

OPERATING FRAMEWORK FOR APPROVED ORGANISATIONS – ENERGY PERFORMANCE CERTIFICATES NEW AND EXISTING BUILDINGS

Regulation 8(3) of the Energy Performance of Buildings Regulations (Scotland) 2008 requires that Approved Organisations (AOs) - *“ensure that members are fit and proper persons who are qualified by their education, training and experience to carry out the preparation and issuing of energy performance certificates (EPC)”*.

The framework set out in this document clarifies how this and supporting functions may be achieved within the operating requirements of an AO appointed by Scottish Ministers. In the development and maintenance of provisions which deliver these requirements, AOs should reference the relevant UK National Occupation Standard (NOS) for Energy Assessors.

The documented operating processes of each AO must address the following functions:

1. Integrity and operational resilience

- 1.1 Financial Integrity
- 1.2 Operational resilience
- 1.3 Conflict of Interest

2. Accreditation of energy assessor members

- 2.1 Entry criteria for initial assessor membership
- 2.2 Assessor members are ‘fit and proper’ persons
- 2.3 Publish and adhere to application, assessment and appeal processes
- 2.4 Maintain a register of assessors

3. Administer the operation of energy assessor members

- 3.1 Resourcing and indemnity
- 3.2 Publish and enforce a code of conduct for assessors
- 3.3 Operational record of assessor activity
- 3.4 Publish and adhere to complaints, appeals and disciplinary processes
- 3.5 Continued professional development of membership
- 3.6 Quality assurance of assessor output and process

4. Maintain records to facilitate effective operation of the scheme and periodic audit by the Scottish Government

- 4.1 Provision of information for members
- 4.2 Provision of information for members of the public
- 4.2 Minimum requirements for review, record keeping and sharing of data
- 4.3 Audit by Scottish Government (this list also defines the functions of an Approved Organisations subject to audit by the SG).

The following pages summarise requirements under each of these functions.

1. INTEGRITY AND OPERATIONAL RESILIENCE

Function	Description of requirements
1.1	<p>Financial integrity</p> <p>Function: AOs must demonstrate that they have appropriate arrangements in place to ensure financial integrity and continued operation.</p> <p>Prescription: AOs must submit an annual financial statement to the Scottish Government to demonstrate the ongoing viability of the scheme.</p>
1.2	<p>Operational resilience</p> <p>Function: AOs must have provisions in place to minimise disruption to operation as a result of unforeseen circumstances.</p> <p>Prescription: AOs must demonstrate that measures are in place:</p> <ul style="list-style-type: none"> • to ensure operational continuity in the face of events such as the loss of key staff, staff illness, fire and flood damage • to protect data from unrecoverable loss, unauthorised access or theft • to ensure that, in the case of ceasing to trade, core information and resources have been maintained in such a way that a successor organisation can be appointed to take over responsibility for ongoing operation of the scheme in respect of both assess members and the public <p>Desk instructions must be provided for all essential processes to support operational integrity should changes to staff or systems occur.</p>
1.3	<p>Conflict of interest</p> <p>Function: AOs must operate to ensure that there is no conflict of interest between operation as an AO and any other activities they undertake.</p> <p>Prescription: Each Organisation must assess and record such risks and notify the Scottish Government of any such activities and measures put in place to demonstrate that any conflict of interest is resolved. Where necessary, AOs may seek advice from the Scottish Government on measures identified.</p>

2. ACCREDITATION OF ENERGY ASSESSOR MEMBERS

Function	Description of requirements
2.1	<p>Entry criteria for assessor members</p> <p>Function: AOs must define criteria for membership and ongoing requirements to maintain competence as an assessor.</p> <p>Prescription: Entry criteria must be based on qualifications recognised by the construction/energy sectors/national occupation standards within the UK and/or through an Accreditation of Prior Experiential Learning (APEL) route.</p> <p>In setting criteria for membership, AOs must ensure that those producing EPCs have sufficient skills and knowledge to:</p> <ul style="list-style-type: none"> • certify in accordance with the requirements of the Energy Performance of Buildings (Scotland) Regulations and the Building (Scotland) Regulations, as applicable • carry out assessment and calculation in a consistent and accurate manner and in accordance with the relevant National Calculation Methodology • identify energy efficiency measures appropriate to the property being assessed • use calculation software approved for use in Scotland and to understand and be able to explain the correct application of such tools and • carry out their role in a manner which accords with the provisions set out in the relevant UK National Occupation Standard (NOS) for Energy Assessors.
2.2	<p>Assessor members are ‘fit and proper’ persons</p> <p>Function: Approved Organisations to undertake background checks on applicants should verify that, subject to meeting entry criteria, there are no other barriers to membership.</p> <p>Prescription: AOs should take all reasonable measures to verify the identity of applicants and determination made as to whether they are ‘fit and proper’ in terms of EPC production¹.</p> <p>All applications should be checked to determine if the applicant holds or has previously held membership of another AO and, if the latter, whether circumstances under which previous membership ceased are relevant to the application.</p> <p>All applications covering certification for existing dwellings must be subject to a Criminal Records (‘Basic Disclosure’) check, This should be subject to review by the AO. An existing CRB check may only be accepted if produced within a period of three years.</p>

¹ Guidance on the term ‘fit and proper’ is appended to this document as requested.

2. ACCREDITATION OF ENERGY ASSESSOR MEMBERS (Cont)

2.3	<p>Publish and adhere to application, assessment and appeal processes</p> <p>Function: AOs must publish and adhere to an application, assessment and appeal process.</p> <p>Prescription: AOs must have:</p> <ul style="list-style-type: none">• a published applications process detailing membership criteria and how applications will be assessed, identifying roles and responsibilities for all parties involved in the assessment of applications and• an appeals mechanism in place for those applicants who are rejected because they are deemed not to be ‘fit and proper’ persons <p>These procedures must be applied in a fair and open way, including that those carrying out assessment of applications declare any conflict of interest.</p>
2.4	<p>Maintain a register of assessors</p> <p>Function: AOs must maintain a record of assessor members and ex-members.</p> <p>Prescription: Information recorded must include current status, contact details which must include business postal address, telephone and e-mail and the scope of certification services offered/level of competence.</p> <p>Information on current members must be provided to the keeper of the register and maintained as current to enable potential customers to establish the legitimacy of any individual claiming to be an accredited assessor. Any change in membership status must be notified to the keeper of the register within one working day of such change being recorded in the AO systems.</p>

3. ADMINISTER THE OPERATION OF ENERGY ASSESSOR MEMBERS

Function	Description of requirements
3.1	<p>Resourcing and indemnity</p> <p>Function: AOs must require assessor members to have and maintain suitable indemnity cover proportionate to the risks associated with the provision of an EPC for the type and scale of buildings were certification is undertaken.</p> <p>Prescription: In all cases, professional indemnity insurance (PII) must be no less than £50,000 (domestic) and £100,000 (non-domestic) for each claim in relation to any particular EPC.</p> <p>Where AOs do not provide indemnity insurance as part of membership (this is not a requirement of appointment as an AO), they must undertake checks to verify that members maintain indemnity cover, including spot checks where there is evidence of a member operating without or with inadequate cover.</p> <p>Knowingly certifying without indemnity insurance must result in revocation of authority to produce EPCs.</p>
3.2	<p>Publish and enforce a code of conduct for assessors</p> <p>Function: AO must have in place a published Code of Conduct to which all members are required to adhere.</p> <p>Prescription: Declaration of acceptance by member assessor (signature);</p> <p>In undertaking assessor activities, the code of conduct must include reference to the need to act in accordance with the provisions of the relevant UK NOS defining the relevant assessor role(s) which the member will undertake.</p> <p>The published code must include the following:</p> <ul style="list-style-type: none"> • requirement to operate only within assessor competence • requirement to identify appropriate level of PII cover and maintain that cover • requirement to declare any conflict of interest when undertaking the assessor role • requirement to maintain evidence of assessments in sufficient detail to enable audit (see 3.6) • requirement to maintain record of complaints received in relation to their assessment role and outcome and notify AO of any that are unresolved by the assessor • in the case of complaints, requirement to provide the complainant with access to AO complaints procedure and • a description of activities which are a breach of the code and which will result in disciplinary action (reference disciplinary procedures)

3. ADMINISTER THE OPERATION OF ENERGY ASSESSOR MEMBERS (Cont)

3.3	<p>Operational record of assessor activity</p> <p><i>Function:</i> maintain records for applications and activities of current and previous scheme members detailing all operational processes applied to members and to outcome of such processes.</p> <p><i>Prescription:</i> Records must include the following details of assessor activity:</p> <ul style="list-style-type: none">• ongoing indemnity cover• ongoing CPD record (see section 3.5)• results of QA checks and any remedial actions required of assessors• assessor communications with AO and responses• customer queries, complaints, or claims, and any remedial action required of assessors <p><i>The level of detail required should provide AO staff with a clear audit trail for any complaint, query, QA check or CPD return.</i></p>
3.4	<p>Publish and adhere to complaints, appeals and disciplinary processes</p> <p><i>Function:</i> Approved Organisations must have published procedures which are applied consistently and respond promptly and efficiently to customer complaints against assessor members.</p> <p><i>Prescription:</i> complaints, appeals and disciplinary processes must include details of:</p> <ul style="list-style-type: none">• initial response to any complaint, information on process to be provided by complainant and evidence needed to progress investigation and timescale for resolution• investigative action to be taken, including notifications to relevant parties• disciplinary hearings and appeals process• composition of disciplinary and appeals panels and appeals process• timescale for all actions and• processes for any corrective action resulting from investigation. <p><i>Where complaints cannot be resolved to the complainant's satisfaction, matters must be referred to an independent third party for a decision.</i></p> <p><i>Any complaint which involves apparent criminal activity must be reported to the relevant authorities.</i></p>

3. ADMINISTER THE OPERATION OF ENERGY ASSESSOR MEMBERS (Cont)

3.5	<p>Continued Professional Development of membership</p> <p>Function: Approved Organisations must ensure that members undertake relevant training to support the ongoing development of the assessment services they offer.</p> <p>Prescription: Continued Professional Development should be relevant to activity of a member as an assessor and may include specific provisions mandated by the AO, such as:</p> <ul style="list-style-type: none">• reporting practice for assessors as specified by Approved Organisation;• amendments to EPC methodologies and software upgrades;• access and use of EPC database;• developments in construction products and building services as they relate to potential improvement measures;• changes to building regulations and other legislation or initiatives which have relevance to the assessor role;• any other matters deemed relevant by individual Approved Organisations or notified by Scottish Government in relation to assessor competence. <p>Approved Organisations should ensure a record of such activity is submitted on an annual basis and must verify that records are submitted and carry out sample checks to verify that CPD activities are relevant to assessor role.</p>
3.6	<p>Quality Assurance of assessor output and process</p> <p>Function: Approved Organisations must have quality assurance procedures in place to check the quality of EPCs produced by their members and to undertake appropriate corrective action where the required standard is not met.</p> <p>Prescription: AOs must ensure that a minimum of 2% of the total number of EPCs produced by members are checked for accuracy. The sample should be based upon a random sample, augmented by any identified need for targeted audit as a result of complaints or requests from other organisations identified by the Scottish Government (e.g. Green Deal Accreditation Body).</p> <p>AOs must ensure that output from any active assessors is checked at least every six months. Where the number of certificates produced by an individual assessor is five or less within a six month period, the checking period may be extended to at least every 12 months.</p> <p>All new members should have output checked within the first month of active membership.</p> <p>Independent assessment must check that:</p> <ol style="list-style-type: none">a. the assessor is certifying within their level of declared competence (where applicable)b. sufficient evidence is recorded to allow assessment of the buildingc. that information recorded was entered accuratelyd. there is sufficient in the definition of the building model filee. 95% of randomly sampled EPCs must be within a defined percentage accuracy compared to an independent assessment of the same building using the evidence contained in assessor records. Accuracy shall be:

- dwellings: EE rating within 5 SAP points (+/-); EI rating within 5% (+/-)
- non-domestic buildings: Approximate Energy Use and Approximate Carbon Dioxide Emissions within 5% (+/-)

Certificates identified as being below standard (including incorrect data entry or recommendations) should be replaced within six weeks, and corrective action to be taken where assessor activity found to be outwith accepted practice.

Responsibility for replacement of defective certificates rests with the assessor who provided the certificate. If the assessor cannot be contacted and is no longer practicing then the Approved Organisation must act to replace the defective certificate.

4. MAINTAIN RECORDS TO FACILITATE EFFECTIVE OPERATION OF THE SCHEME AND PERIODIC AUDIT BY THE SCOTTISH GOVERNMENT

Function	Description of requirements
4.1	<p>Provision of information for members</p> <p>Function: AO must provide assessor members with access to all documentations detailing procedures associated with their role as an EPC assessor and operation as a member of the AO.</p> <p>Prescription: This must include support by email and telephone contact points to enable members to seek assistance where matters cannot be resolved by reference to documentation.</p> <p>AO are expected to record and analyse enquiries from members to support review and improvement of both procedures and supporting documentation.</p> <p>AO must inform members of changes in software requirements and conventions required to maintain effective certification practice.</p>
4.2	<p>Provision of information for members of the public</p> <p>Function: AO must enable easy access by members of the public to information on the scheme, its aims and operation.</p> <p>Prescription: This must include at least the following information:</p> <ul style="list-style-type: none"> • full telephone, electronic and postal contacts for the AOs including contacts for the key postholders (e.g scheme manager) with responsibility for operation of the Scheme • application procedures, requirements for membership and schedule of all charges related to the production and lodgement of EPCs • Code of Conduct applicable to their members • complaints, appeals and disciplinary procedures • general information about Energy Performance Certificates, why they are required, how building owners and occupants can make use of the information they provide and national resources for further information and advice on improving carbon and energy performance of buildings • Annual report (BSD to clarify content) prepared and submitted to the Scottish Government (format will be circulated)

4. MAINTAIN RECORDS TO FACILITATE EFFECTIVE OPERATION OF THE SCHEME AND PERIODIC AUDIT BY THE SCOTTISH GOVERNMENT

4.3	<p>Minimum requirements for review, record keeping and sharing of data</p> <p>Review of Procedures and Documentation</p> <p>Function: AOs must review their procedures and documentation to ensure they remain relevant to operations.</p> <p>Prescription: This must address changes:</p> <ul style="list-style-type: none">• to meet amended requirements issued by Scottish Government• arising from changes in UK calculation methodologies and• where improvements are identified by internal review or examples of wider good practice. <p>A summary of such changes should be included in the AO annual report.</p> <p>Record keeping</p> <p>Function: to support both operation and audit, AO and their members must maintain records of initial accreditation and ongoing activity of assessor.</p> <p>Prescription: Unless otherwise specified, information must be retained for a minimum of five years. Approved Organisations must ensure that the requirements of the Data Protection Act and other legislation relevant to the form and content of data stored are met.</p> <p>Sharing of data</p> <p>Function: AOs must share information on the status of members to support effective delivery of the Directive in Scotland.</p> <p>Prescription: AO must advise other AOs and the Scottish Government of members who have had their membership suspended or withdrawn, together with the reason for suspension or withdrawal. Where such a party is a member of another AO, that AO must consider the relevance of this information to ongoing membership of that AO and act accordingly and in line with their published code of conduct.</p> <p>AOs must respond to a formal request for information on a member by another AO where that member has, or is applying for, membership of that other AO.</p> <p>AOs must co-operate with a request for information from an enforcement authority acting to meet their duty under legislation</p>
-----	---

4. MAINTAIN RECORDS TO FACILITATE EFFECTIVE OPERATION OF THE SCHEME AND PERIODIC AUDIT BY THE SCOTTISH GOVERNMENT

4.4	<p>Audit of Approved Organisations by Scottish Government</p> <p>Each AO will be subject to audit by the Scottish Government or by an organisation appointed on their behalf. The following key points are identified:</p> <ul style="list-style-type: none">• from October 2012, AOs will be subject to audit at least once every three years• a programme for audit will be developed and notice of audit will be provided at last six months in advance• information to support the audit process, including reporting requirements, will be defined within an Audit manual and published by the end of 2012• new applications for AO status will be subject to a revised process which sets out initial requirements for applicants and information/evidence that must be provided• as part of preparation for audit, existing AOs will be required to update information submitted with their initial appointment in this revised form <p>AOs must:</p> <ul style="list-style-type: none">• allow monitoring of operations periodically to ensure that it continues to meet the terms of its approval. This includes access to their operations and records for audit• maintain records in a form that allows audit of the successful implementation of the functions set out in this document. <p><i>Records may be kept either electronically or on paper, and Schemes have to demonstrate to the Scheme Auditors how such records can be retrieved if necessary. Back-up data needs to be stored in such a way that it can be reasonably expected to survive instances which might affect the original material stored by the Scheme (fire, theft, various forms of attack on the Scheme's IT systems).</i></p>
-----	---

Addendum - Determining whether a person is 'fit and proper'

All Applications:

Fitness relates to a person's competence and capability to fulfil their responsibility as a member of the Approved Organisation.

Criteria which could be used when considering fitness to include:

- The possession of relevant qualifications and skills;
- Knowledge;
- Skills;
- Experience;
- A commitment to continuing professional development.

Properness relates to a person's character and suitability to fulfil their responsibility as a member of the Approved Organisation.

Criteria which will be used when considering properness will include:

- The ability to demonstrate that the person meets the standards of conduct outlined in the NOS
- Whether or not the person has a criminal record, and the nature of any such record;
- Financial integrity

Applications: Assessors - existing dwellings.

As part of inquiry, Approved Organisations must request details in relation to an applicant's criminal history. Where an offence has been committed, consider:

- the relevance of the offence to the role to be undertaken - the production of EPCs,
- the seriousness of that offence
- whether there is any significant pattern of offending and
- how recently the offence was committed.

Usually, a person is unlikely to be fit and proper if a person has been convicted or cautioned for a serious arrestable offence including: murder; manslaughter; death by reckless driving; rape; kidnapping; firearms offences; hostage taking; hijacking or torture

In ordinary circumstances a person is unlikely to be fit and proper if a person has been convicted of offences that are less serious than those listed above if these are offences against the person or property, or offences which involve elements or acts of dishonesty, corruption, substantial financial gain or serious loss to anyone (including theft, fraud and deception), which resulted in a prison sentence within the last 5 years.