

## Issuing notices to fix

---

Last updated: 21 March 2016

A building consent authority or territorial authority can issue a notice to fix, and needs to adhere to the provisions in the Building Act 2004.

A notice to fix is a statutory notice requiring a person to remedy a breach of the Building Act 2004 or regulations under that Act. A notice to fix can be issued for all breaches of the Act, not just for building work.

## Obligations when issuing a notice to fix

---

A responsible authority must issue a notice to fix. A responsible authority includes a:

- building consent authority
- territorial authority.

(Where the building consent authority is independent, it must supply a copy of the notice to fix to the relevant council within five days of issuing.)

A notice to fix is issued to a specified person. A specified person is the building owner and, where applicable:

- the person carrying out building work
- any other person supervising that building work.

A notice to fix must be issued on Form 13.

The responsible authority must issue a notice to fix if it considers on reasonable grounds that:

- a specified person is contravening the Building Act 2004 (for example, doing building work without a building consent, or doing work not in accordance with a building consent)
- a specified person is contravening any of the Building Regulations under the 2004 Act (including the Building Regulations 1992, containing the Building Code)
- a building warrant of fitness is not correct
- the inspection, maintenance or reporting procedures stated in the compliance schedule are not being, or have not been, complied with.

---

### Form 13 - Notice to fix

[DOC 32 KB]

<https://www.building.govt.nz/assets/Uploads/building-officials/guides/form-13.doc>

---

## Use of discretion

It is possible for other matters, besides those listed above, that relate to remedying a contravention of the Act or regulations, correcting a building warrant of fitness, or complying with procedures in a compliance schedule to be included in a notice to fix.

Responsible authorities have some discretion in what they choose to include in notices to fix. They should use this discretion to ensure a notice to fix is appropriate to the circumstances of a particular situation.

## Remedial work

Where building work has been done under a current building consent, and a notice to fix requires remedial work to be completed, it must describe the work to be carried out. The building official needs to exercise some discretion and this will depend on the complexity of the work involved.

Example: remedial work is relatively straightforward. The notice to fix should describe the required work, for example, by way of reference to an Acceptable Solution.

Example: remedial work is complex and requires specialist input. The notice to fix should set out some clear instructions, for example:

- certain work is to be remedied
- the specified person is to consult with a qualified person (for example, an engineer)
- the specified person is to apply for an amendment to the building consent detailing the design changes provided by the consulting engineer
- no remedial work is to be undertaken until the building consent is granted.

## Policies and procedures

Responsible authorities should develop guidelines for issuing and enforcing notices to fix.

## Achievable outcomes

When issuing a notice to fix, the responsible authority must consider what outcome it wants to achieve, and state requirements clearly. Requirements should be achievable as far as is possible.

Confirming compliance with the notice to fix

The council must provide a copy of the confirmation advice to the building consent authority that issued the notice to fix (this might be the same or a different part of the council).

Acting on a notice to fix has more information for homeowners about the content of a notice to fix, when it can be issued, complying with one, as well as inspections.



New Zealand Government

This information is published by the Ministry of Business, Innovation and Employment's Chief Executive. It is a general guide only and, if used, does not relieve any person of the obligation to consider any matter to which the information relates according to the circumstances of the particular case. Expert advice may be required in specific circumstances. Where this information relates to assisting people:

- with compliance with the Building Act, it is published under section 175 of the Building Act
- with a Weathertight Services claim, it is published under section 12 of the Weathertight Homes Resolution Services Act 2006.