themselves to provide reasonable adjustments, and there is no justification for local authorities to subsidise them any longer.

5.10 The similar prohibition on charging for building control services in relation to existing dwellings remains in place for now, pending careful exploration of how charging, or funding of local authorities, could be achieved in this area without causing adverse impacts to disabled people. The Government will set out further detail on this in due course, once it has undertaken this assessment.

5.11 The new charging regulations do not include the power to charge for the handling of certificates from Third Party Certification schemes (also known as Competent Person Schemes (CPSs)). The notification system for scheme operators is undergoing replacement, and the wider CPS policy is subject to reforms being considered including in the light of some scheme members installing insulation poorly. Considering this, the Government will factor in the notification system replacement and reforms around CPSs, taking advantage of the opportunities that may arise through the Digital Building Control Roadmap for any new charges.

5.12 Previously, local authorities were required to publish their Charging Schemes, which set out their charges for different functions and other arrangements, but did not have to do this online. Similarly, they did not have to publish their annual statements which contain charges paid, costs and the amounts of surplus or deficit. The new regulations require online publication, which will improve transparency and enable comparison across local authorities, monitoring and evaluation of the changes.

5.13 Government had proposed in the Future Homes and Buildings Standards consultation to allow developers to apply for dispensations/relaxations of regulation 26 of the

Building Regulations 2010 and to revoke regulations 25A and 25B of those Regulations. Responses were generally supportive of this regulation 26 proposal, though issues of adequate local authority building control resource were raised given that they would currently be unable to charge for the consideration of such applications. The Future Homes and Buildings Standards consultation response explained that regulations 25A and 25B would be kept as they may serve as a useful backstop to guarantee a baseline of energy efficiency in certain types of buildings that might otherwise be exempt from stricter requirements. In our consultation response we said we would continue to monitor the need for dispensations and relaxations going forward and recommended permitting this in the future, using a separate piece of legislation, if a guaranteed funding mechanism was in place to support local authorities in managing this new burden.

5.14 Government is now taking this recommendation forward, as this instrument would enable local authority building control bodies and the Building Safety Regulator to consider dispensation and relaxation requests for Regulations 25A, 25B and 26 where reasonable to do so, to ensure the regime operates coherently, whilst ensuring local authorities can charge for this work. It was deemed appropriate to also progress with the relaxation and dispensation of regulations 25A and 25B, given compliance with regulation 25B is dependent on compliance with both regulation 26 and regulation 25A. As they all relate to energy efficiency, it could be inconsistent and confusing to only permit dispensation and relaxation of one and not the others.

6. Legislative and Legal Context

How has the law changed?

6.1 The Building Safety Act 2022 inserted new section 105B into the Building Act 1984. This enables these new regulations to permit local authorities to charge for their functions under the Building Act itself, in addition to their functions under the Building Regulations. This has broadened the scope considerably for chargeable functions and activities, which are now included in these revised regulations.

6.2 Regulation 11(3) of the Building Regulations 2010 has been amended to enable regulations 25A, 25B and 26 of those Regulations to be dispensed with or relaxed by building control authorities under section 8 of the Building Act 1984.

Why was this approach taken to change the law?

6.3 This approach was taken to meet the fuller cost recovery principle set out in HMT's Managing Public Money for services such as local authority building control where clients or their agents are the users, the Government has enabled local authorities to charge for all their functions and activities under the Building Act 1984 and Building Regulations 2010, subject to the exceptions outlined under paragraph 5 of this document. This will increase the financial sustainability and capacity of these services in local authorities.

6.4 In relation to the amendments to regulation 11(3) of the Building Regulations 2010, this approach has been taken to avoid lowering the overall ambition of the Future Homes and Buildings Standards whilst not restricting development in the circumstances where the operation of the standards is determined to be unreasonable.

7. Consultation

Summary of consultation outcome and methodology

7.1 Section 120B(3) of the Building Act 1984 (inserted by the Building Safety Act 2022) requires the Secretary of State to consult the Building Safety Regulator and other persons that the Secretary of State considers appropriate before making regulations under section 105B of the Building Act 1984.

7.2 The Government consulted recently on the proposals for a new charging framework. In addition to the proposals and questions document, the consultation's document pack also included an assessment of impacts, which had very limited data in it provided by a small number of local authorities through pre-consultation engagement, a Public Sector Equality Duty Statement, which focused on the demographics of building control professionals and had a section about charges relating to works done on existing buildings for people with disabilities. Written responses, including detailed costs of different functions, were requested between 14 November 2025 and 25 January 2026.

7.3 The online consultation portal, Citizen Space, was used along with a dedicated email address for respondents who wished to use it. A wide indicative list of consultees was set out at the beginning of the consultation document. This especially included local building control authorities and private sector building control companies and their respective representative bodies (Local Authority Building Control, he Association of Building Control Approvers and the National House Building Council). Other trade or representative bodies, construction-related chartered bodies, Construction Leadership Council and Construction Industry Council, fire and rescue authorities, Local Government Association, Considerate Constructors Scheme, Federation of Master Builders, Home Builders Federation, Citizens Advice, and disability organisations through engagement via networks of the Disability Unit in the Cabinet Office. The Building Control Independent Panel, set up in response to a recommendation from the final report of the Grenfell Tower Inquiry, was also notified about the consultation.

7.4 The launch coincided with a 2-day conference held by the LABC organisation, at which the consultation was publicised. Online calls or in-person presentations were arranged with building control organisations, IT service providers, and with the representatives from local authorities who provide advice on disability-related adaptations in existing dwellings. Further surveys of local authorities and Registered Building Control Approvers provided more detailed costs associated with different functions. These were needed due to the low level of data provided by respondents in the consultation period.

7.5 There were 100 separate responses received through Citizen Space and by email, removing duplicates. Despite the wide dissemination of the consultation, the written responses were received largely from local authority and private sector building control authorities or representative organisations.

7.6 There was strong support from local authorities and LABC for reforming the charging framework to enable fuller cost recovery. Respondents highlighted that many regulatory, inspection, administrative and enforcement activities are currently subsidised by council taxpayers which is not sustainable. The Building Control Independent Panel's report[4] (published on 20 May 2026) also recommended that the proposals be carried forward.

[4] https://www.gov.uk/government/publications/building-control-independent-panel-report

7.7 Private sector respondents, mainly RBCAs, including NHBC, and the Association of Building Control Approvers, broadly supported the objective of a sustainable and well-resourced building control system, but raised concerns about proportionality, administrative burden and the risk of perceived conflicts of interest. Across stakeholder groups there was strong emphasis on the need for clearer guidance, transparency and improved digital systems to ensure reforms are implemented consistently and fairly.

7.8 A fuller consultation response document, Impact Assessment, Public Sector Equality Duty Statement and Environmental Principles Policy Statement are being published on the day that the new regulations are laid.

7.9 Separately, the Future Homes and Buildings Standards consultation was published in December 2023, seeking views on plans for a further update to the energy efficiency requirements for new homes and buildings. The consultation closed in March 2024. A total of 2,421 responses were received from a range of organisations, representative and trade bodies, industry professionals, academics and individuals. Responses were provided via Citizen Space and by email. Eight email submissions were excluded as they fell entirely outside the scope of the consultation, meaning that 2,413 responses were included in the final analysis.

7.10 The Building Safety Regulator has been consulted on this proposal, as required by section 120B of the Building Act 1984, and does not anticipate significant building safety risks from these changes.

8. Applicable Guidance

8.1 The Government is not issuing guidance in relation to this instrument. The Chartered Institute of Public Finance and Accountancy is publishing a bulletin to coincide with the new regulations being laid.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is that, where they have not previously been charged for some local authority building control services, where such functions or activities are now chargeable, they will be. This will especially be the case for Registered Building Control Approvers who will need to decide whether to absorb any cost themselves or pass the charges on to their clients. Typical clients include developers, private individuals or others that own or operate new or existing buildings where building works are carried out.

9.3 The Impact Assessment estimates the new chargeable functions to increase annual cost to private sector building control by £15.6m per year. This represents a transfer of costs from local authority to Registered Building Control Approvers sector building control.

9.4 The legislation does impact small or micro businesses when they require local authority building control services where such functions or activities are chargeable.

9.5 To meet Managing Public Money principles, small or micro businesses are not exempt from paying local authorities for the wider set of chargeable functions within their services, just as they were not exempt for the previous, narrower, set of chargeable functions.

9.6 The impact on the public sector (local authority building control services) is they will be able to recover a much wider set of costs. They will no longer have to subsidise these chargeable functions from other sources such as council tax or business rates income. As they are permitted to set charges that include overheads, such as recruitment and training of staff, they will become better resourced to provide a better service to help meet the Government's construction and growth ambitions.

9.7 Due to limited data, benefits to the public sector and wider society have not been monetised in the accompanying Impact Assessment.

9.8 Local authorities may see increase in the services they are expected to undertake, arising from permitting the dispensation and relaxation of regulations 25A, 25B and 26 of the Building Regulations 2010. However, as detailed within the Impact Assessment, we expect the number of these dispensations to be low and any additional burden to be minimal.

9.9 As detailed in the Impact Assessment, we expect our proposed changes to the dispensation and relaxation of regulations 25A, 25B and 26 to impose minimal additional costs on the Building Safety Regulator, with regards to their duties as the building control body for Higher-Risk Buildings, and for considering appeals of dispensation and application requests.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to continue engagement with local authority and private sector building control bodies, the Local Authority Building Control organisation, the Association of Building Control Approvers, and the users of their services. As the Building Safety Regulator oversees building control delivery across England, this will include periodic engagement with the BSR on intelligence gathered from its statutory inspections and returns from local authority and private sector building control. The BSR monitors the numbers of Registered Building Inspectors; this information will provide insights about the net changes in classes of inspectors, factoring in any other interventions such as training and recruitment funding from recent Spending Reviews, to help with attribution.

10.2 The regulations require local authorities to publish online their charging schemes, which set out their charges for different functions, and their annual statements which contain charges paid, costs and the amounts of surplus or deficit.

10.3 Through this engagement, we will also seek to collect data on the number of dispensation and relaxation requests that are being made and granted with respect to regulations 25A, 25B and 26, to ensure the policy intent of the Future Homes and Buildings Standards is maintained,

10.4 The regulatory measures in this instrument are compliant with the principles of HMT guidance (see chapter 6 of Managing Public Money[5]), to secure fuller cost-recovery from users of such services, reducing the burden on tax payers. As part of the wider

[5] https://assets.publishing.service.gov.uk/media/69e0b17861d2e8e9b9e42e13/Managing_Public_Money_-_April_2026.pdf

consideration of recommendations of the BCIP and the development and implementation of the Digital Building Control Roadmap programme (see section 5 above), the Government will also review the charges set by local authorities associated with notices and certificates submitted to them by RBCAs, particularly whether use of better digital capabilities can streamline viewing and accepting such documents.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").