

28 August 2018
BY POST AND EMAIL: hmcoroner@durham.gov.uk
YOUR REF: JRLH/AB/1384/17

Dr J R L Hamilton
HM Coroner's Office
PO Box 282
Bishop Auckland
Co Durham
DL14 4FY

Dear Dr Hamilton,

RE: REGULATION 28 REPORT - GLYNN MATTHEW STOREY

I write in reply to your letter dated 27 July 2018 with the above reference.

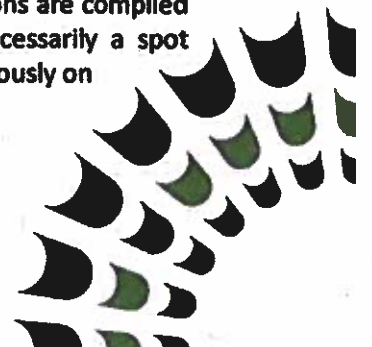
I should first explain that CICAIR Limited is the body currently designated by the Secretary of State under section 49 of the Building Act 1984 to carry out his executive and administrative functions in respect of Approved Inspectors. It is not part of CICAIR's functions to give definitive interpretations of the legislation so what follows is only CICAIR's opinion. As I am sure you are aware, only a court can give a definitive interpretation.

You raised a **matter of concern** as follows:

- (1) There is confusion as to whether the approved building control inspector or the builder is responsible for ensuring that such windows meet building standards. Detailed enquiries by the police have shown that responsibility lies with the builder/owner. However, the owner/builder felt that as the building had been inspected on multiple occasions, all safety standards had been met.*

The Building Act 1984, the Building Regulations 2010 and the Building (Approved Inspectors etc.) Regulations 2010 place the duty to comply with the building regulations onto the person carrying out the work. The person carrying out the work, depending on the context, would be the person physically carrying out the work (e.g. developer, builder or installer) or, in most circumstances, the owner and/or occupier of the property. The person carrying out the work retains ultimate responsibility for compliance with the building regulations and the quality of the finished product. Approved Inspectors (and local authorities when acting as building control bodies) do not have this responsibility under the legislation.

The responsibilities of an Approved Inspector are conferred by regulation 8(1) of the Building (Approved Inspectors etc.) Regulations 2010 which requires that Approved Inspectors 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 requirements of the building regulations are complied with. The building control function carried out by an Approved Inspector is necessarily a spot checking process as there is no requirement for an Approved Inspector to be continuously on site whilst work is being carried out.



An Approved Inspector cannot provide a guarantee of compliance with the building regulations and the appointment of an Approved Inspector does not remove the obligation of the person carrying out the work to achieve compliance. The Final (i.e. compliance) Certificate which an Approved Inspector gives is therefore evidence, but not conclusive evidence, of building regulations compliance.

In your report, you have suggested that action needs to be taken to provide clarity on who is responsible for ensuring that buildings meet safety standards. CICAIR publishes clear guidance outlining the role and remit of an Approved Inspector and we operate a complaints procedure whereby allegations that an Approved Inspector has not adhered to the CICAIR Code of Conduct for Approved Inspectors can be investigated. The guidance and complaint process is publicly available at <http://cic.org.uk/services/complaints.php>. It is also possible to make a claim against an Approved Inspector in the civil courts (negligence, breach of contract or misrepresentation etc).

There is also guidance on responsibilities on the Government's Planning Portal website:
https://www.planningportal.co.uk/info/200187/your_responsibilities

I trust this helps to clarify your matter of concern.

As CICAIR is acting on behalf of the Secretary of State I am copying this letter to the Rt Hon. James Brokenshire MP, Secretary of State for Housing, Communities and Local Government.

Yours sincerely



Chief Operating Officer & Registrar