

OPERATING FRAMEWORK FOR BUILDING STANDARDS VERIFIERS – MAY 2017 – LOCAL AUTHORITIES

The Building (Scotland) Act 2003 (the Act) and associated legislation set out the role of verifiers in the Scottish building standards system. Their primary function is to protect the public interest by providing an independent check of applications for building warrant to construct or demolish buildings, to provide services, fittings or equipment in buildings, or to convert buildings. This includes checking during the design phase before granting a building warrant and checking during the construction phase before accepting a completion certificate.

Verifiers are appointed by Scottish Ministers under section 7(1)(a) of the Act. Regulation 30 of the Building (Procedures) (Scotland) Regulations 2004 requires that, before making an appointment of a verifier, the considerations to which Scottish Ministers shall have regard to shall include Qualifications; Competence; Accountability to the public; and Impartiality.

Verifiers are expected to operate under the Building Standards Verification Performance Framework which covers three perspectives – Professional Expertise and Technical Processes; Quality Customer Experience; and Operational and Financial Efficiency. There are three cross-cutting themes of Public Interest, Continuous Improvement and Partnership Working. The framework is supported by a range of key performance outcomes.

The framework set out in this document clarifies how this and supporting functions may be achieved within the operating requirements of a verifier appointed by Scottish Ministers. The documented operating processes of each verifier must address the following functions:

1. INTEGRITY AND OPERATIONAL RESILIENCE

- 1.1 Acceptance of verifier appointment
- 1.2 Resourcing
- 1.3 Business management and operational resilience
- 1.4 Financial integrity
- 1.5 Conflict of interest

2. ADMINISTRATION OF BUILDING WARRANT APPLICATIONS AND COMPLETION CERTIFICATE SUBMISSIONS

- 2.1 Management of applications for building warrants
- 2.2 Management of completion certificates (including inspection regimes)
- 2.3 Quality assurance of building warrant and completion certificate decisions
- 2.4 Adherence to legislative procedures, appeals and complaints

3. MAINTAIN RECORDS TO FACILITATE EFFECTIVE BUSINESS OPERATION AND PERIODIC AUDIT BY THE SCOTTISH GOVERNMENT

- 3.1 Provision of information for business and performance management (including minimum requirements for review and record keeping)
- 3.2 Provision of information for members of the public (including minimum requirements for review and record keeping)
- 3.3 Reporting and audit by the Scottish Government.

The following pages summarise requirements under each of these **functions**. The considerations of appointment are explained in **Annex A**.

1. INTEGRITY AND OPERATIONAL RESILIENCE

FUNCTION	DESCRIPTION OF REQUIREMENTS
1.1	<p>Acceptance of verifier appointment Function: Verifiers must meet the terms and any conditions of their appointment. Verifiers must accept the verification operating framework and verification performance framework.</p> <p>Prescription: Verifiers must demonstrate that they meet the terms and any conditions of their appointment. Verifiers must demonstrate acceptance of the verification operating framework and verification performance framework and compliance with the frameworks.</p>
1.2	<p>Resourcing Function: Verifiers must have staff with appropriate building standards related qualifications and experience, and have contingencies for when resourcing is not available in-house.</p> <p>Prescription: Verifiers must demonstrate that they have the appropriate staff and record their qualifications, experience and training. Staff qualifications, experience and training must be maintained through CPD records, which are maintained and available for inspection. Verifiers must demonstrate they have measures in place for resourcing staff when specialisms are not available in-house, for example for checking structural designs and fire engineered designs.</p>
1.3	<p>Business management and operational resilience Function: Verifiers must have business planning in place and have embedded risk management and continuous improvement in their service. Verifiers must have provisions in place to minimise disruption to service operation as a result of unforeseen circumstances.</p> <p>Prescription: Verifiers must demonstrate that they meet their appointment criteria, have business planning in place and have embedded risk management and continuous improvement in their service. Verifiers must demonstrate measures are in place:</p> <ul style="list-style-type: none"> • to fulfil their appointment criteria and meet the performance framework • for the proportionate risk management of processes which enable identification, management and mitigation of risks that may prevent verification services, threaten sustainability of the business and the reputation of buildings standards compliance generally • 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 verification services <p>Desk instructions must be provided for essential processes to support operational integrity should changes to staff or systems occur. Desk instructions must be regularly maintained and reflect current practices.</p>

<p>1.4</p>	<p>Financial integrity</p> <p>Function: Verifiers must demonstrate that they have appropriate arrangements in place to ensure financial integrity and continued operation.</p> <p>Prescription: Verifiers must submit performance returns and financial reports to the Scottish Government to demonstrate the ongoing viability of the appointment.</p> <p>Verifiers must provide evidence of compliance with corporate policies on anti-bribery and corruption.</p>
<p>1.5</p>	<p>Conflict of interest</p> <p>Function: Verifiers must operate to ensure that there is no conflict of interest between operation as a Verifier and any other activities they undertake (corporately and individual staff).</p> <p>Prescription: Verifiers must assess and record such risks and record activities and measures put in place to demonstrate that any conflict of interest is resolved.</p>

2. ADMINISTRATION OF BUILDING WARRANT APPLICATIONS AND COMPLETION CERTIFICATE SUBMISSIONS

FUNCTION	DESCRIPTION OF REQUIREMENTS
2.1	<p>Risk management of applications for building warrants</p> <p>Function: Verifiers must have risk assessment protocols in place for dealing with applications for building warrants.</p> <p>Prescription: Verifiers must demonstrate a risk-based approach to dealing with applications for building warrants. Verifiers must integrate 'local' project and process related risks to 'local authority' operational and strategic risks.</p>
2.2	<p>Risk management of completion certificate submissions (including inspection regimes)</p> <p>Function: Verifiers must have risk assessment protocols in place for dealing with completion certificate submissions and determining inspection regimes.</p> <p>Prescription: Verifiers must demonstrate a risk-based approach to determining and undertaking inspection regimes and dealing with completion certificate submissions. Verifiers must integrate 'local' project and process related risks to 'local authority' operational and strategic risks.</p>
2.3	<p>Quality assurance of building warrant and completion certificate decisions</p> <p>Function: Verifiers must have quality assurance procedures in place for building warrant decisions (granted/refused) and completion certificate submission decisions (accepted/rejected), and to undertake appropriate corrective action where the required standard is not met.</p> <p>Prescription: Verifiers must ensure that a minimum sample (5%) of the total number of building warrant applications decided and completion certificate submissions decided are checked for accuracy. Verifiers must ensure that samples are checked regularly, and sampling considers risk profiles of applications and submissions and staff competencies. 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.</p>
2.4	<p>Adherence to legislative procedures, appeals and complaints</p> <p>Function: Verifiers must adhere to legislative procedures and deadlines, appeals processes and complaints processes.</p> <p>Prescription: Verifiers must have processes and controls in place to meet legislative procedures and deadlines. Verifiers must demonstrate they have measures in place for managing decisions and non-compliance, and must record compliance with legislation and other processes. Details of key legislative procedures are set out in Annex B. Verifiers must pro-actively communicate with applicants at relevant times regarding key decisions and implications. These measures must be applied in a fair and open way, including that those carrying out the assessment of applications and complaints declare any conflict of interest.</p>

3. MAINTAIN RECORDS TO FACILITATE EFFECTIVE BUSINESS OPERATION AND PERIODIC AUDIT BY THE SCOTTISH GOVERNMENT

FUNCTION	DESCRIPTION OF REQUIREMENTS
3.1	<p>Provision of information for business and performance management (including minimum requirements for review and record keeping) Function: Verifier must maintain and review all procedures, documentations and systems to ensure they remain relevant to their role as a Verifier.</p> <p>Prescription: This must include local and national policies, technical and procedural guidance, and management information systems (casework and documents). Reviews must address changes:</p> <ul style="list-style-type: none"> • to meet amended requirements issued by Scottish Government • arising from changes in national or local policy and • where improvements are identified by internal review or examples of wider good practice <p>Verifiers must advise staff and ensure they are adequately trained in changes to procedures, documents and software requirements, and changes should be clearly identified.</p>
3.2	<p>Provision of information for members of the public (including minimum requirements for review and record keeping) Function: Verifier must maintain their Building Standards Register and maintain and review verification related information for easy access by members of the public.</p> <p>Prescription: Verifier must maintain Part I and Part II of the Building Standards Register (BSR) in accordance with legislative requirements.</p> <p>Verifier must provide appropriate guidance and advice to members of the public, which must be reviewed and updated as necessary. Published guidance and advice must be readily accessible to members of the public. This must include at least the following information:</p> <ul style="list-style-type: none"> • Part I of the BSR published on-line (data) and Part II of the BSD available at all reasonable hours (copy documents) • National Customer Charter, Balanced Scorecard, Continuous Improvement Plan summary published on-line • Appeals and complaints procedures • General information about the building standards system • Information on the performance of the Verifier <p>Verifier 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>

3.3	<p>Reporting and audit of Verifiers by Scottish Government</p> <p>Function: Verifier must provide reports and information for Scottish Government under section 34 of the Act in relation to their functions as a Verifier. Each Verifier will be subject to audit by the Scottish Government or by an organisation appointed on their behalf.</p> <p>Prescription: Verifier must provide reports and information as requested by Scottish Government in relation to their verification activity. These may cover their verification business and performance, and include data and contextual information.</p> <p>The following key points are identified:</p> <ul style="list-style-type: none">• Verifiers to provide reports and information (for example returns in accordance with the Performance Framework for Verifiers 2017)• Verifiers to publish an Annual Verification Performance Report (template in the Performance Framework for Verifiers 2017)• Verifiers to be subject to audit during their term of appointment• A programme for audit will be developed and notice of audit will be provided at last six months in advance (except when an emergency audit is deemed necessary)• Verifiers will be required to provide reports and information prior to audit <p>Verifiers must:</p> <ul style="list-style-type: none">• allow monitoring of operations periodically to ensure that it continues to meet the terms of its appointment. 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>Records may be kept either electronically or on paper. Verifiers have to demonstrate to the 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 Verifier (fire, theft, various forms of attack on the Verifier's IT systems).</p>
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ANNEX A – CONSIDERATIONS FOR THE APPOINTMENT OF VERIFIERS

Before making an appointment as a verifier under section 7(1)(a) of the Building (Scotland) Act 2003, the considerations to which the Scottish Ministers shall have regard include Qualifications; Competence; Accountability to the Public; and Impartiality.

QUALIFICATIONS

Verifiers shall have suitably qualified and experienced staff to undertake their verification work. Verifiers shall have procedures in place for resourcing technical specialists when they are not available in-house.

Building standards service staff range from trainees and building standards officers, through to senior officers, team leaders and managers. Professional roles include (but are not necessarily limited to) surveyors, engineers and architects.

New recruits should typically possess at least a degree level qualification in a relevant discipline, such as building surveying, building engineering or architecture. Chartered professional status (e.g. RICS, CABE or CIOB) should be considered at least 'desirable', supported by experience in the field where possible. Attainment of chartered professional status should be encouraged as part of Continuous Professional Development in the role (see 'Competence').

There may be instances where long-standing staff members with extensive proven and relevant experience do not already possess chartered professional status and local authorities may use their discretion in determining whether this route would be appropriate.

There may be instances where the verifier does not have the appropriate technical specialists in-house and will need to resource them externally.

COMPETENCE

Verifiers shall undertake regular performance and development reviews with verification staff and support their training and professional development. Chartered professional staff should also undertake a programme of Continuous Professional Development (CPD) to ensure they maintain up-to-date knowledge and competence relevant to their role.

Competence is shaped by the nature of working activities and based around having a safe, efficient and skilled workforce. Competence therefore designates the ability to independently perform a role or task to the required standards. Individual competence is required to ensure efficiency, effectiveness and safety but must be enabled and supported by effective managerial and organisation capability.

It is important that verifiers allocate work using a risk-based approach. This should ensure that assessment and inspection activities are allocated to the most appropriately qualified, skilled and experienced staff depending on the nature, complexity and risks involved in each case. A risk-based approach should allow more junior verification staff to become involved in certain verification activities where this would support their professional development, however, these staff must be subject to appropriate levels of supervision.

ACCOUNTABILITY TO THE PUBLIC

Verifiers shall undertake verification in an open and transparent way. Sufficient, relevant, timely and accurate information must be made available to the public in an easily accessible format so that local verification services can be subject to appropriate public scrutiny.

Verifiers entrusted with public resources must be answerable for their actions and there must be redress when duties and commitments are not met. Achieving public accountability requires minimum standards of service to be set and maintained. These standards must be sufficiently robust to protect the public interest and ensure that buildings are safe and compliant with the building regulations. The standards must also ensure a consistent and high quality verification service that places the customer at its heart.

IMPARTIALITY

Verifiers shall have procedures in place to validate the impartial nature of verification activities within and between local authorities and enable good practice to be shared.

Verifiers must undertake their activities and make decisions based on objective criteria. These criteria must be designed to serve the public interest and meet the requirements of the Building (Scotland) Act 2003. Their work must be carried out in an un-biased way, without prejudice and without preference to one person or organisation over another for improper reasons.

ANNEX B – KEY LEGISLATIVE VERIFICATION PROCEDURES

BUILDING WARRANTS: REJECTION OF APPLICATIONS (REGULATION 8)

The verifier shall not treat an **application as received** unless the application has been submitted and the prescribed fee paid. If an application is submitted without the specified plans, the verifier shall advise of the applicant that the plans are required and if not submitted within 42 days, **may consider the application withdrawn** and return the papers relating to the application to the applicant along with the prescribed fee.

DETERMINATION OF APPLICATION (REGULATION 9)

The verifier shall consider the application and either **determine the application** or **issue the first report within three months** of receipt of the application. The verifier shall not **refuse the application** without first giving the applicant notification of the proposed grounds for refusal and an opportunity of being heard and of making written representations. (See also Deemed determinations Regulation 60).

CONSULTATION (REGULATION 10)

The verifier shall determine the **relevant consultees** for an application and take account of any comments in the determination of the application.

CONSULTATION – FIRE AUTHORITY (REGULATION 11)

The verifier shall **consult the relevant fire authority** when necessary and take account of any comments in the determination of the application.

BUILDING WARRANTS: STAGED WARRANTS (REGULATION 12)

The verifier should ensure that for **staged warrants**, work on other stages has not been proceeded with until an amendment is made to the building warrant authorising that work to proceed.

BUILDING WARRANTS: WARRANTS FOR DEMOLITION (REGULATION 15)

The verifier should ensure that **demolition work is completed** within the period of time stated in the building warrant.

BUILDING WARRANTS: LIMITED LIFE BUILDINGS (REGULATION 16)

The verifier should ensure that an application for **demolition of a limited life building** is submitted not less than three months before the relevant date (or other such later date as the verifier thinks fit).
The verifier should ensure that a limited life building and ancillary services **are removed from the site by the relevant date** on the building warrant.

DURATION OF A BUILDING WARRANT (REGULATION 19)

The verifier shall ensure that any **extension to the validity of a building warrant** is applied for before the building warrant expires.
The verifier shall consider whether any work or conversion during the further period of validity is assessed against the building regulations in force at the date of the application for a further period of validity.

CONSIDERATION OF A COMPLETION CERTIFICATE (REGULATION 44)

The verifier, on receipt of a completion certificate submitted under section 17(1) of the Act, shall consider it and within the period of 14 days notify the person who submitted it of its **acceptance or rejection**.

NOTICES REGARDING WORK (REGULATION 59)

The verifier should ensure that any person carrying out work in pursuant of a building warrant gives the **relevant notices** to the verifier.

DEEMED DETERMINATION (REGULATION 60)

The verifier should ensure that, when they have not made a determination within the specified period, they advise the applicant or relevant person of a **deemed determination** for the purposes of appeals under section 47 of the Act.

A **deemed determination** is made when the verifier has not made a determination within the following periods –

- In the case of an application for building warrant or for an amendment of a building warrant if a **first report has not been issued** in response to an application, **a period of three months** from the date of receipt of the application.
- In the case of an application for building warrant or for an amendment of a building warrant **a period of nine months** from the date of **issue of the first report** (or such longer period agreed between the applicant and the verifier).
- In the case of an application to extend the period of **demolition of a building intended to have a limited life a period of 1 month** from the date of receipt of the application.
- In the case of the determination as to whether to **accept or refuse a completion certificate** submitted under 17(1) of the Act **a period of 14 days** from the date of submission of the certificate (or such longer period agreed between the applicant and the verifier).
- In the case of an application for **discharge or variation of a continuing requirement** imposed under section 22 of the Act **a period of one month** from the date of receipt of the application.

COMPLETION CERTIFICATES (SECTION 17 OF THE ACT)

The verifier should ensure that after completion of the work or conversion in respect of which a building warrant has been granted, **the relevant person submits a completion certificate to the verifier**.

OCCUPATION OR USE WITHOUT A COMPLETION CERTIFICATE (SECTION 21 OF THE ACT)

The verifier should ensure that **a new building is not occupied or used** unless a **completion certificate** has been accepted, or they have granted permission for the **temporary occupation or use** during such period specified in the permission.

The verifier should ensure that any application to extend the permission for temporary occupation or use is made before the permission expires.