



under the spotlight

Gas Safe

You may have experience as a plumber or fitter but the question is, are you allowed to connect water and gas pipes to a boiler?

Common sense might suggest that a plumber or pipe fitter has the necessary skills to fit pipes whether they carry gas or water. Certainly, it would be more cost effective for one person to do the job rather than two. However, the Gas Safety (Installation and Use) Regulations 1998 prohibit any work on a gas fitting by anyone other than a competent fitter, and 'competence' in this context means that the person must be on the Gas Safe Register.

The Regulations are wide, and cover removal, installation or reconnection of the gas fitting as well as disconnection, repair, alteration or renewal. Arguments have been put forward that the acid test comes when commissioning takes place; as this is a task that should be done by a Gas Safe registered plumber, they would be able to identify any shortcomings in the installation. Indeed, this may have been common practice in the industry several years ago, but today the Regulations make it clear that its definition of 'work' goes beyond the commissioning process.

So if a plumber carries out work on a gas fitting, a boiler for example, it is not enough that the work is checked by a Gas

Safe registered person before the boiler is put into service. Anyone who works on a gas fitting – even a qualified plumber or fitter – must be Gas Safe registered.

The Health and Safety Executive has indicated that it will take a robust approach and prosecute persons who carry out any work on gas fittings if they are not Gas Safe registered. Although there may be some mitigation when considering the severity of the sentence if the work was checked before the boiler was commissioned, this will not be enough to avoid criminal liability. The result would be a hefty fine and could even extend to imprisonment.

At Birkett Long we have assisted clients in advising on complying with the regulations and defending prosecutions by the Health and Safety Executive. If you would like advice on this or any other Health and Safety issue contact Reggie Lloyd.



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Forthcoming Birkett Long events

- **Green breakfasts**
Essential advice sessions will be presented by top speakers, who will examine the challenges and opportunities for business leaders.
- **Employment breakfasts**
September 10, 11 and 12.

For more details on these breakfasts or to register your free place, email seminars@birkettlong.co.uk or visit www.birkettlong.co.uk/events



Construction Law

NEWS AND ADVICE FROM BIRKETT LONG

Getting your house in order



Streamlining construction projects to maximise efficiency and minimise downtime is vital in the present climate.

Many companies manage this successfully, but as quotes lower in an attempt to win instructions, maintaining quality becomes ever more challenging.

The natural tension between speed and quality is the focus of most construction disputes; however, the factual matrix is complicated by the many parties involved - principal developer, contractor, sub-contractors, architect, quantity surveyors, structural engineers, specialist consultants, etc. Determining liability is not only challenging but can also involve contributory negligence from numerous parties. Couple this with the potential for very significant claims due to the capital values involved, the consequential cost of delay and

downtime for extensive labour forces, and it is vital to resolve construction disputes swiftly, commercially and cost effectively.

When construction disputes do occur:

- Establish complex fact patterns swiftly
- Assess written or oral contract terms or applicable implied terms and implement specified dispute resolution mechanism, if any
- Serve appropriate notices to protect your position regarding matters in dispute, including deadlines for completion and claims due to breaches of contract
- Assess liability for delays and any substantial failures in quality

- Involve all parties throughout, for commercial expediency
- Identify any applicable issues of contributory negligence
- Conclude disputes swiftly to mitigate losses by minimising delay

Plainly, complex factual and legal aspects must be addressed, even where contracts are clearly set out in writing; however, in some cases contracts are not clear or not written at all. Legislation can imply terms into contracts although these can cause uncertainty in interpretation and should not be relied upon. Taking early advice when disputes arise will save considerable expense and time, allow you to assess what steps you should take to protect your position and may mean the avoidance of court action in the long term.



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A construction industry hot topic

Statistics show that 43% of construction professionals are either unaware of or have not used BIM. If you are one of these statistics, read on...

Building Information Modelling (BIM) is one of the hottest topics in the construction industry. BIM involves storing information relevant to the construction and future operation of buildings in electronic form and has been described by Keith Snook (former RIBA Director of Research) as: "a digital representation of physical and functional characteristics of a facility, creating a shared knowledge resource for information about it, forming a reliable basis for decisions during its life cycle, from earliest conception to demolition".

To achieve a BIM system, one would typically:

- Compile information to facilitate sharing between construction team members
- Use three dimensional modelling but, where possible, go beyond conventional computer aided design by incorporating non-graphical data, such as cost and programming information
- Allow shared information to be updated during the project and, after completion, during operation of the finished building

The four BIM levels range from paper drawings to a fully integrated web-based database:

- Level 0: 2 dimensional drawings usually created via a CAD system and shared in hard copy format
- Level 1: 2D or 3D CAD drawings adopting a standardised approach to data presentation. This data is accessible to the construction team but not integrated into a single tool; commercial data is held separately.
- Level 2: Data is presented in specific BIM databases that may include information about cost or programming. No one database contains all the information and commercial data is held separately.
- Level 3: All data is held on an integrated, web-based system and presented in a standardised format. The data can be accessed by all relevant members of the construction team and may include costs, programming, and lifecycle facility management information

Advocates of BIM believe it offers benefits such as:

- improved design
- easy access to project information
- co-ordinated construction documents, updated throughout the project
- shorter construction times
- reduced costs (Government estimates net savings of 5% on construction costs)
- improvements to the building's environmental impact

- improved access to information throughout a building's life

There are no plans to introduce legislation requiring private sector construction projects to use BIM but the Government is introducing requirements for public sector projects, with a view that success will encourage private sector adoption. Government projects will need to use BIM level 2 by 2016.

Barriers to full implementation include cost, hardware/software requirements and training. It is noted that each project will be dependent upon client expectations, nature of work and the BIM level to which the project team aspires. Further information is available in these protocols:

- Construction Industry Council's Building Information Model (BIM) Protocol - February 2013
- The Government's draft BIM protocol at Appendix 20 to the BIM Working Party Strategy Paper
- The AEC (UK) CAD & BIM Standards BIM protocols - September 2012

For advice on the introduction of BIM clauses into construction contracts or how BIM could affect you, contact a member of our construction team.



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Legal update

Planning changes come into force

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 (SI 2013/1101) (GPD(A)O 2013) came into force on 30 May 2013.

It increases permitted development thresholds for householder extensions, non-domestic extensions and new buildings. Permitted development means that planning permission does not need to be obtained. These amendments relate to England only.

The main changes are:

- Increasing the permitted depth of single-storey rear extensions to dwellings (4 metres to 8 metres for detached houses

and 3 metres to 6 metres for semi-detached)

- Permitting the change of use of offices to residential
- Allowing the flexible use of agricultural buildings
- Encouraging re-use of existing buildings

The amendments are intended to reduce the burden of the planning system on businesses and householders to boost growth. However, a number of conditions and procedures must be complied with to allow the developments to go ahead. Many of the changes also only last until 30 May 2016. We are able to provide advice on how these changes may effect your planned development. For further information please call Peter Allen on 01245 453813.

Meet the team

Keith Songhurst

Keith specialises in property litigation and leads the firm's dedicated team. He is experienced in dealing with both commercial and residential landlord and tenant and property disputes. Keith is also very knowledgeable in dealing with construction and building disputes, regularly acting for local authorities, property developers and construction and engineering companies.

Keith joined the firm in 1999 having gained valuable commercial litigation experience in the legal team of an international engineering

company. On qualifying as a solicitor in 2001, he joined the commercial litigation and construction teams, was made a partner in 2008 and became head of commercial litigation (Chelmsford) in 2011.

Keith has experience of dealing with disputes in the county court and high court, the leasehold valuation tribunal, the lands tribunal and proceedings before the adjudicator to H.M. Land Registry. He is also a member of the Property Litigation Association.



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