Statement by Hayes Solicitors on the Amended Completion Certificate

I note that the version of the Completion Certificate within that draft document incorporates a number of amendments to the wording of the Completion Certificate attached the 2013 Regulations as passed into law some months ago. In particular, I note that there are approximately 10 amendments to the wording of Part B of the Completion Certificate, which contains the Certificate to be signed by the Assigned Certifier. I believe that the cumulative effect of these amendments are positive, in terms of eliminating the concerns about the form of the Certificate in the Regulations as passed. The amendments to numbered paragraphs 7 and 8 are particularly important and relevant. In this amended version, the Assigned Certifier would certify on the basis of having exercised reasonable skill, care and diligence. The Certificate would be on the basis that the Assigned Certifier has had regard to the Code of Practice. The wording provides, in the giving of this amended Certificate, for reliance on the work of others on the basis that all of the others have exercised reasonable skill, care and diligence. Numbered paragraph 8 (the last paragraph of the text of the amended Certificate) commences with the words “Based on the above”, and also specifically states the Assigned Certifier is relying on the ancillary certificate scheduled to the certificate.

All of these amendments are desirable and positive in the context of ensuring that the Assigned Certifier is taken as relying on the work of others, and on ancillary certificates, when certifying compliance with the Regulations. It seems to me that those amendments serve to bring the import of the Certificate by the Assigned Certifier in line with what one would expect of the role of an architect if certifying compliance of a building or works with the Regulations (in the sense that the architect is himself or herself required by Building Control legislation to have designed the building or works in compliance with the Regulations if he or she designed the building, but is entitled to his or her Certificate on the work of others and rely on that work of others in certifying).

I note separately that whilst clarification is awaited, it does seem that profession indemnity insurers are likely to take the view that the role of the Assigned Certifier under this amended Certificate of Compliance would be covered under professional indemnity policies. Final clarification should of course be sought on that, but if that is confirmed to be the position it is in itself a positive development and presumably arises because of the amendments to the Completion Certificate in this Version 6 of the amended Draft Regulations.

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