

Consultation on funding of the Scottish Energy Performance Certificate Register

May 2017



Scottish Government
Riaghaltas na h-Alba
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Responding to this Consultation

We are inviting responses to this consultation by Monday 19 June 2017.

Given the limited scope and specific nature of the subject matter, a short consultation period of 6 weeks is identified.

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.scotland.gov.uk/local-government-and-communities/scottish-energy-performance-certificate-register/>.

You can save and return to your responses while the consultation is still open.

Please ensure that consultation responses are submitted before the closing date of Monday 19 June 2017.

If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) and send it to:

Steven Scott
Building Standards Division
Scottish Government
Denholm House
Almondvale Business Park
Livingston
EH54 6GA

Handling your response

If you respond using Citizen Space (<http://consult.scotland.gov.uk/>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information published alongside this document. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Michelle Williamson
Building Standards Division
Scottish Government
Denholm House
Almondvale Business Park
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EH54 6GA

Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<https://www.ideas.gov.scot>).

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

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Introduction and Background

Introduction

The purpose of this consultation is to set out the current status of the Scottish Energy Performance Certificate Register (SEPCR)¹, to advise on pending action to amend the statutory fees payable on lodgement of energy performance data and to seek views on the manner in which the register is funded.

Background

In response to Article 7 of Directive 2002/91/EC on the Energy Performance of buildings², the production of energy performance certificates was introduced for construction of new buildings (from 1 May 2007) and sale or rental of existing buildings and display in larger public buildings (from 4 January 2009).

Unlike the rest of the UK, between 9 January 2009 and 30 September 2012, EPCs produced for existing dwellings were lodged to a central register free of charge.

A public consultation³ was undertaken in November 2011 asking for views on the introduction of a fee for the lodgement of each energy performance certificate (EPC) to a new, expanded central electronic registry – the SEPCR. The Scottish Government response to the consultation exercise (April 2012) remains available online⁴.

The introduction of a fee was proposed, in line with the practice of other UK administrations, to provide an income stream to support the operation and maintenance of register functions.

“Fees would only be paid by those lodging EPCs onto the database. The introduction of a lodgement fee means that only these users will contribute towards the future development and maintenance costs. It is considered that this approach is equitable. If funding were to be provided centrally by Government, the result would be that the public purse (and in effect everyone) would bear the burden”.

Responses to the consultation were supportive of the proposal and Fees of £1.15 and £5.36 (for dwellings and non-dwellings respectively) introduced on 1 October 2012 via regulation 12 of The Energy Performance of Buildings (Scotland) Amendment (No. 2) Regulations 2012⁵.

¹ <https://www.scottishepcregister.org.uk/>

² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002L0091&from=EN>

³ <http://www.gov.scot/Publications/2011/11/16154018/0>

⁴ <http://www.gov.scot/Resource/0039/00391756.pdf>

⁵ <http://www.legislation.gov.uk/ssi/2012/208/regulation/12/made>

This formed part of broader work to implement the regulations and processes needed to transpose Directive 2010/31/EU on the Energy Performance of Buildings⁶.

On introduction, the level of fee was set to match that already in place elsewhere in the UK since April 2008. Following review of lodgement fees in the rest of the UK, fees in Scotland have been lower than the rest of the UK from April 2013 to present.

The estimated operational costs of the register predicted in the 2011 consultation proved to be relatively accurate for the initial operation of the proposed register facility – covering receipt of data for domestic and non-domestic EPCs. However, with the introduction of additional facilities and functions, it became evident that lodgement income alone was not sufficient to cover operating costs. For the past three years, the shortfall between lodgement revenue and operating costs has been funded directly by the Scottish Government.

In responding to the original 2011 consultation, the Scottish Government provided a commitment that a review of the fee rate would be undertaken after a period of at least three years and would be notified via public consultation. This consultation addresses that commitment.

Respondent Information Form

A Word version of the Respondent Information Form for this consultation is published alongside this consultation document at <https://consult.scotland.gov.uk/>.

Impact Assessment

An interim Business and Regulatory Impact Assessment is provided in support of this consultation and is attached as Annex A

It was determined that the following are not applicable to this consultation:

- Strategic Environmental Assessment
- Equality Impact Assessment
- Child Rights and Wellbeing Impact Assessment
- Privacy Impact Assessment

List of consultees notified by email

Building Standards Division maintains a list of individuals and organisations who have previously recorded an interest in consultations on matters relating to buildings and construction (see Annex B). Email notification of this consultation was made to all listed parties on the date of publication of this document.

⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:153:0013:0035:en:PDF>

The Scottish Energy Performance Certificate Register (SEPCR)

1.1 Development of a central register

The Scottish EPC Register (SEPCR)⁷ is a central register of data for all the Energy Performance Certificates (EPCs) and Recommendations Reports, Section 63 Action Plans, Display Energy Certificates and Advisory Reports, Green Deal Advice Reports (GDARs) and Green Deal Plans that are produced and lodged for properties throughout Scotland.

Over 1.9 million EPCs have been lodged since its inception in January 2008, with around 20,000 further lodgements taking place on a monthly basis. With the addition of Green Deal and Section 63 assessments, the register now holds in excess of 2 million assessment records.

Lodgement of data for Energy Performance Certificates (EPC) began in December 2008. Initially, only data for existing dwelling EPCs was lodged to the register, using the facility offered by the pre-existing Home Energy Efficiency Database (HEED) operated by the Energy Saving Trust.

In support of an increased focus on use of EPCs in support of policy delivery, both in Scotland and elsewhere in the UK, a more comprehensive separate register (the SEPCR) was commissioned and developed. This was introduced in October 2012, with the transfer of existing data from HEED, and also supported the initial roll-out of the UK Government's Green Deal programme.

From January 2013, central lodgement was extended to cover EPCs for existing non-domestic buildings and EPCs on completion of new domestic and non-domestic buildings⁸. At the same time lodgement of Green Deal Advice Reports (GDAR) to the register also began in-line with the Green Deal aspects of the Energy Act 2011. There is no central lodgement of air conditioning inspection reports (introduced under Article 15 of the Directive) in Scotland.

From 1 September 2016, energy improvement data for Action Plans, Display Energy Certificates and Advisory Reports is also lodged to the SEPCR in support of the Assessment of Energy Performance of Non-domestic Buildings (Scotland) Regulations 2016. A charge is levied for lodgement of energy improvement data and is set at the same rate as for non-domestic EPC data but, as a non-statutory fee, includes VAT at the standard rate reducing the effective income from each lodgement to £4.47.

⁷ <https://www.scottishepcregister.org.uk/>

⁸ Lodgement of energy performance data to the register is required in support of all building warrant applications for new buildings submitted on or after 9 January 2013. Exceptions are identified under [standard 6.9](#) in the Technical Handbooks.

The Energy Saving Trust (EST) has been appointed by the Scottish Ministers as “the Keeper of the Register” and is responsible for the daily operation and maintenance of the register. In addition, the keeper manages the regular development work and software upgrades required for the register to maintain function in response to changes to the National Calculation Methodology (NCM) and changing requirements arising from policies that access and use the data held by the register.

1.2 The need for a register of data

Energy Performance Certificates (EPCs) and their accompanying Recommendations Reports (RRs) are the means by which the UK implements Articles 3, 4, 6 and 11-13 of Directive 2010/31/EU on the Energy Performance of Buildings (the Directive). All EPC assessments are now lodged to this central electronic register.

Scottish regulations implementing the Directive require the production of an EPC on the construction, sale or rental (to a new tenant) of a building and the display of EPCs in larger buildings to which the public have access. For the purpose of the Directive, an EPC is valid for a period of not more than ten years. Provision of EPCs on construction is addressed under standard 6.9 of the Building (Scotland) Regulations 2004⁹. Provision in other respects is addressed under The Energy Performance of Buildings (Scotland) Regulations 2008¹⁰.

EU legislation does not mandate the creation of a central register of energy performance data. Whilst initially beneficial from 2008, it was determined that such a resource was integral to the successful delivery of the recast Directive from January 2013. In addition, the creation of a central repository of energy performance data has now been of benefit to building owners and practitioners and is essential to the delivery of both EU and domestic energy efficiency and emissions reduction policies.

The SEPCR now provides a rich source of data on the energy performance of our existing building stock. The Scottish Government has designated energy efficiency as a National Infrastructure Priority, the cornerstone of which will be Scotland’s Energy Efficiency Programme (SEEP) – a 15 to 20 year programme. The Programme for Government commits to investing more than half a billion pounds to SEEP over the next four years, setting out a clear commitment to develop this programme with substantial annual funding.

By 2035, SEEP will have transformed the energy efficiency and heating of Scotland’s buildings so that, wherever technically feasible, and practical, buildings are near zero carbon. An effective and well-resourced register of energy performance data is integral to that process – helping to target improvements as well as tracking progress.

⁹ <http://www.gov.scot/resource/buildingstandards/2016Domestic/chunks/ch07s10.html>

¹⁰ <http://www.legislation.gov.uk/all?title=performance%20of%20buildings%20%28Scotland%29%20-2016>

1.3 Policies supported by register data and functions

The principal function of the register was to support the Scottish Government in the transposition of Directive 2002/91/EC (recast as 2010/31/EU), through registration of Energy Performance Certificates (EPCs).

Since 2007, EPCs and their underlying assessment methodology have become embedded in a wide range of government policy areas as the method of reporting on and recording energy performance and emissions information for buildings. The register currently accepts data from a number of assessment tools, each delivering one aspect of the UK National Calculation Methodology (NCM). These are:

- EPCs for dwellings, the SAP and RdSAP methodology. Information can be found at www.bre.co.uk/sap2012/
- EPCs for non-domestic buildings and buildings other than dwellings, the SBEM methodology. Information is published at www.uk-ncm.org.uk/
- Display Energy Certificates (DECs) reporting operational energy use in non-domestic buildings. Information on application of this methodology in Scotland can be found at www.gov.scot/section63.

Since their introduction, the UK National Calculation Methodology and EPCs have and will continue to be applied across a range of policies other than EPBD and building regulations. These include:

- **Home Report** (Scotland, methodology strand – RdSAP). The EPC and recommendations report (RR) is used to provide the ‘energy report’ required under [The Housing \(Scotland\) Act 2006 \(Prescribed Documents\) Regulations 2008](#). The section in the RR ‘About the recommended measures to improve your home’s performance rating’ is required under this legislation.
- **Energy Efficiency Standard for Social Housing** (Scotland, methodology strand: RdSAP). [EESH](#) does not require production and lodgement of an EPC but does use the numerical value of the calculated Energy Efficiency Rating (the ‘SAP rating’) as the means for Local Authorities/Registered Social Landlords to demonstrate that a defined performance standard is met. Targets are differentiated by both main heating fuel type and dwelling type.
- **Section 63 of the Climate Change (Scotland) Act 2009** (Scotland, methodology strand: SBEM). A non-domestic EPC assessment is used as the basis for the setting of improvement targets for larger non-domestic buildings [under The Assessment of Energy Performance of Non-domestic Buildings \(Scotland\) Regulations 2016](#). Applicable from 1 September 2016, these regulations require assessment and improvement of buildings over 1,000 m². The requirement to assess is triggered by sale or rental of a building (or building unit), the same transactional trigger as for EPCs.

Assessment results in the production of an 'Action Plan' document which records improvement targets and the measures proposed to meet them. Improvement may be deferred where annual operational energy use is reported on a Display Energy Certificate using the operational ratings methodology, ORcalc. Further information on this policy and the processes applied can be found at www.gov.scot/section63.

- **Green Deal** ([UK Government](#), methodology strands – RdSAP and SBEM plus additional assessment methodology (Occupancy Assessments)). An EPC is used to record the performance of a building before and after a Green Deal plan when improvement is carried out. Details of the Green Deal plan are added to the last page of the post-improvement Recommendations Report. In 2012, the RdSAP methodology was modified (improved and expanded) to support the requirements of assessment in support of the Green Deal.
- **Feed-in Tariff** ([UK Government](#), methodology strands – SAP, RdSAP and SBEM). Eligibility for standard rate tariff dependent upon meeting minimum energy efficiency requirement, based upon EPC rating. For non-domestic buildings, due to differences in post-SBEM EPC process, the Scottish Recommendations Report presents a calculated 'England & Wales Equivalent EPC rating'.
- **Renewable Heat Incentive** ([UK Government](#), methodology strand – SAP. RdSAP). Eligibility for standard rate tariff dependent upon meeting minimum energy efficiency requirement, based upon EPC rating. Recommendations Report of EPC contains information on how heat demand can be reduced by implementing specific measures.
- **Energy Company Obligation** ([UK Government](#), methodology strand – RdSAP). RdSAP calculations and lodged EPCs both used as evidence to support proposals for ECO improvement works. EPCs are used to record measures implemented and benefits, post-installation.
- **Minimum standards of energy efficiency in private sector housing** (Scotland, methodology strand: RdSAP (proposed)). The Scottish Government is consulting at present on proposals for the assessment and improvement of dwellings in the private rented sector, including on setting an initial minimum energy efficiency standard (SAP band) at the point of rental of 'E' from April 2019, rising to 'D' from April 2022, with "backstop dates" by which all privately rented properties would need to meet the standard. The consultation runs until 30 June and can be accessed at: <https://consult.scotland.gov.uk/better-homes-division/energy-efficiency-programme/>.

Amendment of fees for lodgement of energy performance data.

2.1 Objective

To adjust the level of funding for the Scottish Energy Performance Register (SEPCR) by increasing the statutory fee paid by users for lodging of data to the register.

2.2 Aims

1. To provide resources adequate to support effective operation and maintenance of register systems from lodgement fee revenue.
2. To support a limited annual programme of core register development to provide further enhancements to the register systems to improve access and use of data held on the register.

2.3 Analysis of costs to support change in lodgement fee.

Due to the level of development work undertaken to the SEPCR in support of a range of Scottish and UK Government policies over the years 2012-2015, a true picture of core operational costs for the register on a 'maintaining' basis only emerged last year.

The following table summarises key operating costs and lodgement income for the most recent three years of operation. An accrued operating fund, arising from direct funding of development work prior to 2014/15, was utilised over the past three years in meeting running costs, deferring the need to review lodgement fees.

	Operational costs			Income		
	Direct costs (staff, administration & IT charges)	Release (update) & other recurring costs	total operational costs	Lodgement revenue	Funds available from previous year	Funding Shortfall met by the Scottish Government
2014/15	£468,082	£88,563	£556,645	£417,098	£239,319	- £50,746
2015/16	£495,710	£95,663	£591,373	£356,440	£150,518	- £137,089
2016/17*	£509,827	£81,118	£590,945	£317,616	£52,674	- £229,109

* Income and expenditure for March 2017 is projected.

Operational costs for core register functions exclude separately funded development projects such as the 2015 programme that led to introduction of the facility for Action

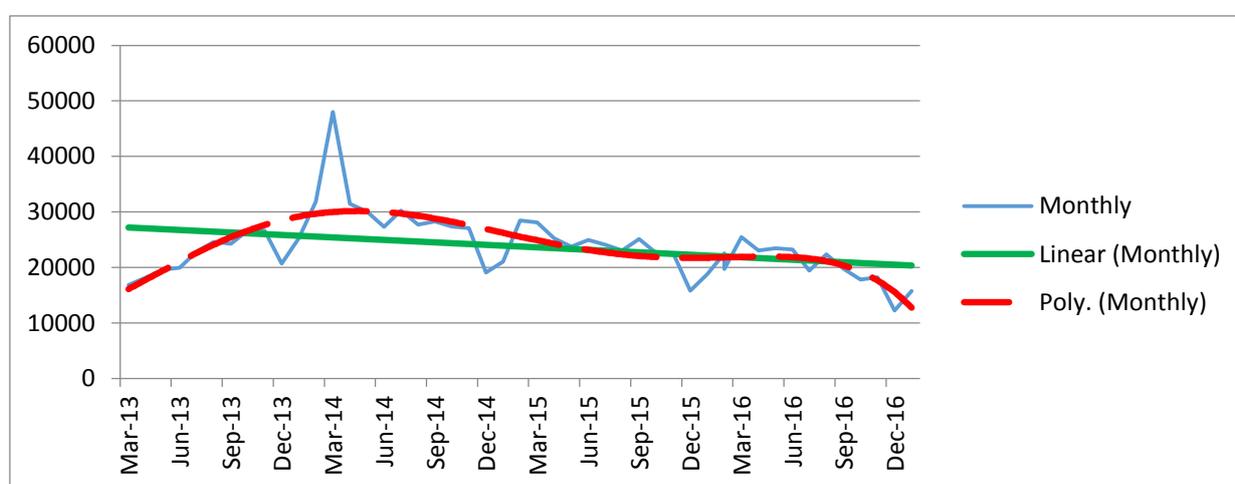
Plan and Display Energy Certificate data lodgement in 2016¹¹. These core costs have remained relatively constant in recent years, being in the region of £550,000 to £600,000.

However, lodgement revenue has reduced significantly from just under £420,000 in 2014/15 to around £310,000 in 2016/17. This has resulted in both expenditure of all residual funding from previous years' income and a need for direct finding from the Scottish Government.

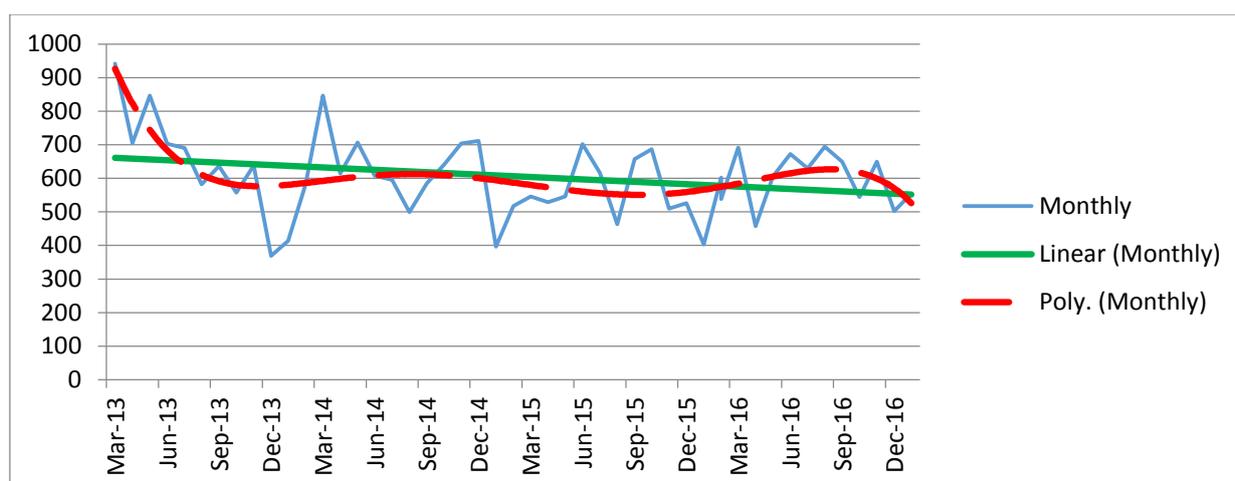
2.4 Changes in profile of EPC lodgement numbers.

The reduction in overall number of EPC lodgements is illustrated in the graphs below.

Graph - Domestic EPC lodgements, March 2013 - February 2017



Graph - Non-domestic EPC lodgements, March 2013 - February 2017



¹¹ In support of [The Assessment of Energy Performance of Non-domestic Buildings \(Scotland\) Regulations 2016](#).

Annual EPC lodgement for the past three years has fallen by approximately 27% for domestic buildings and 9% for non-domestic buildings:

- 2014/15 – 326,126 domestic; 7,124 non-domestic
- 2015/16 – 273,911 domestic; 6,932 non-domestic
- 2016/17 – 236,881 domestic; 6,497 non-domestic

From the perspective of the EU Directive, which requires Energy Performance Certificates and sets a validity period for them of ten years, a reduction in certification activity is to be expected as a larger proportion of buildings receive certification. This trend is mitigated to some extent by the use of EPCs in support of domestic policy and, in particular, the production of ‘before and after’ EPCs as part of funded improvement measures.

On the basis of lodgement trends, it is projected that the annual number of EPC lodgements will continue to decline moderately in the short term. However, review of the lodgement fee as an annual exercise will enable further adjustment of the statutory fee to maintain lodgement revenue to the extent this is considered reasonable.

2.5 Overview of Proposals

1. **Annual review** – Elsewhere in the UK, lodgement fees have been subject to annual review since April 2012. SEPCR operations will continue to be monitored on a monthly basis to identify the efficacy of the current statutory fee in meeting operational costs. Any decision to make further amendment to the statutory fee, together with supporting evidence, would be agreed by Ministers at least three months before any planned implementation.

As is the case across the rest of the UK, such future amendments will not be subject to public consultation but, subject to Ministerial approval, will be implemented by amendment of regulation and supported by an Impact Assessment.

2. **Amendment of current statutory fee** – We consider that it remains appropriate and equitable for the register to be funded by a statutory lodgement fee, resulting in the cost of maintaining the service being borne only by those individuals who use the service. Fees will be increased or reduced to provide resources adequate to support effective operation and maintenance of register systems from lodgement fee revenue.

Where monitoring of expenditure identifies that adequate capacity exists, expenditure on core register development to improve access and use of data held on the register will be authorised by the SEPCR Steering Group, which comprises the keeper and representatives from Scottish Government policy areas that utilise register data.

2.6 Detail of Proposal

Operation & Maintenance of the register currently costs approximately £41,000 each month or £492,000 per annum. The remaining expenditure relates to periodic updates to register services and their interface with users (testing and release costs).

Over and above the cost of operating and maintaining the register, changes to implemented functions require testing and release of a new schema version and these arise on a regular basis. Such updates to existing systems to maintain or to enhance existing functionality are classified as 'core register development' and are intended to be funded from lodgement revenue. The costs arising from such releases vary depending on the level of change implemented and generally lie within a range of £10,000 (minor release to implement enhancements or correct known issues) to £75,000 (major data schema change, such as revision of the National Calculation Methodology).

Other work on register systems to support more effective processing of data, reducing operating costs, is also undertaken where needed.

Both 2015/16 and 2016/17 did not include significant project development work to the register and are considered a reasonable indicator of future costs. On that basis, calculation of fee increase is proposed based upon the following budget:

£500,000	Operation and maintenance
£100,000	Core register development (planned and emergency releases)
£ 50,000	Core register development (enhancing register systems)
£650,000	Total

A projection of likely levels of annual lodgement to the SEPCR suggests assessment of projected revenue be based upon 215,000 domestic EPCs, 6500 non-domestic EPCs and 1,500 Action Plans and Display Energy Certificates (the last element being subject to VAT at standard rate).

At present, no lodgement fee is levied by the UK Government for lodgement of Green Deal information to the register. If fees for lodgement of such data are introduced in the future, the impact of additional revenue will be considered within the annual review process identified in section 2.5.

2.7 Amended fees for lodgement of data

To meet the anticipated annual budget, the statutory fee would need to be increased to:

- **£2.60 for domestic EPCs** (an increase of £1.45); and
- **£12.10 for non-domestic EPCs** (an increase of £6.74).

This raises both fees by approximately 125% and would provide projected annual revenue of just over £650,000.

Whilst this represents a significant percentage increase from the original 2012 lodgement fees, it should be noted that:

- The statutory fee remains a small component in the overall cost of an EPC assessment;
- Scottish building owners were not charged a lodgement fee prior to October 2012, fees have remained the same or lower than the rest of the UK since that date; and
- The current Keeper of the Scottish Register is a social enterprise and the register is run on a 'not for profit' basis.

2.8 Consultation questions

Consultation questions are noted here for reference. Please provide your input to the consultation on the separate Respondent Information Form (RIF), published alongside this consultation paper.

Question 1

Do you support the continuation of the funding approach introduced in 2012 - that the operation of the SEPCR be self-financing, supported primarily by the statutory fee levied on each lodgement of energy performance data?

Yes **No**

Please set out your reasons for this response.

Question 2

Do you support the intent to review the lodgement fee on an annual basis to ensure that charges are set at the minimum level needed to cover operational costs?

Yes **No**

Please set out your reasons for this response.

Question 3

Please use this question to provide any other commentary or observations you have on the current funding of the Scottish Energy Performance Certificate Register. Where practical, please provide examples or evidence to support the issues you raise.

Annex A – Interim Business and Regulatory Impact Assessment

Title of Proposal

Review of statutory fees implemented under regulation 10A of The Energy Performance of Buildings (Scotland) Regulations 2008.

Purpose and intended effect

Background

In response to Article 7 of Directive 2002/91/EC on the Energy Performance of buildings, the production of energy performance certificates was introduced for construction of new buildings (from 1 May 2007) and sale or rental of existing buildings and display in larger public buildings (from 4 January 2009).

A public consultation¹² was undertaken in November 2011 asking for views on the introduction of a fee for the lodgement of each energy performance certificate (EPC) to a new, expanded central electronic registry – the SEPCR. The Scottish Government response to the consultation exercise (April 2012) remains available online¹³.

Responses to the consultation were supportive of the proposal and Fees of £1.15 and £5.36 (for dwellings and non-dwellings respectively) introduced on 1 October 2012 via regulation 12 of The Energy Performance of Buildings (Scotland) Amendment (No. 2) Regulations 2012. This formed part of broader work to implement the regulations and processes needed to transpose Directive 2010/31/EU on the Energy Performance of Buildings.

In responding to the original 2011 consultation, the Scottish Government provided a commitment that a review of the fee rate would be undertaken after a period of at least three years and would be notified via public consultation.

Objective

To set out the current status of the Scottish Energy Performance Certificate Register (SEPCR)¹⁴, to advise on pending action to amend the statutory fees payable on lodgement of energy performance data and to seek views on the manner in which the register is funded.

¹² <http://www.gov.scot/Publications/2011/11/16154018/0>

¹³ <http://www.gov.scot/Resource/0039/00391756.pdf>

¹⁴ <https://www.scottishepcregister.org.uk/>

Rationale for Government intervention

The premise established following consultation in 2011/12 was for the creation of a central electronic register for energy performance data which would be funded directly from application of a statutory fee for lodgement of data.

Whilst the estimated operating costs for the register predicted in the 2011 consultation proved to be relatively accurate for the initial operation, this is no longer the case. With the introduction of additional facilities and functions over time, it has become evident that original lodgement income alone is not sufficient to cover operating costs. For the past three years, the shortfall between lodgement revenue and operating costs has been funded directly by the Scottish Government.

Proposals consider amendment of the current statutory fees set in regulations and, going forward, annual review to enable the original intent of register operations being funded solely from lodgement fee revenue.

Consultation

- **Within Government**

Consultation proposals were developed with input from policy areas of the Scottish Government with an interest in the lodgement and use of energy performance data lodged to the Scottish Energy Performance Certificate Register (SEPCR), including Better Homes Division, Housing Directorate & Energy Deployment Division, Directorate for Energy & Climate Change

Notification of the review was also made to the UK, Welsh and Northern Ireland government via officials leading on transposition of Directive 2010/31/EU on the Energy Performance of Buildings.

- **Public Consultation**

This document supports a public consultation which sets out the current status of the SEPCR, advise on pending action to amend the statutory fees payable on lodgement of energy performance data and seeks views on the manner in which the register is funded.

- **Business**

The consultation is the principle means of engagement with building owners. Pre-engagement on the impact of proposed changes in statutory fee was undertaken via dialogue with:

- Scottish Approved Organisations, with a specific focus on response to similar changes applicable elsewhere in the UK during 2013 and 2016; and

- a sample of current EPC Assessors who are the point of contact with clients, including small businesses.

Options

- **Option 1 – do nothing**

Retain current provisions in legislation unchanged.

- **Option 2 – amend statutory fees**

Amend current provisions in legislation to change the statutory fee. Action proposed in consultation is to raise the level of fee.

- **Option 3 – remove statutory fees**

Amend current provisions in legislation to remove the statutory fee

Sectors and groups affected

Ultimately, any change to the manner in which the SEPCR is funded will have an impact, positive or negative, on building owners who seek to obtain an EPC for their property who may be required to bear the cost increase or may benefit from the reduction or removal of said charge.

It will also have an impact on the EPC assessors delivering services who will have to determine whether or not to pass on the change in cost to building owners.

It will also require amendment to limited aspects of the administration of these assessors by Approved Organisations who collect and pass on the statutory fee to the keeper.

Removal of the statutory lodgement fee would result in the cost of the register being met by the Scottish Government and therefore by taxpayers in general, not just users of the service.

Benefits

- **Option 1 – do nothing**

There is no change in current benefits.

- **Option 2 – amend statutory fees**

The SEPCR is returned to the intended cost recovery model proposed on the original 2011 consultation and will operate in line with similar resources elsewhere in the UK. A cost of just under £365,000 to the Scottish Government, and therefore to taxpayers in general, is removed.

- **Option 3 – remove statutory fees**

The intended cost recovery model proposed on the original 2011 consultation is discontinued and a cost to users of the register (building owners) of approximately £650,000 is removed.

Costs

- **Option 1 – do nothing**

The cost of funding a shortfall between the operating costs of the SEPCR and lodgement income would fall to the Scottish Government.

- **Option 2 – amend statutory fees**

A shortfall between the operating costs of the SEPCR and lodgement income would be removed by a change in the current statutory fees. This would bring the operation of the SEPCR back in line with the original model proposed and supported in the 2011 consultation on the introduction of lodgement fees.

To meet the anticipated annual budget, the statutory fee would need to be increased to £2.60 for domestic EPCs (an increase of £1.45) and £12.10 for non-domestic EPCs (an increase of £6.74). This would provide projected annual revenue of approximately £650,000, an increase of just under £365,000 compared to Option 1. This increase in cost is borne by the users of the register (building owners).

- **Option 3 – remove statutory fees**

The full cost of operating the SEPCR, estimated at £650,000 annually, would be borne by the Scottish Government and therefore by taxpayers in general.

Scottish Firms Impact Test

The impact of proposed change (Option 2) was investigated through dialogue with both EPC Assessors (who are in direct contact with building owners as clients) and Approved Organisations (who gather and deliver the fee to the keeper). This included feedback from the latter on experiences from similar changes to lodgement fees which occurred previously elsewhere in the UK.

The statutory fee for lodgement of energy performance data is built into the overall fee charged to building owners by an EPC assessor for their services. As such, any increase in cost, however small, will either be absorbed by the Assessor (reducing profit) or passed on to the building owner (increasing cost of assessment). Building owners are not generally aware of the lodgement fee as a small, discrete component of assessment costs.

Discussions with organisations and individuals delivering assessments indicated that

even a small change in such a fee has implications for existing systems. The change in monetary terms was considered relatively inconsequential by most, but not all, of those contacted. It can, for example, have a greater impact in resourcing terms for owners where assessment of large property portfolios is planned. From an Assessor perspective, it may also impact most readily where existing service delivery contracts were agreed based upon current charges.

Common themes arising in discussions were:

- a preference to avoid change where possible;
- a preference for limiting the number of occasions when a fee is amended;
- where amendment is required, signal this as far in advance as practical; and
- expectation that increased fee should improve the facility provided to users.

Competition Assessment

Proposals will not have an impact on competition. The topic of review is a statutory fee which is applied to all lodgement of data to the SEPCR. Any party seeking to obtain an EPC and any party submitting such data is subject to the same requirement under legislation. Proposals will not, therefore, limit:

- the number or range of suppliers;
- the ability of suppliers to compete;
- suppliers' incentives to compete vigorously; or
- choices and information available to consumers.

Test run of business forms

No new forms will be introduced as a result of any of the options being consulted upon.

Legal Aid Impact Test

None of the options set out could give rise to increased use of legal processes or create new rights or responsibilities. There will be no possible impacts on the legal aid fund.

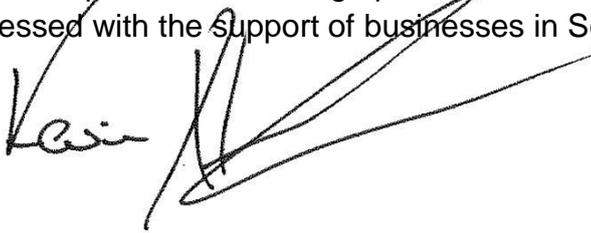
Enforcement, sanctions and monitoring

None of the options set out require any change to current procedures for enforcement, sanctions or monitoring of the current regulatory provisions. Any change arising would be administrative and relate to existing functions already undertaken by registered Assessors, Approved Organisations and the keeper of the register.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:



Date:

25/4/2017

Minister's name Kevin Stewart

Minister's title Minister for Local Government and Housing

Scottish Government Contact point:

Steven Scott

Building Standards Division

Denholm House

Almondvale Business Park

Livingston

West Lothian

EH54 6GA

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steven.scott@gov.scot

Annex B – List of consultees notified by email

Building Standards Division maintains a list of individuals and organisations who have previously recorded an interest in consultations on matters relating to buildings and construction. Notification of this consultation was made to all such parties by email on the date of publication.

@rchitects Scotland Ltd	Association of Manufacturers of Domestic Appliances (AMDEA)
6 Market Place	Association of Noise Consultants
7N Architects	Aura Survey and Design Ltd
A & J Stephen Builders Ltd	Ayrshire Housing Ayrshire Housing
A + G Architects (Perthshire) LLP	Babcock Marine (Rosyth) Ltd t/a Babcock Scientific
A.McGill Architectural Services	Bacra Ltd
Abertay Housing Association	Balmoral Tanks Ltd
Abloy UK	Bell Architecture
Accountant in Bankruptcy	Bell Ingram Design
AECOM	Bellway Homes Scotland
Aedas Architects	Bennetts Associates
Age Scotland	Bett Homes
Aico Ltd	Bield Housing Association
Airtight Solutions UK Ltd	Blackwood
Alba Thermals Ltd (Albacalcs)	Blame Group
Alcon Design	Blyth and Blyth Consulting Engineers Ltd
Alexander Scott Design Ltd	Bon Accord House
Allan Brothers Ltd	BOSCH Thermotechnology UK
Allan Cumming Associates Ltd	Boswell Mitchell and Johnston (BMJ) Architects
Almond Housing Association	British Approvals for Fire Equipment (BAFE)
Altelier Ten	British Automatic Fire Sprinkler Association Ltd
AMCA Architects	British Board of Agrément (BBA)
Anderson Bayne Architects	British Constructional Steelwork Association Ltd (BCSA)
Anglian Windows Limited	British Electrotechnical and Allied Manufacturers Association (BEAMA)
Angus Design Associates Ltd	British Geographical Survey
Arc	British Gypsum
Arch Henderson LLP	British Gypsum (Saint-Gobain)
Architectonic	British Pump Manufacturers Association Ltd
Architectural & Specialist Door Manufacturers Association	British Research Establishment (BRE) Scotland
Ark Architecture and Design	Building Performance Centre
ARUP	Building Product Design Limited
Ascertiva Group Ltd	Building Standards and Public Safety
Assist Design	Build-It
Association Director and Technical Manager	Built Environment Forum Scotland
Association for Public Service Excellence	Butler and Young Ltd
Association for Specialist Fire Protection (ASFP)	Buro Happold
Association for the Conservation of Energy	
Association of British Theatre Technicians	
Association of Building Engineers	
Association of Consultant Architects	

CA Group Limited
Cadogans
Cairn Property Consultants Ltd
CALA
Cala Homes (West) Limited
Caledonia Housing Association
Calor Gas Ltd
Cameron Harris Design and Build
Capability Scotland
Carbon Trust Scotland
Carbon2018 Limited
Care and Repair Edinburgh
Cavity Insulation Guarantee Agency
Cavity Insulation Guarantee Agency
CCG Group/iQ Lab (Scotland) Ltd
CDMM (UK)
Ceej Limited
Celotex
Centre for Accessible Environments
Centre for Inclusive Living Perth and Kinross
Century 21 Replacement Window Company Ltd
Chartered Institute of Architectural Technologists
Chartered Institution of Building Services Engineers (CIBSE)
Chartered Institution of Water and Environmental Management (CIWEM)
Checkmate
Chiltern International Fire Ltd ta/ Chiltern Dynamics
CIBSE Certification Ltd
City of Glasgow College
Civil Engineering Contractors Association (Scotland) (CECA)
Civils and Drainage Supplies Ltd
Collective Architecture
Colt International Limited
Community Woodlands Association
Confederation of British Industry's (CBI) Scotland
Construction Products Association
Consumer Focus Scotland
Council for Aluminium in Building
Council of Mortgage Lenders
Covell Matthews Architects
CR Smith
Crawford Architectural Design Services Ltd
Crew Architects
Crichton Carbon Centre
Cruden Homes (East) Limited
Cundall Johnston and Partners LLP

D M Hall LLP

Dallman Johnstone Architects
Dalmuir Park Housing Association
Dalziel Design
David M A MacDonald MCIAT - Architectural Services
David Narro Associates Ltd
David Paton Building Consultancy
David R Murray and Associates
David Rae Electrical
Dawn Homes Ltd
Defence Infrastructure Organisation
Dementia Services Development Centre
Department for Communities and Local Government (DCLG)
Department of Finance and Personnel Northern Ireland
DG Design
Dignan Read Dewar Architects
Disability Agenda Scotland
Disabled Persons Housing Service (Fife)
DODS Parliamentary Communications Ltd
Drivers Jonas Deloitte
DSSR Consulting Engineers
Dumfries and Galloway Fire and Rescue Service
Dundee City Council
Dunedin Canmore Housing Association
DX2 Consultancy Ltd

EcoTherm Insulation UK Limited
Ecmk
Edinburgh Chartered Architects Network (ECAN)
Edinburgh Fire Consultants Ltd
Edinburgh Napier University
Edinburgh Solicitors Property Centre (ESPC)
Electrical Contractors Association
Electrical Safety Council
Elmhurst Energy Systems Ltd
Encounter Technologies, Inc (ENCR)
Energist UK
Energy Action Scotland
Energy Saving Trust
Energy Services and Technology Association Ltd (ESTA)
Energyflo Insulation Technologies
Engineering Design Partnership
Environmental Design Solutions Limited (EDSL)
Environmental Economics Ltd
EPC Associates Ltd
EPH Scotland Ltd
Epwin Group, Building Products Division
Equality and Human Rights (Scotland)

Equality and Human Rights Commission
Ethos Environmental Ltd
European Phenolic Foam Association
(EPFA)

Federation of Master Builders
Federation of Small Businesses
Ferian Services and Engineers
Feta Limited
Fife Council
Fife Housing Association Ltd
Fire Service College
First Scottish
Fleming Homes Ltd
Fleming Muir Architects
Flemings Buildings Ltd
Forest Commission
Forestry Commission Scotland
Fuel Industry Association
Future Plans
Fyne Homes Ltd

G M Thomson & Co
Gareth Hoskins Architects Ltd
Gas Safe Register
Gauldie Wright & Partners
GD Young Design Services
Gladedale Group
Glasgow Caledonian University
Glasgow Centre for Inclusive Living
Glasgow City Council Building Control
Glasgow Disability Alliance
Glasgow Housing Association
Glass and Glazing Federation
Glenn Murray & Associates LLP, Architects
Graham + Sibbald
Grampian Fire and Rescue Service
Grampian Housing Association
Green Commercial Ltd
Greengage Environmental
GreenRock Energy
GS Brown Construction
GSG Energy Ltd
GVA Grimley
GVC Green Network Partnership

Hackland + Dore Architects
Hadden Construction Limited
Hanse Haus (UK)
Hardies Property and Construction
Consultants
Harley Haddow
Hawthorn Housing Co-Op
Heads of Service
Health and Safety Executive

Health Facilities Scotland
Heating Equipment Testing and Approval
Scheme (HETAS)
Heriot-Watt University
Highland Council
Highlands and Islands Enterprise
Hilti Corporation
Hilti GB Ltd
Hilton Neighbourhood Watch Association
Holmes Miller
Homes for Scotland
Horizon Housing Association
Hosie Electrical Ltd
Housing Options Scotland
Historic Environment Scotland
Hulley & Kirkwood Consulting Engineers
Hurley Palmer Flatt – Building Engineering
Consultancy

id Design + Architectural
IDOX Group
IES Ltd
Improvement Districts Scotland Limited
Inclusion Scotland
INCOME Energy Association
Institute for Sustainable Construction
Institute for Sustainable Construction,
Edinburgh Napier University
Institute of Fire Safety Managers
Institution of Structural Engineers (IStructE)
Inverclyde Council Safer and Inclusive
Communities
Inverness Access Panel
IRT surveys
Irwin Consultants
Isley Safety Services

J Smart & Co (Contractors) PLC
James D Anderson Consultant Architect
Jaroslaw Kania Architect
Jewitt and Wilkie Architects
John A Fyall Bsc (Hons) FEng.bld.eng
ACoD
John Bridgestock Architect
John Lamb Architect
Joseph Rowntree Housing Trust
JS Architect Ltd
Jubba Environmental and Development
Action (JEDA)

K J Smith
Kalzip Limited
Keppie Design
Kerr Baxter Associates
Key Housing Association

Kingspan Insulation Limited
KJ Tait Engineers
Knauf Drywall
Kraft Architecture

Laing O'Rourke
Lateral Technologies
Lawrence McPherson Associates
Ledingham Chalmers LLP
Levell
Lift & Escalator Industry Association
Lightburn Elderly Association Project
(L.E.A.P)
Link Group
LNT Construction Ltd
Local Authority Building Standards
Manager
Local Authority Building Standards
Scotland
Lomond Land
Lorne Consultants

M.R. Rodger and Partners
Mackintosh School of Architecture,
Glasgow School of Art
Maden Design and Build
Marchitects Ltd
Marshall-Tufflex Energy Management Ltd
MAST Architects LLP
Max Fordham
McCarthy and Stone Retirement Lifestyles
Ltd
McFarlane Curran and Co
McGill
Metal Cladding & Roofing Manufacturers
Association
Michael Laird Architects
Mineral Wool Insulation Manufacturers
Association (MIMA)
Midlothian Council
Miller Homes
Mineral Products Association (Scotland)
Misia Jack Consultancy
Modular & Portable Building Association
Limited
Module Architects
Moray Estates Development Company
Limited
Mosaic Architecture and Design
Mountain Bothies Association
MPA The Concrete Centre
MPG Architects
MRH Design Ltd
Muir Homes
Murray MacLeod Architectural Services

National Association of Chimney Engineers
National Association of Rooflight
Manufacturers
National Building Specification (NBS)
National Energy Services
National Farmers Union of Scotland
National House Building Council Scotland
(NHBC)
National Inspection Council for Electrical
Installation Contracting (NICEIC)
National Landlords Association (NLA)
National Records of Scotland
National Trust for Scotland
Newsdirect
NHS Fife
NorDan
Norscot Joinery Limited
North Ayrshire Access Panel
North Woods Construction Ltd
NSG Group

Ogilvie Homes
Oil Firing Technical Association (OFTEC)
Oliver and Robb Architects
One Housing Group
Oregon Timber Frame Ltd
Orkney Housing Association Ltd

Patrick Housing Association
Persimmon Homes East Scotland
Persimmon Homes West Scotland
Pinsent Masons LLP
Places for People
Planterra
Portakabin Limited
Portakabin Scottish Division
Premier Guarantee Surveyors
Project Management Scotland Ltd

Quickplans
Quidos
Quigley Architects

Ramboll UK
Ravensby Glass Co Ltd
Reforestation Scotland
Registers of Scotland
Renewables Now
Residential Ventilation Association
Richard Allen Architectural Design
RIAS-REGS Ltd
RJM Architectural Design
RMJM Ltd
RMJM Scotland
Rob Roy Homes

Robert Gordon University
 Robertson Homes Ltd
 Roche and Darge Architects
 Rockwool Limited
 Roman Catholic Diocese of Galloway
 Roscon Services
 Ross Quality Control Limited
 Royal Incorporation of Architects in Scotland (RIAS)
 Royal Institute of British Architects (RIBA)
 Royal Institute of Chartered Surveyors (RICS) Scotland
 Royal Scottish Forestry Society
 Royal Society for the Prevention of Accidents
 Royal Town Planning Institute Scotland
 Rural Energy
 RWW Chartered Architects
 Rytons Building Products Ltd

Saint-Gobain
 Saint-Gobain Isover
 Sap Service UK
 Scotdraw Architectural Services
 Scotframe
 Scotframe Timber Engineering Ltd
 Scotland's Rural College (SRUC)
 Scotland's trade association for the electrical industry (SELECT)
 Scottish & Northern Ireland Plumbing Employers Federation (SNIPEF)
 Scottish Accident Prevention Council
 Scottish Borders Council
 Scottish Building Federation
 Scottish Canals
 Scottish Care Information (SCI)
 Scottish Chambers of Commerce
 Scottish Community Safety Network
 Scottish Council of Independent Schools
 Scottish Crofting Federation
 Scottish Disability Equality Forum
 Scottish Environment Link
 Scottish Federation of Housing Associations
 Scottish Fire and Rescue Service
 Scottish Land and Estates
 Scottish Prison Service
 Scottish Property Federation
 Scottish Timber Trade Association
 Scottish Water
 Scribbilib Consultancy Ltd
 SCS Group
 SE Controls
 Senior Consultant
 Shepherd and Wedderburn

Simpson and Brown
 Smart Compliance Ltd
 Society of Light and Lighting
 Society of Operations Engineers
 Solar Trade Association
 Solid Fuel Association
 South Lanarkshire Council
 Space Solutions (Scotland) Ltd
 Spiral Staircase Manufacturers Association (Scotland)
 SPS Envirowall Ltd
 STC
 Steel Construction Institute
 Sterling Accreditation
 Stewart Milne Developments
 Stewart Milne Homes North Scotland
 Stewart Milne Timber Systems
 Story Homes
 Strathclyde Police Property Services
 Structural Engineers Registration Ltd
 Stroma Certification
 Structural Timber Association
 Summitskills Sector Skills Council

Tata Steel
 Taylor Design Services
 Taylor Wimpey
 Taylor Wimpey West Scotland
 Tayside Fire and Rescue
 TGR Import and Export Ltd
 The Architectural Heritage Society of Scotland
 The Bathroom Manufacturers Association
 The British Flue & Chimney Manufacturers Association (BFCMA)
 The Carbon Trust
 The Charlton Smith Partnership
 The Chartered Institute of Building
 The Fire Brigades Union
 The Fire Protection Association (FPA)
 The Hay Lough Davis Partnership
 The Homesafe Group
 The Law Society of Scotland
 The Moray Council
 The Morrison Partnership
 The Mountaineering Council of Scotland
 The NWH Group
 The Passive Fire Protection Forum (PFPF)
 The Planning Bureau Ltd
 The Pollock Hammond Partnership
 The Royal Environmental Health Institute of Scotland
 The Scottish Parliament
 The trade association for the LPG industry in the United Kingdom (UKLPG)

The Wee House Company Ltd
Thermal Economics Limited
Thermal Image UK
Thermal Insulation Manufacturers and
Suppliers Association (TIMSA)
Timber Research and Development
Association (TRADA)
Titon
Tods Murray LLP
Training Development Research and
Growth
Troup Bywaters & Anders

Unite the Union
United Kingdom Accreditation Service
University of Abertay Dundee
University of Dundee
University of Edinburgh
University of Edinburgh Sustainability
Office
University of Glasgow
University of the West of Scotland

Vaillant Group
Valuation Office Agency
Val-U-Therm Limited
Veitchi Homes Limited
Velux Company Ltd
Vipond Fire Protection Ltd
Visuplan
Vortice Ltd

Walker Group
Walker Timber Ltd
Wallace Whittle
Waste & Resources Action Programme
(WRAP)
Watson Burnett Architects
Wellwood Leslie Architects
Wernick Hire
West Granton Housing Co-op
West Lothian Access Panel
William B Barnaby
William Wilson Ltd
Wittets Ltd
WSP UK

Zero Waste Scotland



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