

# **Building Regulations And Fire Safety Procedural Guidance**



**NFCC**  
National Fire  
Chiefs Council

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*The purpose of this non-statutory guidance is to provide building control bodies and fire and rescue services with general advice to assist with a consistent, standardised approach. The guidance does not constitute legal advice. The legal duty to carry out statutory functions will remain with building control bodies and fire and rescue services and for legal advice they should consult their respective legal advisors.*

## 1. GENERAL INTRODUCTION

This guide has been prepared for use by Building Control Bodies and the Fire and Rescue Services but may also be of interest to any person with influence over a building's fire safety arrangements, such as:

- designers
- developers
- occupiers
- employers
- building owners
- building safety managers
- Responsible Persons (as required by the Regulatory Reform (Fire Safety) Order 2005)
- fire risk assessors

It explains the steps involved in approving the fire safety aspects of building work, and the interaction between the Building Regulations and other statutory fire safety requirements in England and Wales.

If the procedures described in this guide are followed prior to work commencing on site, developers and designers will be able to receive fire safety information relevant to the Building Regulations and other statutory approvals in time to avoid abortive work. Owners and occupiers will also benefit, as this process will generate a basis for their fire safety management procedures and risk assessment.

By ensuring proper and timely consultation between Building Control Bodies and Fire and Rescue Services, and appropriate regard to the Fire and Rescue Service's response, there should be no need for extra building work to be undertaken at the end of a building project and before the building can be occupied for its intended purpose.

Where functional compliance has been achieved by a fire engineered or management approach, there should be no need for fire safety enforcing authorities to undertake any remedial enforcement action at the time of occupation. Developers and designers should have provided owners and occupiers with sufficient information detailing how functional compliance was achieved to enable preparation of suitable fire risk assessment and management arrangements to ensure the building is safe when occupied.

Throughout this guide it is assumed that users are appropriately competent and conversant with the technical aspects of fire safety and its regulation, or that they employ professional advisors who have a proven competence.

Although this guide has no legal force it is intended that all building control bodies and fire safety enforcing authorities should use the consultation procedures described in it as a model for arrangements they make, so that procedures will be the same throughout England and Wales.

Throughout this document there are various references to fire risk management, fire risk assessment and fire strategy. It is important to understand the principles of these terms intended within the context of the stage reached in the development process and not be restricted by terminology.

The four main stages of a development that should be considered are:

- Design phase – Concept fire strategy and design – RIBA stage 0-4
- Construction phase – Continual review of concept fire design/strategy RIBA Stage 3 - 4
- Completion phase – Pre-occupation fire safety assessment, handover of fire safety information (see regulation 38 of the Building Regulations) RIBA Stage 6
- Occupation phase – Fire risk assessment/fire risk management strategy. RIBA Stage 7

## 2. TERMINOLOGY

The following terms are used in this guide:

**Alterations Notice** - An alterations notice under article 29 of the Fire Safety Order may be served by the fire safety enforcing authority in relation to a premises constituting a serious risk (or premises which would constitute a serious risk if any change is made to them). It alerts the fire safety enforcing authority to any potential problems and allows an intervention before changes are made which significantly increase the risk.

**Amendment Notice** - A notice given by an Approved Inspector to a Local Authority amending the content or subject of an Initial Notice.

**Applicant** - the person responsible for obtaining approval, supplying information or making a notification, as the circumstances require. In practice this is likely to be the person carrying out the work where a requirement is imposed by the Building Regulations, while in other circumstances it is likely to be the owner or developer, or an agent of the owner or developer (e.g. their architect). In this guide the term is used to include anyone acting on behalf of the applicant.

**Approved Inspector** - a corporate body or an individual approved under section 49 of the Building Act 1984 to carry out certain building control functions.

**Approved Inspectors Regulations** - the Building (Approved Inspectors etc.) Regulations 2010 (S.I. 2010/2215) (as amended).

**Building Control Body** - a term used to include both local authority building control and approved inspectors.

**Building Notice** - a building notice should only be used for work that is not complex and by people experienced in construction. It can only be used for domestic and not commercial work. The building notice procedure is not suitable for persons intending to carry out work in relation to a building to which the Fire Safety Order applies or will apply after the completion of the building work. (Refer to regulation 13 of the Building Regulations for details and particulars where a building notice is to be given).

**Building Regulations** - the Building Regulations 2010 (S.I. 2010/2214) (as amended).

**Common Parts** - All areas of a building used as a workplace and for the purposes of a building containing a dwelling(s) those spaces used in common for circulation in and about the building including stairs, lifts, flat entrance doors, corridors and also include parts of the building in common with other parts e.g. the external walls and roofs.

**Completion Certificate** - when the work is complete and a final inspection has been carried out the local authority will, within a specified period, issue a completion certificate to the applicant, where it is satisfied, after taking all reasonable steps that the building complies with the relevant provisions of the Building Regulations. A completion certificate is evidence, but not conclusive evidence, that the Building Regulations have been complied with.

**Consultation** - exchange of information and comment between organisations, such as building control bodies and fire safety enforcing authorities, which will include correspondence and may involve face-to-face meetings.

**Final Certificate** - when a final inspection has been carried out and the building works are completed the Approved Inspector will within a specified period of time issue a final certificate to the client and local authority indicating that the Approved Inspector is satisfied that the applicant has complied with the Building Regulations for the work referred to in the initial notice. A final certificate is evidence, but not conclusive evidence, that the Building Regulations have been complied with.

**Fire and Rescue Authority** - the authority discharging the functions of the fire and rescue authority under the Fire and Rescue Services Act 2004 in the area in which the premises are, or will be, situated. In most cases the enforcement responsibilities of fire and rescue authorities are delegated to the fire and rescue service.

**Fire Safety Enforcing Authority** - the body responsible for enforcing the Fire Safety Order. This will normally be the fire and rescue authority but maybe another designated body in certain circumstances (see Appendix A).

**Fire Safety Order** - the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541).

**Full Plans** - deposit of full plans is necessary when using a local authority building control service for work in relation to a building to which the Fire Safety Order applies or will apply after the completion of the building work. Detail plans and other documents as necessary are required to show full constructional details of the proposed works. (Refer to regulation 14 of the Building Regulations for details and particulars where a full plans submission is to be given.)

**Initial Notice** – where the building control body is an Approved Inspector, the Approved Inspector will submit a document to the local authority known as an initial notice. Once the initial notice is accepted, the local authority's statutory building control role is suspended and the Approved Inspector takes on the responsibility for checking compliance with the Building Regulations and, where necessary, consultation with the fire and rescue service.

**Local Authority** – the local authority empowered to carry out the building control function and to enforce the Building Regulations in its area by virtue of section 91(2) of the Building Act 1984.

**Plans Certificate** – where an Approved Inspector receives plans associated with an Initial Notice given for a project and certifies that the plans satisfy the functional requirements of the Building Regulations.

**Qualitative Design Review (QDR)** – Process drawing on the experience and knowledge of fire engineer(s) and the design team in which significant fire hazards are identified, the problem simplified and the inputs and extent of any quantitative analysis are identified. This is defined and carried out in accordance with BS 7974.

**Responsible Person** – the person defined in article 3 of the Fire Safety Order and having the duties for compliance with the Order as prescribed in article 5 (see Appendix B).

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### 3. LEGISLATIVE REQUIREMENTS

#### 3.1. APPLICABLE LEGISLATION

This guide is mainly concerned with the Building Regulations 2010 (as amended), which applies only in England and Wales. There is separate legislation covering building in Scotland and Northern Ireland.

##### 3.1.1. BUILDING REGULATIONS

The Building Regulations apply to any building work defined in regulation 3 or to any building work in relation to a material change of use as defined in Regulation 5 of the Regulations. However, section 4 of the Building Act 1984 provides exemptions for some buildings belonging to statutory undertakers, the United Kingdom Atomic Energy Authority and the Civil Aviation Authority. Regulations 8 & 9 and Schedule 2 to the Building Regulations exempts various types of building according to their use or size. Buildings belonging to, or that are occupied by, the Crown authorities are also currently exempt from the procedural requirements of the Regulations but not the substantive requirements. Section 5 of the Building Act provides for prescribed public bodies to be exempt from the procedural requirements of the Building Regulations. The Mayor's Officer for Policing and Crime is currently prescribed for this purpose by regulation 10 of the Building Regulations.

Fire safety requirements are given in Part B of Schedule 1 to the Building Regulations. These cover means of escape, means of early warning, fire spread, and access and facilities for the fire and rescue service. Guidance on some ways of meeting the requirements is given in Approved Document B (Fire safety), which is split into two volumes: Volume 1 – Dwellings (England); Dwellinghouses (Wales), and Volume 2 – Buildings other than dwellings (England); Buildings other than Dwellinghouses (Wales).

##### 3.1.2. THE FIRE SAFETY ORDER

There are general duties under the Article 8 of the Fire Safety Order to take such fire precautions as may be required to ensure that premises are safe for the occupants and those in the immediate vicinity. There is also a general duty to carry out a fire risk assessment.

The Order applies to all non-domestic premises, which includes the common parts of apartment buildings and both the common and shared parts of houses in multiple occupation. Article 6 of the Order does exclude some premises, such as mines, vehicles, and land forming part of an agricultural or forestry undertaking. For any building or part of building to which the order applies, Article 45 of the Fire Safety Order also places a duty on local authorities to consult with the enforcing authority where it is proposed to erect, extend, or structurally alter a building or where there is a change of use that would bring the FIRE SAFETY ORDER into force on the building (or any part of the building to which the order applies).

### 3.1.3. PARALLEL APPLICATION

Most building work, and certain changes of use involving buildings that are subject to the Building Regulations, will also be subject to the Fire Safety Order once the work is complete and the building is occupied for its intended purpose other than individual dwellings.

The parallel application of the fire safety requirements of the Building Regulations and the Fire Safety Order emphasises the need for consultation at the earliest opportunity between the applicant and the administering bodies involved.

The consultation procedures described in this guide are intended to ensure that there should be:

- no need for extra building work to be done after the end of a building project and before a building can be occupied for its intended purpose, and
- no unexpected challenges for owners and occupiers in meeting their ongoing fire safety management responsibilities as a consequence of management commitments made by developers and designers to secure functional compliance at the application stage.

Whilst the Building Regulations do not impose any requirements on the management of buildings, it is unrealistic to assume that a building with impractical or unsustainable management requirements will have met the functional requirements. The ongoing management of a building would be enforced via the Fire safety Order, so buildings should not be approved where they are designed in such a way that safety could be compromised by unrealistic or unsustainable management requirements.

### 3.1.4. THE DIVISION OF RESPONSIBILITY

There are two main bodies with which designers, developers and occupiers of buildings may have dealings concerning fire safety: the building control body and the fire safety enforcing authority.

Building control bodies are responsible for checking for compliance with the requirements of the Building Regulations. The Regulations are concerned with building work and with material changes of use (which may give rise to requirements for building work) and the requirements for fire safety will apply to most buildings. These requirements are intended to ensure that the necessary measures for the safe use of the building are incorporated into the design and construction of the building.

The fire safety enforcing authority is responsible for the enforcement of the Fire Safety Order, which concerns the safety of people in relation to the operation, management and use of certain buildings once occupied.

Building work that complies with the Building Regulations' requirements for fire safety will normally be satisfactory when the building is occupied. However, where alterations to an existing building are involved, compliance with the Building Regulations will not always result in the fire precautions to parts of that building being upgraded. The Building Regulations do not require improvements to be made in areas where, before the work starts, a relevant requirement does not comply with the Regulations and after completion that area will not be any more unsatisfactory. However, there may be hazards and risks associated with the specific operations of the occupier that would not be covered by the Building Regulations and would need to be taken into account to meet the requirements of the Fire Safety Order. There is obvious practical value in taking these other fire safety matters into account, where possible, in the design and construction phases, although the legislation only becomes applicable on occupation of the building.

The Fire Safety Order encompasses the concept of continuous improvement and in order to reduce the risk in an existing building, where work is proposed, responsible persons should review their fire safety precautions to take account of changes in guidance and technology.

During the design and construction phases of a project, the building control body will check on compliance with the requirements of the Building Regulations. In order to facilitate the consultation process it should take a co-ordinating role with the fire safety enforcing authority and, where appropriate, other regulatory bodies. Any recommendations and advice given must be channelled through the building control body to the applicant.

Once a building is occupied and in use, the fire safety enforcing authority takes on the co-ordinating role as it has the enforcement role for the Fire Safety Order. Licensing and registration authorities must ensure that the fire safety enforcing authority is consulted about fire safety matters concerning premises that need to be licensed or registered.

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## 3.2. BUILDING REGULATIONS

It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. The Approved Documents associated with the Regulations provide guidance for some of the more common building situations. However, there may well be alternative ways of achieving compliance with the requirements. The design and construction of building work is subject to checks by a building control body. Applicants can decide whether to apply to the Local Authority for building control services or to appoint an Approved Inspector.

### 3.2.1. LOCAL AUTHORITY BUILDING CONTROL

Where the applicant chooses to use the Local Authority there will generally be a choice of two routes: the full plans procedure or the building notice option. Deposit of full plans involves the passing or rejection of plans. A notice of pass or rejection must be given within a 5-week time limit (or 2 months if the applicant agrees) and there is a facility to request a determination of disagreements from the Secretary of State or, in Wales, Welsh Ministers (see Appendix D). A building notice, however, is simply given to the Local Authority at least 2 clear working days before work begins.

Where the building is to be put to a use where the Fire Safety Order applies (see 3.1.2, page 5), or will apply after completion of the work, then the full plans procedure must be used (see regulation 12 of the Building Regulations). On satisfactory completion the Local Authority is required to issue a Completion Certificate and it is recommended that a copy is sent to the fire safety enforcing authority.

### 3.2.2. APPROVED INSPECTOR BUILDING CONTROL

If an Approved Inspector is engaged, the person intending to carry out the work and the inspector must jointly give the Local Authority an initial notice. The Local Authority has 5 days in which to accept or reject the notice. If the Local Authority has neither accepted nor rejected the notice by the end of that period, the notice is deemed to be accepted.

Once the notice has been accepted the Approved Inspector is responsible for supervising the work. If the applicant wishes to have detailed plans of the work certified as complying with the Building Regulations, and the Approved Inspector is satisfied with the plans, they may issue a plans certificate to the applicant and the Local Authority. The Approved Inspector must consult with the local Fire and Rescue Service at initial notice, amendment notice, plans certificate and before giving a final notice. There is a facility to request a determination of disagreements from the Secretary of State or, in Wales, Welsh Ministers (see appendix D). When the work is complete the Approved Inspector must give the Local Authority a final certificate and send a copy to the fire safety enforcing authority.

### 3.2.3. LIAISON BETWEEN BUILDING CONTROL BODIES (BCBs)

It is not uncommon for different building control bodies to deal with different parts or different stages of a single development (e.g. the construction and then fit out of a shopping centre). In such circumstances it is important that each of the building control bodies is made aware of any fire protection arrangements/strategies that are outside the scope of its responsibility but which could have an impact on the works that it is dealing with. Responsibility for ensuring there is adequate liaison between building control bodies lies with the applicant. Building control bodies should make the applicant aware of this responsibility and ensure that the Fire and Rescue Service are aware when different BCBs are being used. The use of the adopted Fire & Rescue Consultation Pro-Forma will assist with this liaison (for F&RS Consultation Proforma see Appendix J)

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## 3.3. FIRE RISK ASSESSMENT AND THE FIRE SAFETY ORDER

By virtue of the Fire Safety Order, the Responsible Person (see Appendix B) is required to ensure that a fire risk assessment is carried out for their premises. This must be a suitable and sufficient assessment of the risks to which relevant persons are exposed for the purpose of identifying the general fire precautions that need to be taken to comply with the requirements under the Order. The Fire Safety Order also requires that the responsible person makes arrangements for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.

If there are five or more employees, or the premises are subject to a licence or an alterations notice (see Appendix G) then significant findings of the fire risk assessment and the fire safety arrangements must all be recorded. This may include the fire precautions put in place to address any significant findings and any groups of persons identified by the assessment as being especially at risk. This information should be presented on request to the fire safety enforcing authority as part of a fire safety management plan.

Although these requirements are applicable to a building while in operation, it is recommended that the designers of a building to develop a concept fire strategy as part of the design process. The level of detail of this strategy will be determined by the amount of information available to the designer and whether or not the eventual occupier of the building is known at the design stage.

The inclusion of a fire strategy as part of the Building Regulations submission can assist the fire safety enforcing authority in providing advice at an early stage as to what, if any, additional provisions may be necessary when the building is first occupied. For building designs that place a reliance on fire engineering or place management expectations on the occupier, the fire strategy document is an essential means of providing this information and communicating it between relevant parties. Whilst not currently required by legislation, the fire strategy, is a key document and can eventually be passed on to the Responsible Person along with the other relevant fire safety information required at the time of completion, as required by regulation 38 of the Building Regulations. It will also assist the Responsible Person in developing their fire risk assessment for the purposes of the Fire Safety Order, and it will act as a record of the rationale behind the fire safety design of the finished building. The in-use fire risk assessment should be reviewed regularly, culminating in an assessment based on the design information that has been passed along the design supply chain. This ensures that the level of detail relating to the systems and other control measures within the building is high from the outset and that the end user and their risk assessors are aware of all the fire safety aspects of the building.



It is fundamental to the principle of the Fire Safety Order that fire precautions may need to change and evolve with the building throughout its life. Fire risk assessments should be dynamic and kept constantly under review to make sure that precautions are suitable and sufficient. Fire and rescue authorities may also recommend that the results of the fire risk assessment are considered where building work is due to take place, in order to ensure that any existing safety deficiencies are addressed appropriately.

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### 3.4. OCCUPIED BUILDINGS

Responsibility for ensuring that a building, once occupied, is provided with appropriate fire safety arrangements rests with the Responsible Person. It is essential therefore that the Responsible Person ensures a fire risk assessment has been carried out when occupying new or existing buildings that have had building works completed, or when contemplating alterations or extensions to existing buildings. The Responsible Person should ensure that the fire safety arrangements in place are adequate and comply fully with the requirements of the Fire Safety Order.

When considering the fire safety measures for the building in use, the fire safety enforcing authority should have regard to any fire safety information produced that may have been undertaken as part of the design and approvals processes and subsequently by the Responsible Person in the discharge of their duties under the Fire Safety Order. Consultation between the designer/applicant, the building control body and the fire safety enforcing authority; with the recording of risk assessments and other relevant information, throughout the design, approvals and construction process should be retained by all relevant dutyholders and ensure that any subsequent need for a variation in the fire safety measures provided is avoided, or at least kept to a minimum.

Additional fire safety measures should only become necessary because of hazards and risks that were not identified or known prior to occupation of the building, or at the time of the Building Regulations approval and consultation process. It is essential therefore that the fire safety enforcing authority is fully consulted on all relevant matters during the design and construction phases and that its advice on the fire safety measures for the building is incorporated, if appropriate, into the final building design.

If, in an effort to achieve an acceptable level of fire safety (i.e. will ensure relevant legislative compliance), the views of the fire safety enforcing authority and the building control body differ and cannot be resolved, the building control body should ensure that the applicant is made fully aware of the concerns of the fire safety enforcing authority. The building control body must also inform the applicant that there may be a possibility the fire safety enforcing authority will take enforcement action under the Fire Safety Order upon occupation of the building.

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### 3.5. CONSULTATION

When a building is likely to be used for a purpose that is subject to the fire safety requirements of other legislation, consultation between the relevant bodies is an essential part of the building control procedure. While there are clear distinctions of jurisdiction between building work and an occupied building, it is often impossible when considering the overall level of safety in a building to separate physical fire safety measures and the way in which the building will be managed when occupied.

Effective fire safety management becomes increasingly important if designers and developers intend to propose management solutions to achieve functional compliance in lieu of physical fire safety measures (or the physical fire safety measures are complex in their nature).

This guide describes the statutory consultations that fire safety enforcing authorities and building control bodies are obliged to carry out. It also indicates where discussions may be needed to consider fire safety proposals at an earlier stage than those required for statutory consultation to keep all parties informed and avoid delays. These discussions may be between the applicant and the building control body only, or they may also involve the fire safety enforcing authority.

Designers and developers who intend to propose complex fire safety solutions with commensurately complex management commitments upon occupation should involve the future occupier in discussions at the earliest possible stage. Future occupiers may not have the desired capacity to take on complex management arrangements.

Where a building control body is formally engaged in checking the compliance of building work with the Building Regulations and the building in question is to be put to a use to which the Fire Safety Order applies (see 3.1.2, page 5), or will apply after completion of the work, there are statutory requirements to consult the fire safety enforcing authority at certain stages of the process.

These consultations are necessary so that the fire safety enforcing authority is aware of the erection or alteration of buildings in which they may have a direct or indirect interest or responsibility. They also provide an opportunity to make the applicant aware of action that may have to be taken on non-building regulation matters in order to satisfy any other fire safety legislation once the building is occupied.

Fire safety enforcing authorities and building control bodies will often hold useful information relating to the design of existing buildings. The consultation process provides an opportunity to share this information with the other parties.



There may be occasions when more than one building control body is dealing with different building work within the same building. In these circumstances it is strongly advised that they consult with each other, as necessary, to avoid any conflict that might otherwise arise.

Consultation with all relevant parties can also help to achieve consensus where alternative technical or passive fire protection solutions may be available, such as during the specification of fire detection and fire alarm systems. Effective decisions made at the specification stage can prevent the need for corrective action after completion of the building work and the often considerable costs of rectification.

The fire safety enforcing authority must also consult with the Local Authority and, where an initial notice is in force, the relevant Approved Inspector before issuing an enforcement notice under the Fire Safety Order that would oblige a person to make an alteration to a premises.

The nature and timing of consultations and their statutory basis are described in detail in Section 4.

### **3.5.1. CONSULTATION – OTHER LEGISLATION**

There are provisions in other primary legislation and, in some places, in Local Acts that require consultation to take place between local authorities and fire authorities. This guidance should also be used in those instances (see Appendix H)

Under regulation 12(5) of the Approved Inspectors Regulations, an Approved Inspector must consult the fire safety enforcing authority if a Local Act would have required the Local Authority to do so had they been undertaking the building control function. The applicant should check with the building control body to see whether there are any Local Acts in force. These Acts are usually enforced by the Local Authority only.

Many premises are controlled through a licensing procedure in which fire safety matters are an important concern. Article 43 of the Fire Safety Order has the effect that conditions of licence can have no effect on fire safety matters that could be addressed by the Order. Before issuing a licence in relation to premises to which the Fire Safety Order applies, the licensing authority must first consult with the fire safety enforcing authority (article 42).

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## **4. CONSULTATION PROCEDURES**

### **4.1. INTRODUCTION**

This section describes the consultation procedures that should be followed at different stages of the building control process. During these stages the building control body (BCB) is the co-ordinating authority, as explained above, and its consultation with the fire safety enforcing authority is crucial. It is very important that all parties should respond within agreed timescales, and that they should play an active part in maintaining good communications. Responses should not be unnecessarily delayed and subject to agreement between the BCB and the fire safety enforcing authority (FSEA). Notification should be provided where parties are unable to meet the agreed timescales, with an indication of when a response will be provided.

The consultation process should be conducted to ensure that both the building control body and the fire safety enforcing authority fulfil their roles in an efficient and effective way, the Fire and Rescue Service Consultation Pro Forma in Appendix J will assist with this.

The process for deposited plans is likely to be delayed if designs are presented without prior consideration of fire safety. Where local authorities undertake building control there are statutory time limits on the period for consideration of plans and so delays may lead to the rejection of plans.

### **4.2. PRELIMINARY DESIGN STAGE**

Involving the BCB and the FSEA at an early stage can often result in reduced costs. As such, at the early stages of a project the designer may wish to seek advice about the fire safety aspects of the scheme. The designer's first approach should preferably be to the BCB. However, whichever body is contacted should determine, as far as it is able, which other authorities or bodies are likely to have an interest and inform the applicant of the necessary application or consultation procedures.

If the building or part of the building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work, the FSEA will have powers that may influence the design of the building.

#### **4.2.1. ADVICE FROM THE FSEA**

In responding to an independent approach from a designer or occupier for goodwill advice under the Fire and Rescue Services Act 2004 (see Appendix F), the FSEA should point out that in respect of the Building Regulations, or other legislation for which it is not directly responsible, it can offer only observations. It should refer the applicant to a BCB, and where appropriate other enforcing authorities for guidance.

Any advice the FSEA does give, including informal advice, should be in writing and should clearly indicate which matters in its opinion:

- may need to be addressed to ensure compliance with the Fire Safety Order when occupied, or
- are only advisory and not enforceable under legislation.

A copy of the advice should be provided for the BCB.

### 4.2.2. UNUSUAL OR COMPLEX APPROACH TO FIRE SAFETY

Where there are aspects of the design that follow an unusual or complex approach to fire safety, the designer should request a joint meeting with the FSEA and the BCB so as to negate the potential for additional works or onerous management procedures to comply with the fire safety order, this may well involve reference to the BS 7974 suite of documents and the formal QDR process. Competencies of all involved should be commensurate with the complexity of the scheme.

At this meeting the BCB should take the co-ordinating role. A record of the main points of the meeting should be circulated to all parties, which clearly distinguishes between:

- requirements of the Building Regulations
- requirements of the Fire Safety Order
- advice that is not enforceable under legislation
- minutes of meetings where variations on guidance or deposited plans have been agreed
- any steps the BCB intends to take to seek 3rd party assessment of any designs by a competent person/fire engineer

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### 4.3. DESIGN STAGE

If the building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work, the BCB is required to consult with the FSEA at certain stages within the process as prescribed by legislation. For local authorities, the relevant requirements are in Article 45 of the Fire Safety Order and for Approved Inspectors this is detailed in Regulation 12 of the Approved Inspectors Regulations.

While the legislation and associated procedures for local authorities and approved inspectors may be different, the purpose of consultation is the same; that is, to seek the comments of the FSEA regarding the fire safety measures that will be necessary to meet the legislation (other than the Building Regulations) that will apply to the building once it is in use and management procedures put into place. This should allow them to reach mutually compatible views on whether plans/design and building work are satisfactory from the standpoints of the Building Regulations and of fire safety measures for buildings in use. However, the advice given by the building control body and the fire safety enforcing authority does not extend to providing design consultancy.

In addition to giving such comments, the FSEA may wish to offer observations to the BCB in relation to the Building Regulations. These should be clearly and separately identified.

Consultation also provides the opportunity for the FSEA and the BCB to discuss additional fire precautions not required by legislation.

#### 4.3.1. NON-STATUTORY CONSULTATION

Even if there is no formal requirement to consult, consultation may still be desirable in many cases, such as:

- where the BCB proposes to accept measures that are unusual or complex or which deviate from the general guidance for requirement B5 of the Building Regulations; for example, large single private dwellings where access and facilities for fire-fighters is more complex
- where the size or location of the development might have implications for the disposition of fire and rescue service resources, for example, some sport stadia
- where the FSEA is not the fire and rescue authority and the size or location of the development might have implications for the disposition of fire and rescue service resources
- where vulnerable person(s) are to be housed and the FSEA may wish to be notified in order to provide appropriate community fire safety advice

#### 4.3.2. INFORMATION REQUIRED

To facilitate consultation, the BCB will provide a package of information that demonstrates compliance with Part B together with the F&RS Consultation Proforma (the package of information may include drawings, detailed fire strategies, reports from specialists such as smoke control contractors or structural engineers, third party reports and specialist technical software such as Computational Fluid Dynamics (CFD)).

In cases where no statutory consultation is involved, the BCB may still choose to consult the FSEA.

For Local Authority Building Control, regulation 14 of the Building Regulations requires the applicant to provide two extra copies of those plans which demonstrate compliance with Part B for consultation purposes. For Approved Inspectors, the applicant will need to agree the requirements for submission of plans and details with the Approved Inspector. The FSEA may, by agreement accept the electronic submission of drawings.

### 4.3.3. REQUIREMENTS SPECIFIC TO LOCAL AUTHORITY BUILDING CONTROL

Where plans are deposited with a Local Authority for approval and the building is to be put to a use where the Fire Safety Order applies, or will apply after completion of the work, the Local Authority is required to consult with the FSEA in accordance with article 45 of the Fire Safety Order before passing or conditionally passing the plans.

Section 16 of the Building Act 1984 only allows local authorities 5 weeks, or 2 months if agreed in writing, to pass or reject plans. The FSEA must therefore, respond in good time.

### 4.3.4. REQUIREMENTS SPECIFIC TO APPROVED INSPECTORS

Where an Approved Inspector has been appointed and the building is to be put to a use where the Fire Safety Order applies, or will apply after completion of the work, the Approved Inspector is required to consult with the FSEA, preferably before or as soon as is practicable after issuing an initial notice and before giving a plans certificate or final certificate to the Local Authority.

An Approved Inspector may not give a plans certificate or final certificate until 15 working days have elapsed from the date on which the Approved Inspector consulted with the FSEA, unless the authority has replied before the end of the 15 days (regulation 12 of the Approved Inspectors Regulations). Where projects are complex and are likely to require more detailed scrutiny by the FSEA, early consultation is advised.

### 4.3.5. INFORMATION RECEIVED IS DEFICIENT

If the BCB is not satisfied that the proposals comply with the Building Regulations, it may send the applicant a list of queries / comments or additional information it considers necessary. Consultation with the FSEA should be meaningful and informed; the BCB would not normally consult the FSEA until it is reasonably satisfied that compliance with the Building Regulations is demonstrated. If the deficiencies are minor the BCB may decide to proceed with consultation, attaching a copy of its list of the necessary amendments (clearly identified as such) to the information it sends to the FSEA. However, the BCB may wish to arrange, where practicable and in agreement with the local fire and rescue service, a pre-consultation meeting with the FSEA if it is aware of very specific issues that it wishes to discuss prior to formal consultation. This is strongly recommended for complex projects and where projects are in an advanced stage of construction.

If the proposals need substantial amendment or the information provided is inadequate then the process may be delayed. It is therefore very important that the application shows that full account has been taken of the requirements of Part B if such delays are to be avoided.

In some cases, a Local Authority may be prepared to consider relaxing or dispensing with a requirement under Regulation 11 of the Building Regulations, in which case additional consultation with the FSEA may be required (see Appendix E). (Note, only Local Authorities and not Approved Inspectors are able to relax or dispense with a requirement).

### 4.3.6. INFORMATION PACKAGE SENT TO FSEA

Once the BCB is reasonably satisfied that the proposals comply with the Building Regulations it will send to the FSEA at least one copy of drawings that relate to compliance with Part B (i.e. which identify the intended physical fire precautions) together with any supporting documentation it considers useful or needed for review. That might include correspondence between the BCB and the applicant. It may also be helpful at this point for the BCB to advise the FSEA of any unusual aspects of the design. The FSEA may, by agreement accept the electronic submission of drawings.

If the BCB is aware of any information that may assist the FSEA or if it has given goodwill advice on additional precautions that are advisable but not enforceable under legislation (see Appendix F) then the BCB should include this information with the consultation documents. The BCB should make it clear which documentation has been used to assess compliance.

The FSEA should make its comments to the BCB in writing and within 15 working days, or such period as may be agreed, so that the BCB can meet its own obligations and the Local Authority can issue a decision within the timescale laid down in the Building Act 1984 (5 weeks from the date of deposit or a maximum of 8 weeks with the applicant's agreement).

### 4.3.7. COMMENTS BY FSEA

The FSEA's comments must clearly distinguish between matters that:

- must be complied with under the Fire Safety Order when the building is occupied
- must be complied with to meet other fire safety legislation other than the Building Regulations
- are only advisory and not enforceable under legislation (see Appendix F)

Note, in addition to giving such comments, the FSEA may wish to offer observations to the BCB in relation to the Building Regulations. These should be clearly and separately identified.

### 4.3.8. DIFFERENCE IN VIEWS BETWEEN FSEA AND BCB

If, in the effort to achieve an acceptable fire safety package, the views of the FSEA and the BCB are incompatible (as a result of the differing scopes of their respective powers), the BCB and the FSEA should seek to resolve the matter quickly and simply with the applicant. Failing this, the FSEA should set down its concerns and recommendations in a formal written case, which may include details of any enforcement action it may take upon occupation of the building, to the BCB, which should retain a copy and ensure that a copy is provided to the applicant.

The BCB must have regard to the FSEA's comments before reaching its decision on plans or, in the case of an Approved Inspector, before deciding on a final or plans certificate. In giving its decision, the BCB should include a copy of any comments from the FSEA so that the applicant is fully aware of the possibility that the FSEA may require additional works on occupation of the building.

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### 4.4. DECISION STAGE

Having plans passed by the Local Authority or certified by an Approved Inspector can give protection from enforcement action under the Building Regulations where those plans have been followed.

Where a full plans application has been submitted to a Local Authority the authority must issue a decision notice within the statutory time limit. It may reject the plans, pass them or pass subject to conditions.

In cases where an Approved Inspector is undertaking building control, if the applicant requests a plans certificate, the Approved Inspector must do so if they are satisfied that the plans comply with the Building Regulations (see section 50(1) of the Building Act 1984).

The BCB should supply the applicant with a copy of the comments and advice provided by the FSEA. In the event that the FSEA proposes to require physical changes in plans or work that are beyond the requirements of the Building Regulations, the BCB should make the applicant aware.

Note: a Local Authority cannot give a notice under section 36 of the Building Act 1984 requiring alterations if building work conforms to plans that have been passed by the Local Authority. In cases where an Initial Notice ceases to be in force without a final certificate having been given, the Local Authority may not give a notice under section 36(1) in relation to work that conforms to plans that are the subject of a plans certificate issued by the Approved Inspector.

#### 4.4.1. AMENDED PLANS AND SUPPORTING DOCUMENTATION

On many projects the design of the building will change during the design and construction stages. Plans may be amended a number of times before and after the Statutory Consultation. If the applicant submits amended plans following a statutory consultation because of changes relating to fire safety, the BCB should re-consult the FSEA using the agreed FSEA Consultation Proforma along with the package of all relevant information. It is good practice to clearly identify what changes have been proposed to facilitate a timelier response from the FSEA. The FSEA may accept the electronic submission of the package of information.

Where an Approved Inspector has been appointed, some proposed changes in a building project may require the giving of an Amendment Notice to the Local Authority, altering the description of the work given in the original Initial Notice. If work introduced by the Amendment Notice concerns a building which is to be put to a use where the Fire Safety Order applies, or will apply after completion of the work, and is subject to Part B requirements, the Approved Inspector will then need to formally consult with the FSEA again under regulation 12 of the Approved Inspectors Regulations 2010.

#### 4.4.2. ALTERATIONS NOTICES

Where the FSEA feels that for example, the management or fire engineered approach proposed to secure functional compliance is particularly onerous it may issue an Alterations Notice under the Fire Safety Order requiring the occupier to inform the FSEA before making any changes to any fire safety arrangements.

Where, under article 29 of the Fire Safety Order, an Alterations Notice has been served in respect of any premises then the Responsible Person must notify the FSEA before making any changes to the premises (as specified within the alterations notice), to any services, fittings or equipment in the premises or to the quantity of dangerous substances present in the premises that may result in a significant increase in risk. When notifying the FSEA the Responsible Person may be required to provide details of the changes proposed and a copy of the relevant fire risk assessment if this is stated within the alterations notice (see Appendix G).

### 4.5. AMENDMENT/CONSTRUCTION

As work proceeds the BCB will make inspections as appropriate based upon the risk. The purpose of these inspections is to assess the works as they progress to assess compliance with the Building Regulations, which relate to fire safety and other requirements of the Building Regulations. Building Regulations do not address the risk of fire during the construction work. Fire matters during construction work are covered by overlapping construction and fire safety legislation.

The Health & Safety Executive is normally the fire safety regulator for construction sites under Fire Safety Order and the Construction (Design & Management) Regulations 2015 (CDM2015). CDM2015 covers emergency procedures, routes and exits, fire detection and firefighting on construction sites. Exceptions to this include where a construction site is contained within, or forms part of, another occupied workplace. The FSEA for the permanent premises will deal with fire safety for both this and the construction work. In most workplaces, this will be the fire and rescue authority.

The Health and Safety Executive has published the following guidance on fire safety in construction:

L153 Managing health and safety in construction (ISBN 978 0 7176 6626 3).

HSG 168 Fire Safety in Construction (ISBN 978 0 7176 6345 3). (This guide is currently being revised.)

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### 4.6. COMPLETION

Where a building to which the Fire Safety Order applies, or will apply on completion of work, is erected or extended or is subject to a material change of use, the applicant must assemble a package of 'as built' information that records the fire safety design of the building.

At or before completion of building work or any occupation of the building, whichever occurs first, the applicant must pass this fire safety information to the Responsible Person (see Appendix B)

#### 4.6.1. INFORMATION REQUIRED BY REGULATION 38

Regulation 38 of the Building Regulations provides that where a building is erected or extended, or is subject to a material change of use, and that building will be put to a use where the Fire Safety Order applies, or will apply on completion of building work, fire safety information must be provided to the Responsible Person by the applicant no later than the date of completion of the work or the date of occupation, whichever is the earlier. The information is essential to assist the Responsible Person to meet their legal obligations in terms of undertaking a suitable and sufficient fire risk assessment for the building. It should include all fire safety design measures in appropriate detail and with sufficient accuracy to assist the Responsible Person to operate and maintain the building in reasonable safety. Where a fire strategy has been prepared this should also be included.

The BCB should be provided with written confirmation when this has been done.

The exact amount of information and level of detail necessary will depend on the nature and complexity of the building's design (further guidance on what information should be provided is given in section 17 of Approved Document B - Volume 1 (2019) and section 19 of Approved Document B - Volume 2 (2019) in England or Appendix G of Approved Document B - Volume 2 in Wales).

Regulation 38 defines 'fire safety information' as information relating to the design and construction of the building or extension, and the services, fittings and equipment provided in or in connection with the building or extension which will assist the responsible person to operate and maintain the building or extension with reasonable safety.

#### 4.6.2. COMPLETION OR FINAL CERTIFICATES

The BCB should not give a Completion Certificate (in the case of a Local Authority) or Final Certificate (in the case of an Approved Inspector) unless it has written confirmation from the applicant that the appropriate information required by Regulation 38 has been provided to the Responsible Person. See regulation 17 of the Building Regulations and regulation 8 of the Approved Inspectors Regulations respectively.

When the building work is complete the applicant must notify the BCB.

#### 4.6.3. COMPLETION BY A LOCAL AUTHORITY BCB

Where a Local Authority is supervising the work, regulation 16(4) of the Building Regulations requires that the Local Authority is notified of the completion of the building work not more than 5 working days after completion. If the Local Authority is satisfied that the work complies with the requirements of the Building Regulations, it should issue a completion certificate. The Local Authority may as a matter of good practice consult at this stage; such a consultation need not necessarily involve additional plans.

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### 4.6.4. COMPLETION BY APPROVED INSPECTOR AS BCB

An approved inspector should advise the applicant of what notification arrangements should be followed at completion stage. An approved inspector must consult with the FSEA before issuing a final certificate (regulation 12 of the Approved Inspectors Regulations). Following completion of the work, if the approved inspector is satisfied that the work complies with the applicable requirements of the Building Regulations, they must give the Local Authority a final certificate. Approved inspectors are subject to a statutory time limit for the issue of a final certificate starting from the date of occupation.

### 4.6.5. ISSUE OF CERTIFICATES

The BCB should send a copy of the completion or final certificate to the FSEA including a copy of the 'as built' fire strategy.

The FSEA should have regard to the completion or final certificate when reviewing the fire safety provisions of an occupied building under the Fire Safety Order.

If, having been notified of completion, the BCB cannot issue a completion certificate or final certificate, it should explain to the applicant in writing why this is so.

Where fire safety issues are involved, the BCB should send a copy of this explanation to the FSEA. If necessary, the FSEA and the BCB should meet to discuss any inadequacies that are thought to exist in the means of escape or structural fire precautions and consider what options are available for advice or enforcement.

### 4.6.6. OCCUPATION

Prior to occupying the building, the owner or occupier must ensure that where relevant the statutory obligations in relation to completion are met.

If it is proposed to occupy a building when the BCB has not issued a completion or final certificate then, in certain circumstances, the BCB must be notified of the timing and extent of the occupation in advance.

Where a Local Authority is supervising work involving the erection of a building, regulation 16(5) of the Building Regulations requires the applicant to notify the Local Authority at least 5 working days before any occupation prior to completion. In accordance with section 92 of the Building Act 1984, any such notice should be in writing.

Where an approved inspector is engaged and an initial notice including work involving the erection, extension or material alteration of a building to which the Fire Safety Order applies, or will apply after completion of the work, and the building (or relevant part) is occupied and no final certificate has been given, the initial notice will cease to have effect after a grace period of 4 weeks. This grace period is extended to 8 weeks for buildings consisting solely of flats or where the Order does not apply. At the end of the grace period, the building control function will revert to the Local Authority, unless the Local Authority agrees to extend the period.

Where a building is erected or extended, or is subject to a material change of use (as defined in the Building Regulations), and that building will be put to a use where the Fire Safety Order applies, or will apply on completion of building work, the applicant must pass the fire safety information to the Responsible Person before that building is occupied (see Appendix B) and should send confirmation to the BCB when this has been done.

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## 4.7. BUILDING IN USE

Where the Fire Safety Order applies (see 3.1.2, page 5), prior to occupation of the building or part of it the Responsible Person must ensure that they have effective fire safety arrangements in place. This includes the systematic approach to a fire risk assessment and the implementation of the provisions required to address the identified associated hazards and risks.

There is no period of grace for the Responsible Person to have effective fire safety arrangements in place. This includes fire safety arrangements and a suitable and sufficient fire risk assessment which must be recorded if you employ more than 5 people however best practice is these should be recorded in all cases. The documentation must be in place on the first day that the building is occupied.

There may be additional hazards and risks associated with the logistics of moving an organisation into a new building. These need to be addressed by the Responsible Person.

If the designer has used a management or fire engineered solution as part of the design and approvals process, this should form part of the Responsible Person's fire safety arrangements and be evaluated by the fire risk assessment together with any other information provided under Regulation 38.



### APPENDIX A - FIRE SAFETY ORDER, ARTICLE 25 – THE ENFORCING AUTHORITY

The text of the Fire Safety Order, Article 25 in relation to Enforcing Authorities is given below for convenience. Note that this text was correct at the time of publication and subsequent changes could be applied, reference to the current version of the Fire Safety Order should therefore be made by visiting [legislation.gov.uk](http://legislation.gov.uk)

**A.1** For the purposes of the Fire Safety Order, ‘enforcing authority’ means:

- a.** the fire and rescue authority for the area in which premises are, or are to be, situated, in any case not falling within any of sub-paragraphs (b) to (e)
- b.** the Health and Safety Executive in relation to:
  - i.** any premises for which a licence is required in accordance with section 1 of the Nuclear Installations Act 1965 or for which a permit is required in accordance with section 2 of that Act
  - ii.** any premises which would, except for the fact that it is used by, or on behalf of, the Crown, be required to have a licence or permit in accordance with the provisions referred to in sub-paragraph (i)
  - iii.** a ship, including a ship belonging to Her Majesty which forms part of Her Majesty’s Navy, which is in the course of construction, reconstruction or conversion or repair by persons who include persons other than the master and crew of the ship
  - iv.** any workplace which is or is on a construction site within the meaning of regulation 2(1) of the Construction (Health, Safety and Welfare) Regulations 1996 and to which those Regulations apply, other than construction sites referred to in regulation 33 of those Regulations (see 2.28)
- c.** the fire service maintained by the Secretary of State for Defence in relation to:
  - i.** premises, other than premises falling within paragraph (b)(iii), occupied solely for the purposes of the armed forces of the Crown
  - ii.** premises occupied solely by any visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964
  - iii.** premises, other than premises falling within paragraph (b)(iii), which are situated within premises occupied solely for the purposes of the armed forces of the Crown but which are not themselves so occupied
- d.** the relevant Local Authority in relation to premises which consist of:
  - i.** a sports ground designated as requiring a safety certificate under section 1 of the Safety of Sports Grounds Act 1975 (safety certificates for large sports stadia)
  - ii.** a regulated stand within the meaning of section 26(5) of the Fire Safety and Safety of Places of Sport Act 1987 (safety certificates for stands at sports grounds)
- e.** a fire inspector, or any person authorised by the Secretary of State or, in Wales, Welsh Ministers to act for the purposes of this Order, in relation to:
  - i.** premises owned or occupied by the Crown, other than premises falling within paragraph (b)(ii) and (c)
  - ii.** premises in relation to which the United Kingdom Atomic Energy Authority is the Responsible Person, other than premises falling within paragraph (b)(ii).

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### APPENDIX B - ARTICLE 3, THE FIRE SAFETY ORDER - THE RESPONSIBLE PERSON

**B.1** Article 3 of the Fire Safety Order defines ‘Responsible Person’ for the purposes of the Order as:

- a.** in relation to a workplace, the employer, if the workplace is to any extent under his control
- b.** in relation to any other premises:
  - i.** the person who has control of the premises (as occupier or otherwise) in connection with the carrying on by him of a trade, business or other undertaking (for profit or not), or
  - ii.** the owner, where the person in control of the premises does not have control in connection with the carrying on by that person of a trade, business or other undertaking.

**B.2** Article 5(1) places a duty on employers to ensure that the requirements of the Order and any regulations made under it are complied with in respect of their premises. This responsibility reflects the employer’s responsibility under European Community law to ensure the safety of his employees. Article 5(2) imposes a similar duty on the Responsible Person in relation to non-workplaces. In such cases, the Responsible Person is under a duty to ensure that the requirements of the Order and any regulations made under it are complied with in respect of the premises, so far as they concern matters within the Responsible Person’s control.



**B.3** Article 5(3) also imposes a similar duty on any person other than the Responsible Person who has to any extent control of the premises (the duty extending only so far as the extent of control). This could, for example, apply to a contractor who is responsible for maintaining a fire alarm system or for the supply, fitting and maintenance of any passive fire protection.

### FIRE SAFETY INFORMATION

**B.4** Where regulation 38 of the Building Regulations applies, the applicant is required to provide 'as built' fire safety information to the Responsible Person. In many cases, at the time of occupation or completion, whichever occurs earlier, the identity of the Responsible Person will be clear. However, there will be some cases where there may be more than one person with responsibility for the premises in question; in other cases, the identity of the Responsible Person once the premises become occupied for the first time may not yet be known. In such situations, the following guidance may be of assistance.

For some premises there may be more than one person who will have control of the premises and it may not always be possible clearly to identify every person to whom the information should be given. The applicant should endeavour wherever possible to pass the information on to the person most likely to benefit from and be able to act upon the information provided.

Article 22 of the Fire Safety Order requires that where two or more Responsible Persons share, or have duties in respect of, the same premises they must co-operate with each other. This could include sharing any relevant information they may have been provided with in accordance with regulation 38 of the Building Regulations. For example:

- a.** In the case of work to an individual retail unit in a shopping centre it may be more appropriate to provide the information to the operator of that unit, while information relating to works carried out in the common parts of the centre should be provided to the centre management. However, in both cases the respective Responsible Persons would be expected to communicate any relevant information that may affect the other.
- b.** In situations where the person who will have control of the premises when it is first occupied is not known at the time of completion, the relevant information should be provided to whoever has control of the premises at that time. The information can then be passed on to the appropriate person once they become known.

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### APPENDIX C - DETERMINATION – THE FIRE SAFETY ORDER

Official guidance can be found here <https://www.gov.uk/guidance/determinations-under-the-fire-safety-order>

**C.1** If the Responsible Person, being under an obligation to do so, has failed to comply with any provision of the Fire Safety Order and they cannot agree with the fire safety enforcing authority on the measures that are necessary to remedy the failure, article 36 of the Order provides for a determination by the Secretary of State or, in Wales Welsh Ministers.

**C.2** Article 36 may only be used to determine a dispute where the fire safety enforcing authority and the Responsible Person both agree that a failure to comply has occurred and agree to refer the question to the Secretary of State or, in Wales, to the Welsh Ministers.

**C.3** The application for a determination must clearly set out the provisions of the Order in issue, the steps taken by the Responsible Person to comply with the provision, the extent to which those steps fail to meet the provision and the measures proposed by both parties to remedy the failure to meet the provision. The application must also provide the following information:

- a.** the names and addresses of the enforcing authority and the Responsible Person and the address of the premises in question (if different from that of the Responsible Person)
- b.** a copy of all relevant correspondence between the parties, and
- c.** a copy of any other documentation supporting the measures proposed to meet the provision in question, including the relevant guide to accompany the Order or any other applicable guidance.

**C.4** The Secretary of State or, in Wales, Welsh Ministers may require by notice further information from either party. This should be provided within the period specified in the notice and copied to the other party.

**C.5** Once the decision has been issued, the Secretary of State or, in Wales, Welsh Ministers has no further jurisdiction. The fire safety enforcing authority, however, may not take any enforcement action if the effect of the action would be to conflict with the Secretary of State's or, in Wales, Welsh Ministers determination.

## APPENDIX D - DETERMINATION – BUILDING REGULATIONS

**D.1** If the applicant and a building control body disagree about whether plans of proposed work are in conformity with the Building Regulations, the applicant can seek a determination of the question from the Secretary of State or, in Wales, from Welsh Ministers under either section 16(10) (local authorities) or section 50(2) (approved inspectors) of the Building Act 1984.

**D.2** An application for a determination should be sent to the Department for Communities and Local Government or, in Wales, to the Welsh Assembly Government, who will charge a fee of half the relevant plans charge subject to a minimum of £100 and maximum of £1000.

**D.3** The applicant should explain why they consider the proposal does comply, accompanying the statement of case with relevant drawings and a copy of any rejection notice.

**D.4** Guide to Determinations and Appeals under the Building Act 1984 can be found at

For England:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/5978/1877971.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/5978/1877971.pdf).

For Wales:

<https://gov.wales/sites/default/files/publications/2019-07/guide-to-determinations-and-appeals-under-the-building-act-1984.pdf>

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## APPENDIX E - DISPENSATION – STATUTORY CONSULTATION

**E.1** The Local Authority is obliged by section 15 of the Building Act 1984 to consult the fire safety enforcing authority before relaxing or dispensing with a requirement of the Building Regulations that relates to:

- a. structural fire precautions
- b. the provision of means of escape from buildings in case of fire
- c. the provision of means for securing that such means of escape can be safely and effectively used at all material times

**E.2** The Local Authority should also consult with the fire safety enforcing authority where it intends to relax or dispense with requirement B5 (access and facilities for the fire service).

**E.3** The consultation should follow the form described in section 2, with the fire safety enforcing authority responding in writing.

**Note** Approved inspectors do not have the power to dispense with any requirements of the Building Regulations.

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## APPENDIX F - FIRE AND RESCUE SERVICES ACT 2004

**F.1** Section 6(2)(b) of this Act has particular relevance to this guide. It requires every fire and rescue authority to secure efficient arrangements for giving, when requested, advice in respect of buildings in the area of the fire and rescue authority as to:

- a. fire prevention
- b. restricting the spread of fire
- c. means of escape in case of fire

**F.2** During the consultation process a fire safety enforcing authority may offer goodwill advice to applicants that is not enforceable under legislation. It is important that this advice is clearly differentiated from advice relating to statutory requirements and that the benefits of adopting the advice are clearly explained.

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## APPENDIX G - THE FIRE SAFETY ORDER, ARTICLE 29 - ALTERATIONS NOTICES

**G.1** An alterations notice under article 29 of the Fire Safety Order (see 2.25) may be served by the fire safety enforcing authority in relation to high-risk premises (or premises which would be high risk if any change is made to them). It alerts the fire safety enforcing authority to any potential problems and allows an intervention before changes are made which significantly increase the risk.

**G.2** Article 35 provides for an appeal to a magistrates' court against the service of an alterations notice. On an appeal, the court may either cancel or affirm the notice (and in affirming it may do so either in its original form or with modifications). There is a further appeal from the magistrates' court to the Crown Court.

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**G.3** Where an alterations notice has been served in respect of premises, the Responsible Person must, before making any of the changes specified in paragraph G.4 which may result in a significant increase in risk, notify the fire safety enforcing authority of the proposed changes.

**G.4** The changes referred to in paragraph G.3 are:

- a. a change to the premises
- b. a change to the services, fittings or equipment in or on the premises
- c. an increase in the quantities of dangerous substances which are present in or on the premises
- d. a change to the use of the premises

**G.5** An alterations notice may include a requirement that, in addition to the notification required by paragraph G.3, the Responsible Person must:

- a. take all reasonable steps to notify the terms of the notice to any other person who has duties under article 5(3) in respect of the premises
- b. record the information prescribed in article 9(7), in accordance with article 9(6)
- c. record the arrangements required by article 11(1), in accordance with article 11(2), and
- d. before making the changes referred to in paragraph G.3, send the fire safety enforcing authority the following:
  - i. a copy of the risk assessment, and
  - ii. a summary of the changes he proposes to make to the existing general fire precautions.

**G.6** An alterations notice may be withdrawn at any time and the notice is deemed to be in force until such time as it is withdrawn or cancelled by the court under article 35(2).

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## APPENDIX H - OTHER RELATED LEGISLATION

Premises where other legislation requires notice to or consultation with the fire safety enforcing authority:

### H.1 Animal establishments

Pet Animals Act 1951

Animal Boarding Establishments Act 1963

Riding Establishments Act 1964 (as amended)

Breeding of Dogs Act 1973

Zoo Licensing Act 1981

These premises are controlled by a licensing system operated by local authorities and, in any decision to grant a licence, the licensing authority is obliged to have regard to the protection of animals in case of fire or in an emergency.

### H.2 - Local Acts

Many local acts exist which require consultation with the fire and rescue authority in respect of facilities and access for the fire service. Local Acts are generally available at [legislation.gov.uk](http://legislation.gov.uk) but may not be maintained with all amendments by The National Archives; therefore, the BCB or the FSEA should be consulted to advise on sections of Local Acts that may contain relevant additional consultation requirements.

**APPENDIX J - FIRE & RESCUE SERVICE CONSULTATION PROFORMA**

1.0 Project Details		
<b>Date of Consultation</b>		
<b>Consultation Stage</b> (Note: if additional or design change please quote original FRS reference)	<u>Preliminary Design Advice</u>	<u>Statutory Consultation (first)</u>
	<u>Statutory Consultation (additional information)</u>	<u>Statutory Consultation (design change)</u>
<b>Site Address</b>		
<b>Scope of Works</b>		
<b>BCB Project Reference</b>		
<b>Building Control Body</b> (Name/Address/Phone/Email)		
<b>Fire Authority</b> (Name & Address)		
<b>Applicant/Owner</b> (Name/Address/Phone/Email)		
<b>Principal Designer</b> (Name/Address/Phone/Email)		

2.0 Project Information				
<b>Nature of Building Work</b>	New Build	Extension	Alteration	Change of Use
<b>Purpose Group / Risk Profile</b> (state all as detailed in standard designed to)				
<b>Approx. floor area (m<sup>2</sup>)</b> (Diagram D3 – ADB 2019 England)		<b>Height to top storey (m)</b> (Diagram D6 – ADB 2019 England, Diagram C6 - ADB Wales)		
<b>Total no. of storeys</b> (Diagram D5 – ADB 2019 England, Diagram C5 - ADB Wales)		<b>No. of basement storeys</b> (Diagram D5 – ADB 2019 in England, Diagram C5 - ADB Wales)		
<b>Total proposed no. of occupants</b>				
<b>Fire resistance of elements of structure (please indicate all minimum levels):</b>				
<b>Scheme Complexity</b> (see definitions in appendix)	Simple premises		Complex premises	
	Fire engineered premises		New premises in scope e.g. HRRB	
	Specialist/other (please give details):			

<p><b>Structural Frame Design &amp; Fire Resistance:</b>                  (Note: information required to inform potential complexity, innovation, deviation from traditional e.g. timber frame with extensive voids and plasterboard as FR protection method).</p>	Combustibility		
	Combustible		Non-combustible
	Please give details:		
	Fire Resistance (FR)		
	Inherent FR		Proposed protection method (if non-inherent)
	Please give details:		
	Creation of Voids		
Minimal (Monolithic)		Extensive voids/cavities	
Please give details:			
<p><b>Passive fire protection</b>                  (please provide details)</p>			
<p><b>Is the premises façade/part of the façade to be clad?</b></p>	Yes		No
	If yes, please give specification/details and in particular does Regulation 7(2) apply to any part of the proposal?		
<p><b>Does Regulation 7(2) apply to any part of the proposal?</b></p>	Yes all	Yes partial	no

<b>3.0 Fire Suppression, Smoke Control, Fire Detection &amp; other fire safety systems</b>				
<b>Is a Fire Suppression System proposed?</b>	Yes (full coverage)	Yes (partial)	No	
If yes, provide general commentary and any areas of code deviation:				
<b>Type of Installation:</b>	Sprinkler	Watermist	Gas	Other
Details of 'other' installation (where applicable) and standard installed to:				
<b>Is Automatic Fire Detection proposed?</b>	Yes		No	
If yes, provide commentary/specification and any areas of code deviation:				
<b>Details of smoke control provision:</b> (Please specify)				
<b>Is emergency escape lighting proposed?</b>	Yes		No	
If yes, provide commentary/specification and any areas of code deviation:				



**4.0 Evacuation Strategy**

Please indicate the proposed evacuation strategy:

Simultaneous	Phased	Staged	Stay Put	Progressive Horizontal
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Please provide commentary/detail if required:

**5.0 Access and Facilities for Firefighting**

<b>Are access &amp; facilities provided in accordance with B5 statutory guidance?</b>	Yes	No
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If no, provide detail on how the functional requirement B5 will be met:

<b>Is water provision in accordance with B5 statutory guidance?</b>	Yes	No
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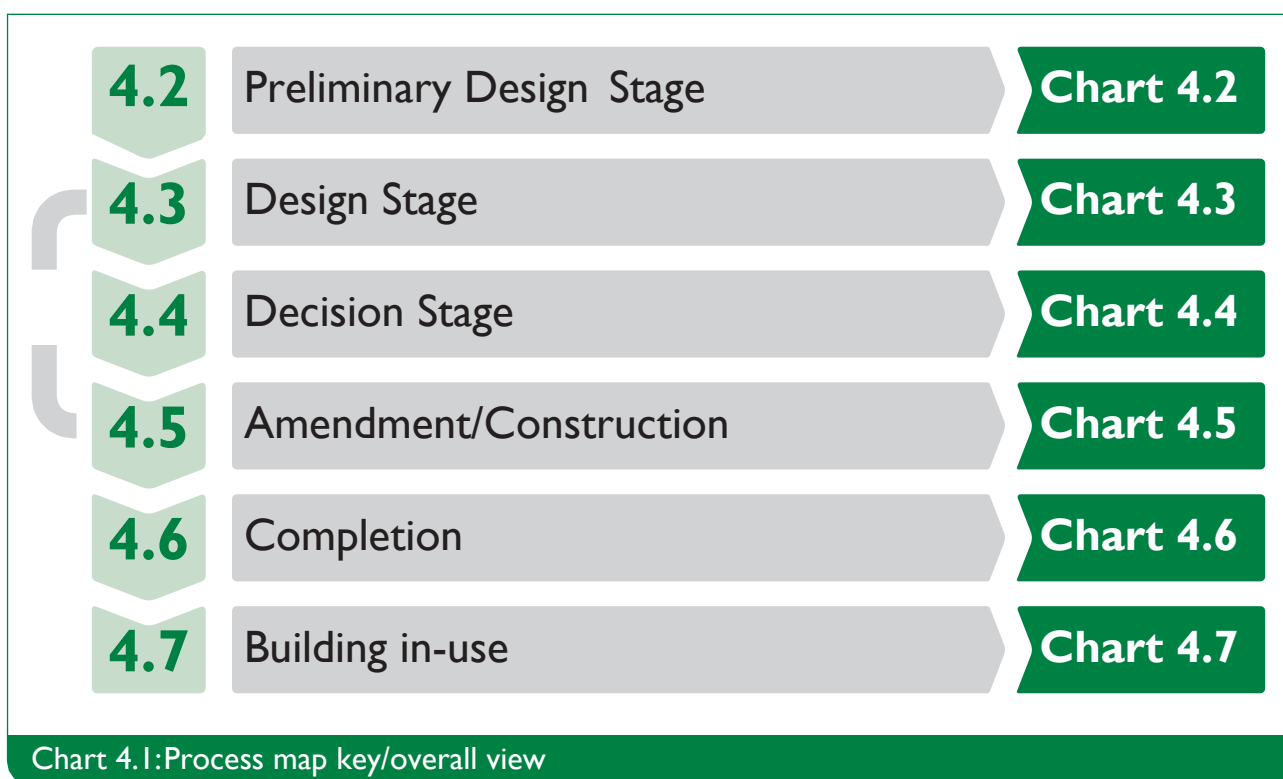
If no, provide detail on how the functional requirement B5 will be met:

6.0 Building Control Body Assessment		
<b>Principal fire safety design documents used in the assessment</b> (If 'other' then please specify):	ADB V1	
	ADB V2	
	BS9999	
	BS9991	
	BS/PD 7974	
	BB100	
	HTM	
	Other	
<b>Is there any deviation or design proposal not covered in the indicated documents above?</b>	Yes	No
	If yes provide details:	
<b>Has a performance based (fire engineered) solution been adopted?</b>	Yes	No
	If yes, please confirm the BCB have verified:	
<b>Has a quantitative analysis (e.g. CFD Modelling, structural fire engineering) enclosed with this consultation already been reviewed by the BCB or their nominated consultant, and if so by whom?</b>	Yes	No
	If no provide details (if yes see below):	
If 'Yes', please provide reviewer's comments of the quantitative analysis, together with evidence of competency and any other comments:		
<b>Are there any features considered as 'compensatory' in this submission e.g. to allow a relaxation in another area?</b>	Yes	No
	If 'yes', please provide further detail:	

7.0 Comments from the Building Control Body		
<b>The BCB confirms that the details submitted have been reviewed in accordance with the Building Regulations and can confirm that:</b>	The submission is considered satisfactory	The submission is considered satisfactory subject to additional information as noted below:
Additional Comments:		

8.0 List of Supplied Information incl. document and drawing schedule		
Supplied information: E.g.: Fire Strategy		
Title	Reference	Version
Drawing Schedule:		
Title	Reference	Version

**APPENDIX K – DIAGRAMMATICAL REPRESENTATION OF CONSULTATION PROCEDURES**



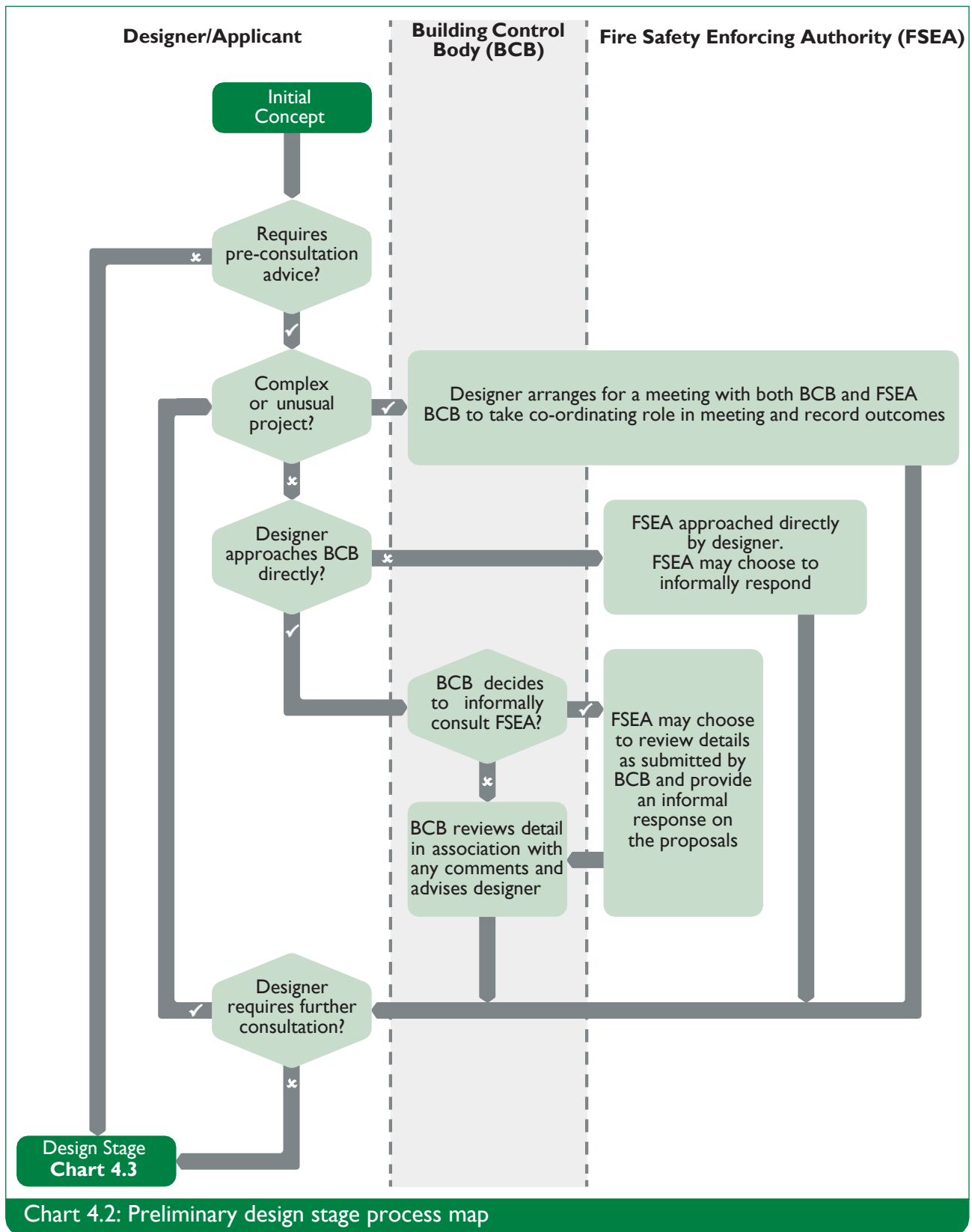
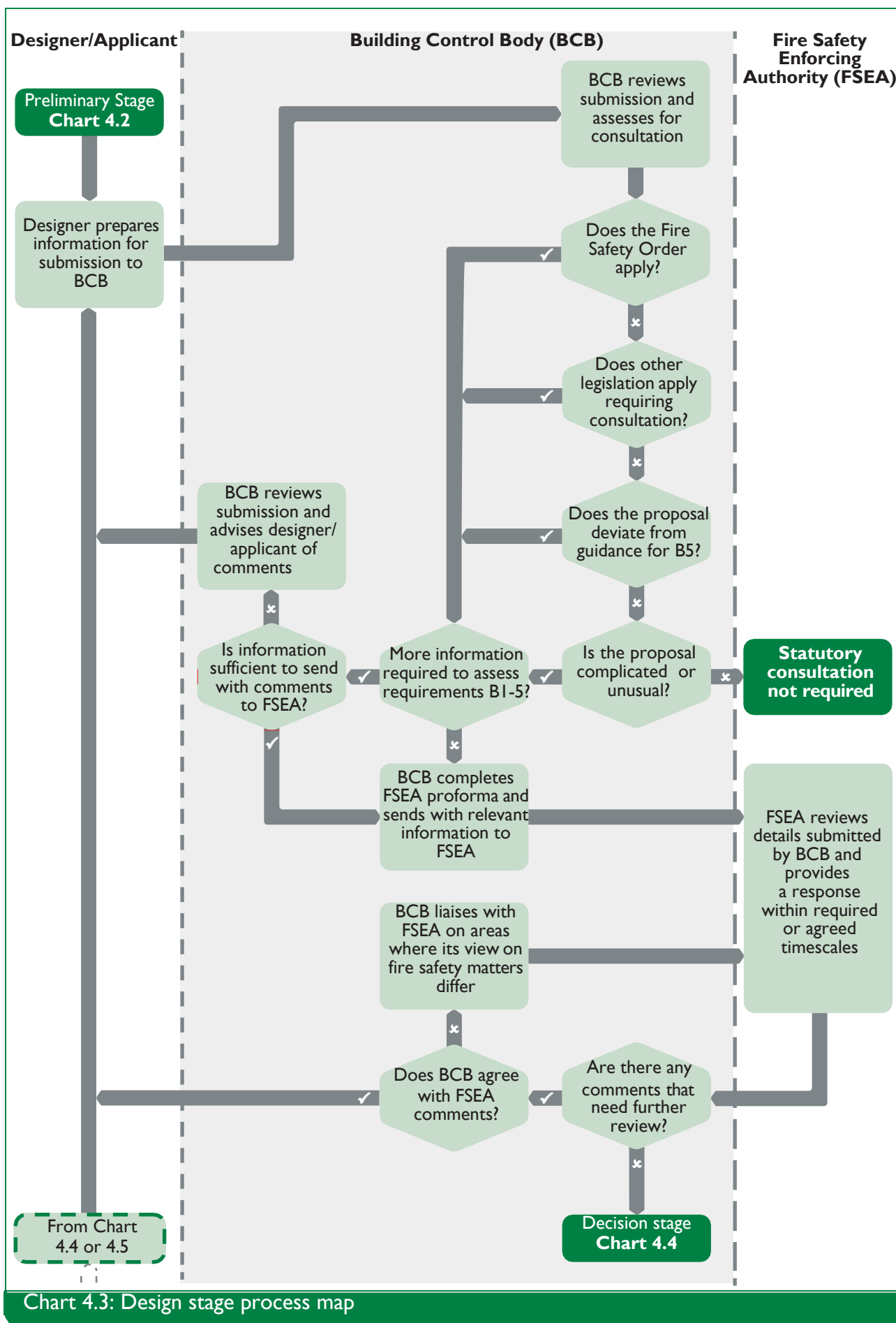


Chart 4.2: Preliminary design stage process map



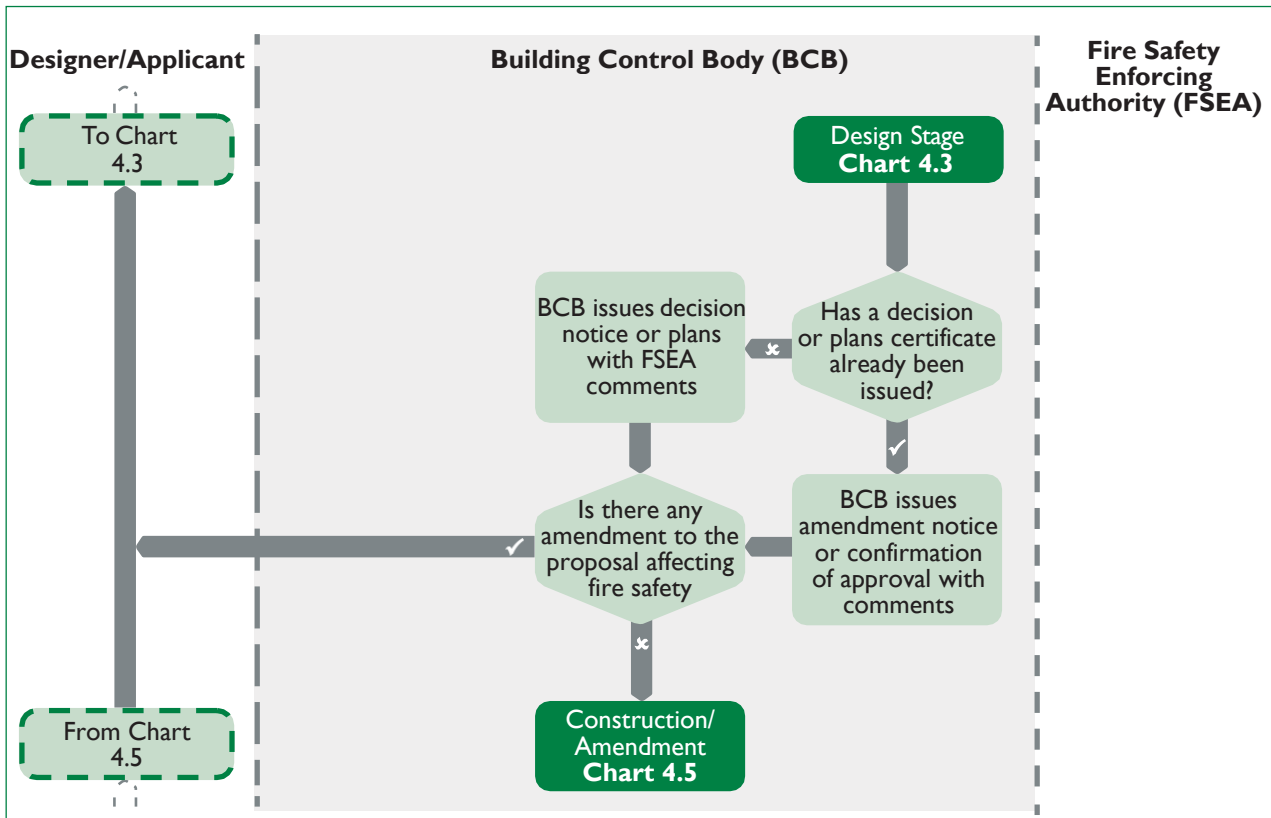


Chart 4.4: Decision Stage Process Map

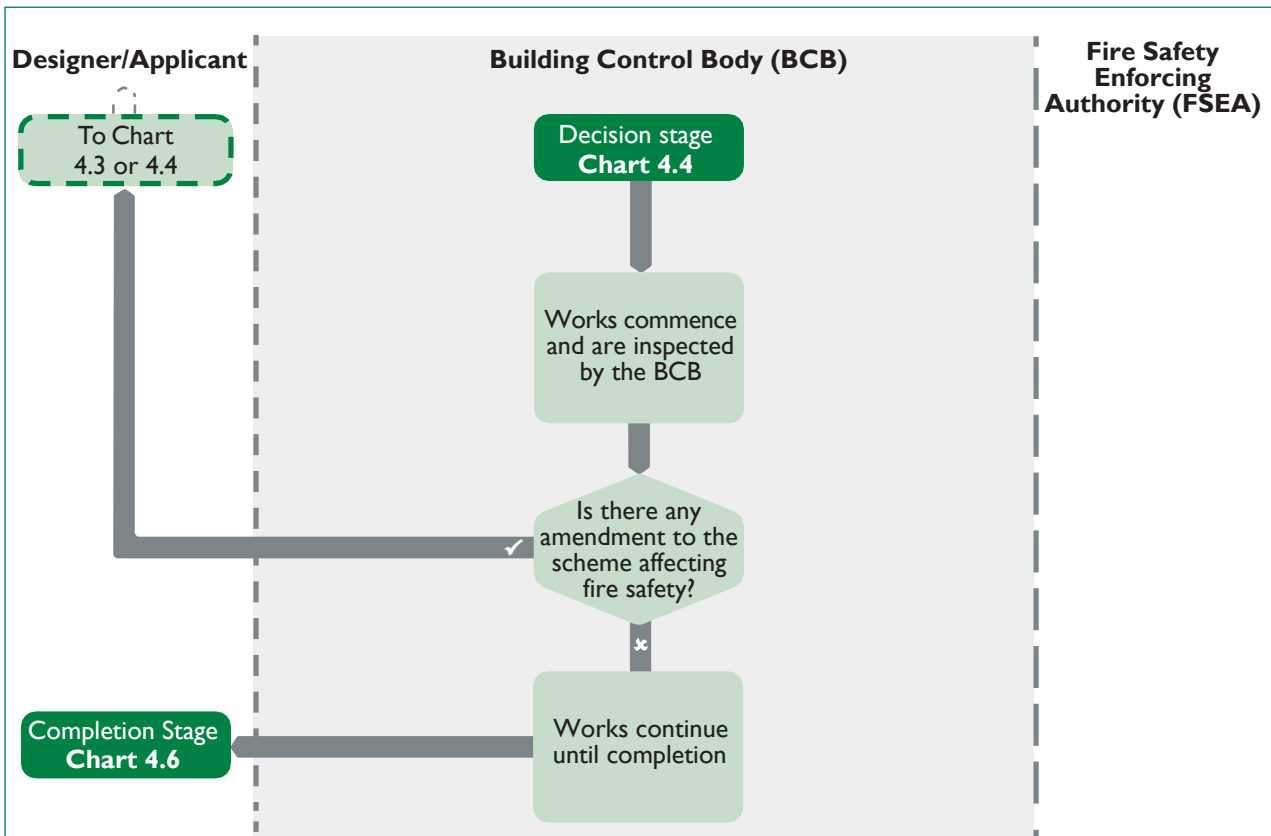


Chart 4.5: Construction/Amendment Stage Process Map



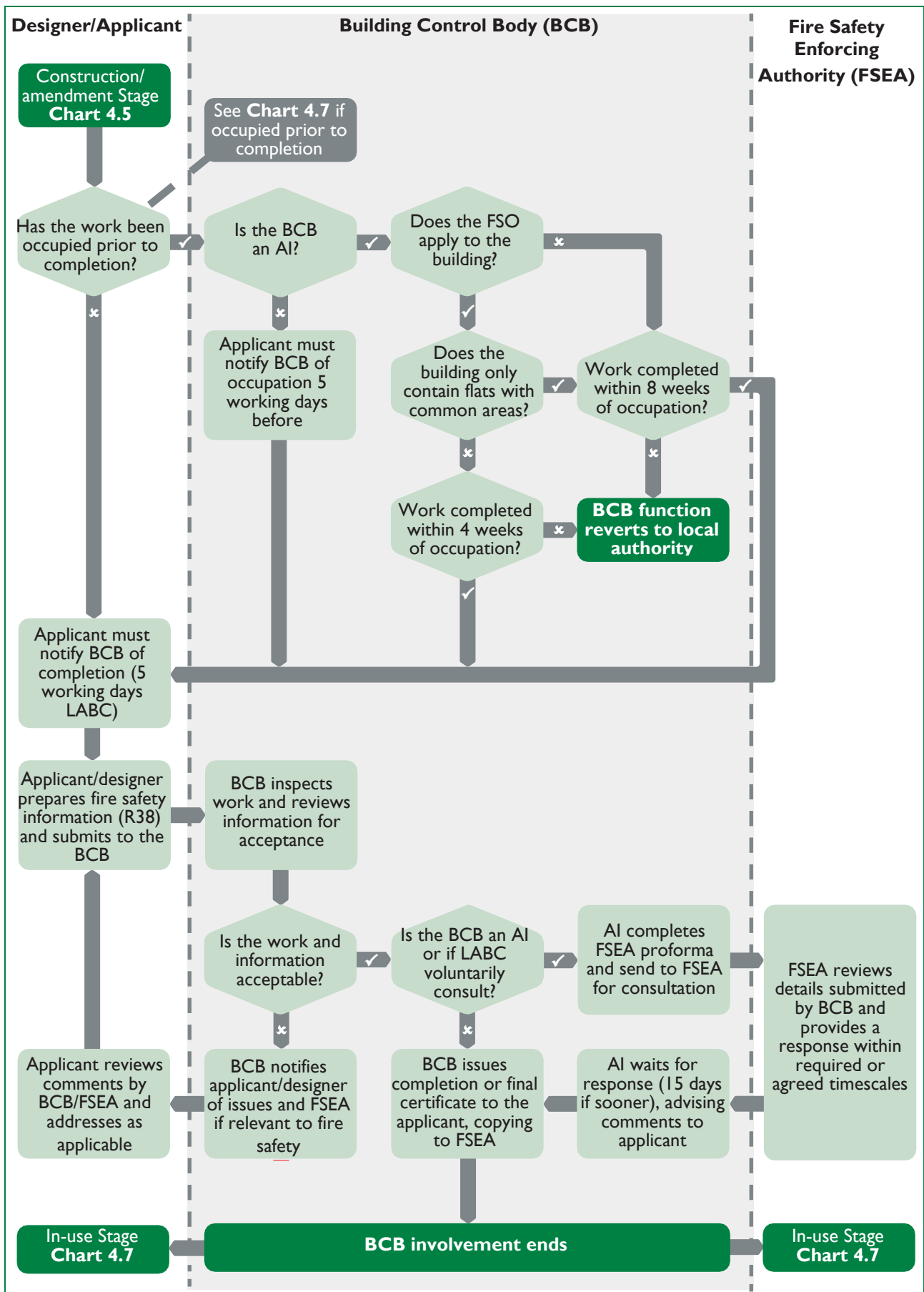


Chart 4.6: Completion stage process map

