



27 June 2019
RECORDED DELIVERY

Dr Vija Pratley
Wryneck Mill
Hundred Foot Bank
Welney
Cambs
PE14 9TW

Dear Dr Pratley,

COMPLAINT DECISION

I write to you in relation to the complaint accepted by the Construction Industry Council Approved Inspectors Register (CICAIR) on 8 February 2019 against Assent Building Control Limited, Approved Inspector registration number 118.

The complaint has been carefully considered after taking into account the available evidence including the statements from both parties. Accordingly, the following outcomes have been determined concerning the alleged breaches of the Code of Conduct for Approved Inspectors.

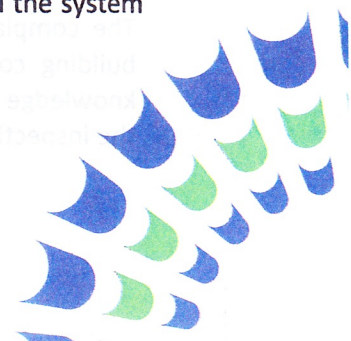
2.1 COMPLIANCE WITH LEGISLATION

2.1.1 - An Approved Inspector has a legal duty to comply with any current statutes or statutory provisions which are applicable to the functions of Approved Inspectors.

You complained that the foundations to the property were unsuitable and were not compliant with the building regulations and that the location of the building in respect of nearby trees was not considered.

The complaint panel determined that, while there was an element of technical assessment to this area of the complaint which was outside of the panel's remit of consideration, there did not appear to have been a proper check of the bearing capacity of the ground to prove the adequacy of the foundations and it is unclear what the assumed bearing pressure was.

The complaint panel determined that no inspection was carried out before the erection of the building on the jacks and, with the jacks variously on newly placed paving slabs and part of the foundation slab to the former building, differential settlement can occur. Should this happen, the ability to adjust the jacks was not considered satisfactory as the settlement may be continuous. The Approved Inspector requested a ground investigation but the complaint panel did not see any evidence that there was any follow up to this request and the system was not subject to a vigorous appraisal.



The complaint panel determined that a Final Certificate should not have been issued as works were incomplete in respect of access for the disabled and that it would have been more appropriate to issue a Part Final Certificate in this circumstance.

Regarding the conservation of fuel and power in new buildings other than dwellings, the complaint panel were unable to determine how the Approved Inspector satisfied themselves that compliance had been achieved with L2A. This was also the case with foul and surface water drainage which did not appear to have been adequately controlled.

Regarding the error on the Initial Notice, an Amendment Notice was issued to correct the mistake and the complaint panel determined that this was an administrative error which did not constitute a breach of this clause of the Code of Conduct.

The complaint panel, after reviewing the submissions from the Approved Inspector and the complainant, found sufficient evidence to substantiate this allegation.

Outcome: Complaint UPHELD

2.2 DUTY TO DISCHARGE RESPONSIBILITIES WITH INTEGRITY

2.2.1 - Approved Inspectors shall carry out their duties with due skill care and diligence and shall act with integrity in and for the interests of the Client for whom they act, maintaining confidentiality at all times.

You complained that the Approved Inspector was irresponsive to requests for information on the soil testing that had been undertaken and the inspections that were performed prior to the issue of the Final Certificate.

The complaint panel determined that there was no obligation on the Approved Inspector to release details of inspections that were undertaken and the complaint panel did not find any evidence that the Approved Inspector had not acted with integrity.

The complaint panel, after reviewing the submissions from the Approved Inspector and the complainant, did not find sufficient evidence to substantiate this allegation.

Outcome: Complaint DISMISSED

2.3 DUTY TO MAINTAIN PROFESSIONAL COMPETENCE

2.3.1 - Approved Inspectors shall demonstrate to the reasonable satisfaction of the CICAIR, that they maintain the levels of comprehensive knowledge, understanding, appreciation and awareness required to maintain a satisfactory level of professional competence.

You complained that the report from the Approved Inspector was not undertaken with an adequate level of competence.

The complaint panel determined that, although the qualifications and experience of the building control surveyors involved were adequate for the project, the comprehensive knowledge that was expected was not evidenced by either the plans assessment process or the inspection regime.

The complaint panel, after reviewing the submissions from the Approved Inspector and the complainant, found sufficient evidence to substantiate this allegation.

Outcome: Complaint UPHELD

2.4 DUTY TO WORK WITHIN THE SCOPE OF AVAILABLE COMPETENCE AND RESOURCES

2.4.1 - An Approved Inspector shall ensure, prior to entering into an agreement for the provision of professional services, that the Approved Inspector has the necessary level of competence and experience required, and that resources available are adequate to fulfil the work as specified in the agreement.

You complained that the Approved Inspector demonstrated insufficient competence in relation to the oversight of the foundations to the building.

The complaint panel determined that the scope of the work undertaken was such that it was not outside the competence and experience of the surveyors involved and was not outside the availability of sufficient resources. The outcome to clause 2.3.1 did identify, however, that the comprehensive knowledge that was expected was not evidenced by either the plans assessment process or the inspection regime.

The complaint panel, after reviewing the submissions from the Approved Inspector and the complainant, did not find sufficient evidence to substantiate this allegation.

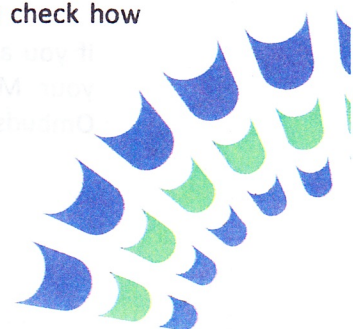
Outcome: Complaint DISMISSED

2.4.2 - Where an Approved Inspector encounters situations arising from areas of work outside the competence of the Approved Inspector, the services of a Professional Consultant may be called upon. The Approved Inspector must satisfy himself that any Professional Consultant appointed has the necessary skill and competence to deal with the matter in hand.

You complained that the Approved Inspector demonstrated insufficient competence in relation to the oversight of the foundations to the building.

The complaint panel determined that there was no evidence that the system was an approved system and, as such, the complaint panel would have expected the Approved Inspector to have undertaken a check of the design of the system itself and the ground conditions.

The complaint panel determined that, while there was an element of technical assessment to this area of the complaint which was outside of the panel's remit of consideration, it appeared that the surveyor (Mr Phillips) was subsequently unsure of the system and requested the services of an external consultant (Mr Syder). Mr Syder assumed Fenland soil at 75kn/m or 50kn/m and considered the system satisfactory based on a pad area of 600mm x 450mm and multiple pads in certain locations. Photographs provided by the complainant indicated that the slabs used were in fact broken and irregular in size and there was no evidence that additional pads were installed or that there were inspections to check how many pads had been installed.



The complaint panel, after reviewing the submissions from the Approved Inspector and the complainant, found sufficient evidence to substantiate this allegation.

Outcome: Complaint UPHELD

For the upheld complaints the sanction to be applied is a **caution** against Assent Building Control Ltd as outlined by clause 9.5.6.1 of the CICAIR complaints protocol. The company will be required to provide a report to CICAIR outlining the remedial measures that are introduced as a result of this complaint.

It should be noted that some aspects of the complaint concerned a technical interpretation of building regulations. As you are aware, CICAIR cannot investigate any matters concerning a technical assessment or interpretation of building regulations, a misunderstanding or dissatisfaction with the minimum standard set by the Building Regulations or on criticisms of the quality of workmanship and, accordingly, these aspects of the complaint were not considered as part of the complaint investigation.

It is also worth reminding you that the role of building control is to act as an independent third party check and Approved Inspectors are required to take such steps as are reasonable to enable the Approved Inspector to be satisfied, within the limits of professional skill and care, that the applicable aspects of the Building Regulations are complied with. It is not the role of building control to:

- Provide quality control of the Works.
- Provide a 'clerk of works' service monitoring every stage of the construction process.
- Provide a service to address issues such as the finish and aesthetics of the Works where these are not Building Regulation matters.
- Provide a service to offer contractual protection between the person carrying out the work and the parties engaged in the design and/or construction of such work.
- Provide a guarantee of compliance with the Building Regulations. The appointment of a Building Control Body does not remove the obligation of the person carrying out the work to achieve compliance.

Finally, with all building work, the owner and occupier of the property or land in question is ultimately responsible for complying with the relevant planning rules and building regulations. This will normally be the building or land owner at the time of the Works.

CICAIR has every sympathy for the distress that the issues you have experienced have caused but there is unfortunately no further action that CICAIR can take to directly assist.

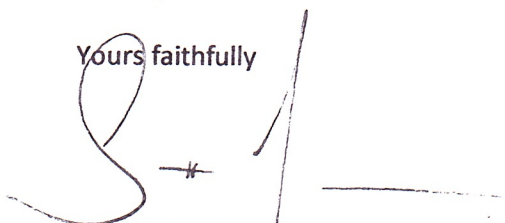
This notification concludes the complaint investigation.

In concluding the complaint, there may also be other regulatory or legal avenues of redress that you might wish to consider. This would be a matter for you and CICAIR cannot advise you on this. If you wish to explore other avenues, you should seek specialist professional and/or legal advice about the applicability to your case and on the relevant procedures to be followed.

If you are dissatisfied with how your complaint has been handled by CICAIR, you can ask your MP to take the matter to the independent Parliamentary and Health Service Ombudsman (PHSO).

Please note that the PHSO is only able to look into whether CICAIR has acted properly or fairly or has given you a good service. The PHSO is not able to re-investigate the complaint you raised with CICAIR. For more information of the role and remit of the PHSO, please visit www.ombudsman.org.uk. Alternatively you can email phso.enquiries@ombudsman.org.uk or telephone the Ombudsman on 0345 015 4033.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Scott McLew', is written over a horizontal line. The signature is stylized and somewhat cursive.

Scott McLew
Chief Operating Officer & Registrar
For and on behalf of CICAIR Limited

