

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

**FOR**

**Tonbridge & Malling Borough Council**

TO BE READ IN CONJUNCTION WITH  
THE BUILDING [LOCAL AUTHORITY CHARGES] REGULATIONS 2010

Date this Scheme comes into effect: 03 January 2012



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# SCHEME FOR THE RECOVERY OF BUILDING REGULATION CHARGES

## ***Definitions***

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

### **building**

any permanent or temporary building but not any other kind of structure or erection, and a reference to a building includes a reference to part of a building.

### **building notice**

a notice given in accordance with regulations 12(2) and 13 of the Building Regulations 2010 (as amended).

### **building work**

means:

- (a) the erection or extension of a building;
- (b) the provision or extension of a controlled service or fitting in or in connection with a building;
- (c) the material alteration of a building, or a controlled service or fitting;
- (d) work required by building regulation 6 (requirements relating to material change of use);
- (e) the insertion of insulating material into the cavity wall of a building;
- (f) work involving the underpinning of a building;
- (g) work required by building regulation 23 (requirements relating to thermal elements);
- (h) work required by building regulation 22 (requirements relating to a change of energy status);
- (i) work required by building regulation 28 (consequential improvements to energy performance);

### **chargeable function**

a function relating to the following: –

- a) the passing or rejection of plans of proposed building work which has been deposited with Tonbridge & Malling Borough Council in accordance with section 16 of the Building Act 1984 (as amended);
- b) the inspection of building work for which plans have been deposited with Tonbridge & Malling Borough Council in accordance with the Building Regulation 2010 (as amended) and with section 16 of the Building Act 1984 (as amended);
- c) the consideration of a building notice which has been given to Tonbridge & Malling Borough Council in accordance with the Building Regulations 2010

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

**cost**

does not include any professional fees paid to an architect, quantity surveyor or any other person.

**a dwelling**

includes a dwelling-house and a flat.

**a dwelling-house**

does not include a flat or a building containing a flat.

**estimated cost of the building work**

Means an 'estimate' that is such reasonable amount as would be charged by a person in business to carry out such building work (excluding the amount of any value added tax chargeable).

**a flat**

means a separate and self-contained premises constructed or adapted for use for residential purposes and forming part of a building from some other part of which it is divided horizontally.

**floor area of a building or extension**

the total floor area of all the storeys which comprise that building. It is calculated by reference to the finished internal faces of the walls enclosing the area, or, if at any point there is no enclosing wall, by reference to the outermost edge of the floor.

**relevant person**

means:

- i. in relation to a plan charge, inspection charge, reversion charge or building notice charge, the person who carries out the building work, or on whose behalf the building work is carried out;
- ii. in relation to a regularisation charge, the owner of the building; and
- iii. in relation to chargeable advice, any person requesting advice for which a charge may be made pursuant to the definition of 'chargeable advice'

## ***Principles of this Scheme***

The set charges, or method of establishing the charge, have been established in this scheme for the functions prescribed in the Building (Local Authority Charges) Regulations 2010 (referred to as the chargeable functions), namely:

### **Types of Charge**

- 1) **A plan charge,**  
payable when plans of the building work are deposited with the Tonbridge & Malling Borough Council.
- 2) **An inspection charge,**  
payable on demand after Tonbridge & Malling Borough Council carry out the first inspection in respect of which the charge is payable.
- 3) **A building notice charge,**  
payable when the building notice is given to Tonbridge & Malling Borough Council.
- 4) **A reversion charge,**  
payable for building work in relation to a building: -
  - a. Which has been substantially completed before plans are first deposited with Tonbridge & Malling Borough Council in accordance with Regulation 19 of the Approved Inspectors Regulations, or
  - b. In respect of which plans for further building work have been deposited with Tonbridge & Malling Borough Council in accordance with the Regulation 19 of the Approved Inspectors Regulations, on the first occasion on which those plans are or have been deposited.
- 5) **A regularisation charge,**  
payable at the time of the application to Tonbridge & Malling Borough Council in accordance with Regulation 18 of the Building Regulations.
- 6) **Chargeable advice,**  
a charge for giving advice in anticipation of the future exercise of their chargeable functions (ie before an application or notice is received for a particular case), which is payable after the first hour of advice, on demand after Tonbridge & Malling Borough Council has given notice required by Regulation 7(7) of the Building (Local Authority) Charges Regulations 2010 (ie the charge has been confirmed in writing following an individual determination). This charge can be discounted from a subsequent application or notice received for the work in question.

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

Any charge which is payable to Tonbridge & Malling Borough Council may, in a particular case, and with the agreement of Tonbridge & Malling Borough Council, be paid by installments of such amounts payable on such dates as may be specified by Tonbridge & Malling Borough Council. If the applicant and Tonbridge & Malling Borough Council are agreeable, an inspection charge can be fully or partly paid up front with the plans charge.

## **Calculation of Charges**

The charge for providing a chargeable function or chargeable advice is based on the principle of achieving full cost recovery. The charges will be calculated by using Tonbridge & Malling Borough Council officers' average hourly rate stated in the charging scheme, multiplied by the time taken to carry out the functions/advice, taking the following factors into account, as applicable, in estimating the time required by officers to carry out the function/advice:

1. The existing use of a building, or the proposed use of the building after completion of the building work;
2. The different kinds of building work described in regulation 3(1)(a) to (i) of the Building Regulations;
3. The floor area of the building or extension;
4. The nature of the design of the building work and whether innovative or high risk construction techniques are to be used;
5. The estimated duration of the building work and the anticipated number of inspections to be carried out;
6. The estimated cost of the building work;
7. Whether a person who intends to carry out part of the building work is a person mentioned in regulation 12(6) or 43 of the Building Regulations (i.e. related to competent person/self certification schemes);
8. Whether in respect of the building work a notification will be made in accordance with regulation 41 of the Building Regulations (i.e. where design details approved by Robust Details Ltd have been used);
9. Whether an application or building notice is in respect of two or more buildings or building works all of which are substantially the same as each other;
10. Whether an application or building notice is in respect of building work, which is substantially the same as building work in respect of which plans have previously been deposited or building works inspected by the same local authority;
11. Whether chargeable advice has been given which is likely to result in less time being taken by a local authority to perform that function;

12. Whether it is necessary to engage and incur the costs of a consultant to provide specialist advice in relation to a particular aspect of the building work.

### **Principles of the scheme in respect of the erection of domestic buildings, garages, carports and extensions**

Where the charge relates to an erection of a dwelling the charge includes for the provision of a detached or attached domestic garage or carport providing it is constructed at the same time as the dwelling.

Where any building work comprises or includes the erection of more than one extension to a building, the total floor areas of all such extensions shall be aggregated to determine the relevant charge payable, providing that the building work for all aggregated extensions is carried out at the same time.

### **Exemption from charges**

Tonbridge & Malling Borough Council has not fixed by means of its scheme, nor intends to recover a charge in relation to an existing dwelling that is, or is to be, occupied by a disabled person as a permanent residence; and where the whole of the building work in question is solely-

- for the purpose of providing means of access for the disabled person by way of entrance or exit to or from the dwelling or any part of it, or
- for the purpose of providing accommodation or facilities designed to secure the greater health, safety, welfare or convenience of the disabled person.

Tonbridge & Malling Borough Council has not fixed by means of its scheme, nor intends to recover a charge for the purpose of providing accommodation or facilities designed to secure the greater health, safety, welfare or convenience of a disabled person in relation to an existing dwelling, which is, or is to be, occupied by that disabled person as a permanent residence where such work consists of-

- the adaptation or extension of existing accommodation or an existing facility or the provision of alternative accommodation or an alternative facility where the existing accommodation or facility could not be used by the disabled person or could be used by the disabled person only with assistance; or
- the provision of extension of a room which is or will be used solely:-
  - for the carrying out for the benefit of the disabled person of medical treatment which cannot reasonably be carried out in any other room in the dwelling, or
  - for the storage of medical equipment for the use of the

- disabled person, or
- o to provide sleeping accommodation for a carer where the disabled person requires 24-hour care.

Tonbridge & Malling Borough Council has not fixed by means of its scheme, nor intends to recover a charge in relation to an existing building to which members of the public are admitted (whether on payment or otherwise); and where the whole of the building work in question is solely:-

- for the purpose of providing means of access for disabled persons by way of entrance or exit to or from the building or any part of it; or
- for the provision of facilities designed to secure the greater health, safety, welfare or disabled persons.

Note: 'disabled person' means a person who is within any of the descriptions of persons to whom Section 29(1) of the National Assistance Act 1948, as extended by virtue of Section 8(2) of the Mental Health Act 1959, applied but disregarding the amendments made by paragraph 11 of Schedule 13 to the Children Act 1989. The words in section 8(2) of the Mental Health Act 1959 which extend the meaning of disabled person in section 29(1) of the National Assistance Act 1948, are prospectively repealed by the National Health Service and Community Care Act 1990, section 66(2), Schedule 10, as from a day to be appointed

### **Information required to determine charges**

If Tonbridge & Malling Borough Council requires additional information to enable it to determine the correct charge it can request the information under the provisions of regulation 9 of The Building (Local Authority Charges) Regulation 2010.

The standard information required for all applications is detailed on Tonbridge & Malling Borough Council's Building Regulation application forms. This includes details of the existing and proposed use of the building and a description of the building work.

The following additional information may also be required:

- The floor area of the building or extension.
- The estimated duration of the building work .
- The use of competent persons or Robust Details Ltd.
- Any accreditations held by the builder or other member of the design team.
- The nature of the design of the building work and whether innovative or high-risk construction is to be used.
- The estimated cost of the building work. If this is used as one of the factors in establishing a charge, see Definition on page 3.



## Establishing the Charge

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

If the building work being undertaken is not listed as a standard charge it will be individually determined in accordance with the principles and relevant factors contained within The Building (Local Authority Charges) Regulation 2010. If Tonbridge & Malling Borough Council considers it necessary to engage and incur the costs of a consultant to provide specialist advice or services in relation to a particular aspect of building work, those costs shall also be included in setting the charge.

When the charge is individually determined Tonbridge & Malling Borough Council shall calculate the charge in the same way a standard charge was set by using the average hourly rate of officers' time, multiplied by the estimated time taken to carry out their building regulation functions in relation to that particular piece of building work and taking into account the applicable factors listed in regulation 7(5) of the charges regulations.

Individually determined charges will be confirmed in writing specifying the amount of the charge and the factors that have been taken into account in determining the charge.

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

- The work consists of the erection or conversion of more than 5 dwellings, or,
- The work consists of the erection or conversion of dwellings where the floor area of each dwelling exceeds 300m<sup>2</sup> or,
- The work consists of a domestic garage with a floor area over 60m<sup>2</sup>, or,
- The building work is in relation to more than one building, or,
- The work consisting of alterations to a domestic building where the estimated cost exceeds £50,000, or,
- The work consists of a non-domestic extension or new build, or,
- Any other work to a non-domestic building when the estimated cost of work exceeds £50,000, or,
- Where more than one standard charge applies to the building work and, with the agreement of the relevant person, the authority will establish the charge by individually determining the charge, or,
- A reversion charge.

## **Other matters relating to calculation of charges**

In calculating these charges, refunds or supplementary charges, an officer hourly rate of £59.20 has been used.

Any charge payable to Tonbridge & Malling Borough Council shall be paid with an amount equal to any Value Added Tax payable in respect of that charge.

Charges are not payable for the first hour when calculating an advice charge

Tonbridge & Malling Borough Council accepts payment by instalment in respect of all building work where the total charge exceeds £3000. The authority on request will specify the amounts payable and dates on which installments are to be paid.

## **Reductions**

Reduced charges are shown in the tables of standard charges and reduced charges will also be made in relation to individually assessed charges when work, or the relevant part of the work, has been, or intends to be carried out by a person mentioned in regulation 12(6) or 43 of the Principal Regulations in respect of that part of the work, (*i.e. competent person/self-certification schemes or other defined non-notifiable work*).

Any reduced charges that will be made in relation to individually assessed charges when a notification is made in accordance with regulation 41 of the Principal Regulations, (*ie where, for the purpose of achieving compliance with Requirement E1 of the Principal Regulations, design details approved by Robust Details Limited have been used*) are shown in the tables of standard charges and will also be considered in calculating individually determined charges.

Tonbridge & Malling Borough Council shall make a reduction in a standard or individually determined charge when chargeable advice has been given before receipt of an application or notice for proposed building work, which is likely to result in less time being taken by the local authority to perform the chargeable function for that work.

When it is intended to carry out additional building work charged under Table 3 of the scheme, at the same time as building work charged under Table 2, the lesser charges shall be reduced by 30%.

Where in accordance with Regulation 7(5)(i) of the Charges regulations one application or building notice is in respect of two or more buildings or building works all of which are substantially the same as each other a reduction in the standard charge may be made.

Where in accordance with Regulation 7(5)(j) of the Charges regulations an application or building notice is in respect of building work which is substantially the

same as building work in respect of which plans have previously been deposited or building works inspected by the same local authority, a reduction in the charge may be made.

## **Refunds and supplementary charges**

If the basis on which the charge has been set or determined changes, the LA will refund or request a supplementary charge and provide a written statement setting out the basis of the refund/supplementary charge and also state how this has been calculated. In the calculation of refunds/supplementary charges no account shall be taken of the first hour of an officer's time.

## **Non-Payment of a Charge**

Your attention is drawn to Regulation 8(2) of the Building (Local Authority Charges) Regulations 2010, which explains that plans are not treated as being deposited for the purposes of Section 16 of the Building Act or building notices given unless Tonbridge & Malling Borough Council has received the correct charge. In other words, relevant timescales do not start until the agreed payment has been made. The debt recovery team of the authority will also pursue any non-payment of a charge.

## **Complaints about Charges**

If you have a complaint about the level of charges you should initially raise your concern with the relevant officer. Tonbridge & Malling Borough Council has a comprehensive complaint handling process. If your complaint is not satisfactorily responded to by the officer concerned, details of how to resolve your complaint is available on request and can be viewed on Tonbridge & Malling Borough Council's web site:[www.tmbc.gov.uk](http://www.tmbc.gov.uk)

## **Transitional Provisions**

Tonbridge & Malling Borough Council's scheme for the recovery of charges dated **1st April 2009** continues to apply in relation to building work for which plans were first deposited, a building notice given, a reversion charge becoming payable, or a regularisation application is made, between **1<sup>st</sup> April 2009** and **30<sup>th</sup> September 2010** (inclusive).

Tonbridge & Malling Borough Council's scheme for the recovery of charges dated **1st October 2010** continues to apply in relation to building work in the following circumstances:

- Where plans were first deposited; or
- a building notice was given; or

- a reversion charge became payable; or
- a regularisation application was made,

between **1<sup>st</sup> October 2010** and **02 January 2012** (inclusive).

## **Standard charges**

These include works of drainage in connection with the erection or extension of a building or buildings, even where those works are commenced in advance of the plans for the building(s) being deposited.

These standard charges have been set by the Tonbridge & Malling Borough Council on the basis that the building work does not consist of, or include, innovative or high risk construction techniques (details available from the authority) and/or the duration of the building work from commencement to completion does not exceed 12 months.

The charges have also been set on the basis that the design and building work is undertaken by a person or company that is competent to carry out the design and building work referred to in the standard charges tables, that they are undertaking. If not, the work may incur supplementary charges.

If chargeable advice has been given in respect of any of the work detailed in these tables and this is likely to result in less time being taken by the authority then a reduction to the standard charge will be made.

## **Plan and Inspection Charges**

The plan charge and inspection charge are listed in the following tables.

## **Building Notice Charge**

Where building work is of a relatively minor nature the Building Notice charge is the same as the total plan and inspection charge. In relation to more complex work the time to carry out the building regulation function is higher and the resultant additional costs of using the Building Notice procedure results in additional work being necessary the Building Notice charge may be increased by 20% above the standard charge.

## **Reversion Charge**

These charges will be individually determined.

## **Regularisation Charge**

The charge calculated at 150% of the Full Plans charge and is listed in the tables.