

Building Standards Compliance and Fire Safety

**- a consultation on making
Scotland's buildings safer for people**

July 2018

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Title:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Overview:

This consultation seeks to obtain the views and opinions of stakeholders on a review of building and fire safety regulatory frameworks in order to help ensure the safety of people in and around Scotland’s buildings.

The consultation covers two main areas, as follows:

- The first part relates to the roles and responsibilities of people verifying, inspecting and certifying building work and strengthening enforcement of and compliance with building regulations.
- The second part of the consultation covers specific fire safety standards relating to external cladding and cavities, escape, the provision of sprinklers and finally, the proposal for a “central hub” for verifying complex fire engineered solutions.

The proposed changes outlined in the consultation aim to:

- improve compliance with building standards during the design and construction of all buildings, with a particular focus on complex and high value public buildings, making them safer for occupants; and
- address fire safety related issues in relation to high rise domestic buildings and certain other residential buildings.

Why We Are Consulting:

Following the findings within the report of the Independent Inquiry into the Construction of Edinburgh Schools and the tragic events at Grenfell Tower, London on 14 June 2017, two expert review panels were set up to review aspects of the Scottish building standards regulatory framework. The first panel’s remit was to review compliance and enforcement aspects of the building standards system and the second panel’s remit was to review building standards and Technical Handbook guidance primarily relating to fire safety in high rise domestic buildings, but also considering other building types where applicable. This consultation consolidates the outcomes and proposals of these two review panels.

The Scottish Government is now seeking the views of any organisation or individual with an interest in ensuring building standards legislation and associated Technical Handbook guidance fully address the issues raised in relation to:

- the level of detailing accompanying building warrant applications and completion certificates;
- the construction of buildings; and
- the safety of occupants in the event of a fire in dwellings, particularly those in high rise buildings.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Contents

Ministerial Foreword

Introduction

Why we are consulting

How we would like you to help

Part 1 – Building Standards (Compliance and Enforcement)

Overview

Verifiers

Building Owner or Developer

Compliance Plan

Building standards system

Enforcement

Part 2 – Building Standards (Fire Safety)

Overview

Structure of building standards and supporting guidance

Fire safety engineering

External walls and cladding

Escape

Automatic fire suppression systems

Shared residential accommodation – protected lobbies

Part 3 – Building Standards (Miscellaneous)

Overview

Shared residential accommodation

Temporary buildings

Part 4 – Building Standards – Areas for further consideration

Overview

Re-shaping the system

Resourcing and skills

Part 5 – Impact Assessments

Quality Impact Assessment

Business and Regulatory Impact Assessment

Responding to the Consultation Paper

Respondent Information Form

Consultation Answer Form

Annex A: Building Standards system – Background

Annex B: Supporting documents and Links

- Building Standards (Compliance and Enforcement) Review Panel
- Building Standards (Fire Safety) Review Panel

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

- SG website
- Technical Handbooks
- Procedural Handbook
- MWG
- Cole Report into Edinburgh Schools
- DG One in Dumfries
- Dame Judith Hackitt Report
- Scottish Parliament – Education and Skills Committee
- Scottish Parliament – Local Government and Communities Committee
- Research on the CCNP – BRE

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Ministerial Foreword:

Following the tragic fire at Grenfell Tower last June, the Scottish Government took the swift decision to establish a Ministerial Working Group on Building and Fire Safety to review Scotland’s building and fire safety regulatory frameworks. As part of the Group’s actions, two expert panels were created. One to review compliance and enforcement aspects of the building standards system and one to review the fire safety aspects in building standards and guidance primarily relating to high rise domestic buildings.

I am pleased that the reviews found Scotland’s building standards system is robust. For around 80% of building work, the system is well suited, with some improvements needed to the key actions undertaken throughout the construction phase and at completion. For the remaining 20% of the buildings constructed in Scotland - where there is often additional complexity in design and construction, for example high rise buildings – they found more needs to be done to provide robust assurance that safety critical aspects are designed and built as intended and in accordance with the relevant standards. The panels also recognised that there were issues with smaller building work, and recommended that at this scale the requirement is for better implementation of the current regime rather than changes to the system.

The recommendations of the two expert panels have been accepted in full by the Working Group. We believe the proposed actions set out by the review panels, offer the opportunity to ensure that future buildings in Scotland’s are even safer for the people of Scotland who will live in, and use them each day.

I am grateful to Professor John Cole and to Dr Paul Stollard for chairing the two expert panels and also to the many panel members who gave their time and expert knowledge to consider how best to improve and re-shape the building standards system. I would also like to express my gratitude to former Ministers on the Group, Angela Constance and Annabelle Ewing for their support and direction in moving this important work forward.

The fire safety of our buildings is crucial, especially where buildings are people’s homes or serve a highly valued public purpose such as our schools and hospitals. We are also committed to ensuring that buildings in Scotland are built to robust standards.

This consultation consolidates the recommendations made to the Working Group and seeks views on the recommendations and the proposed changes to Section 2: Fire in the Technical Handbooks.

I hope you will take this opportunity to give us your thoughts.

Kevin Stewart, Minister for Local Government, Housing and Planning

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Introduction

As a result the tragic events at Grenfell Tower, London on 14 June 2017, a Ministerial Working Group was set up to oversee a review of building and fire safety regulatory frameworks, and any other relevant matters, in order to help ensure that people are safe in Scotland’s buildings, and make any recommendations for improvement as required.

Why are we consulting

The initial focus of the Ministerial Working Group was on high rise domestic buildings and providing appropriate reassurance to residents and communities about their safety. In addition, the Group identified medium to long-term actions to be taken forward which included fire and safety advice, and the adequacy of current fire and building regulatory frameworks. As part of this work two expert review panels were set up to review aspects of the Scottish building standards system. A background to the current system is provided in **Annex A**.

The first panel’s remit was to review compliance and enforcement aspects of the building standards system and the second panel’s remit was to review building standards and Technical Handbook guidance primarily relating to fire safety in high rise domestic buildings but also considering other building types where applicable.

This consultation consolidates the recommendations of the two review panels and seeks to obtain the views and opinions of stakeholders on proposals for the building and fire safety regulatory frameworks in order to help enhance the safety of people in and around Scotland’s buildings.

The review panels covered two main areas:

- The roles and responsibilities of people verifying, inspecting and certifying building work and strengthening and compliance with and enforcement with building regulations.
- The specific fire safety standards relating to external cladding and cavities, escape, the provision of sprinklers and finally, the proposal for a “central hub” for verifying complex fire engineered solutions.

The proposals outlined in the consultation aim to:

- improve compliance with building standards during the design and construction of buildings, particularly complex and high value public buildings, making them safer for occupants; and
- address fire safety related issues in relation to new build or refurbishment of high rise domestic buildings.

How we would like you to help

This consultation is comprised of 41 questions and is set out in four parts:

- **Part 1** seeks your views on the compliance with and enforcement of building regulations.
- **Part 2** seeks your views on the fire safety building standards.
- **Part 3** seeks your views on two miscellaneous aspects of building standards.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

- **Part 4** seeks your views on areas of the building standard system for further consideration (note that these areas mainly arose through the compliance and enforcement review panel).
- **Part 5** seeks your views on the impacts of the proposals on equality groups and businesses.

Responses to the consultation will be used to inform the final policy and impact assessments that will be prepared in support of any legislative changes.

Information on how to respond to the consultation is on page 35. The questions are set out in full in the answer form on page 37.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Part 1 – Building Standards (Compliance and Enforcement)

Overview

The report of the Compliance and Enforcement Review Panel can be accessed at **Annex B**. You may wish to read the report before adding your response to the questions set out in this document.

The panel identified four main themes running across their recommendations.

Theme 1 – Roles and responsibilities

Everyone in the design, construction and regulatory process must understand their roles and responsibilities, and that of others, and meet them. There is too much reliance on trust, but a higher level of scrutiny is needed in practice. Roles and responsibilities should be clarified and strengthened, with key activities and documents identified, recorded and scrutinised.

Owners and developers must take the necessary actions to meet their responsibility for the compliance of their building. They should do this by ensuring that they obtain the services of suitably qualified designers and contractors to act on their behalf and provide evidence to verifiers of how they have done it from inception through to occupation.

Local authorities must take the necessary actions to meet their responsibility as verifiers and make checks at the appropriate stages during the project covering both what the owner needs to do (procedural) and the construction (technical).

Theme 2 – Higher risk buildings

Approximately 80% of all building warrant applications are for low value work (£50,000 or less) for which the current building standards system is generally fit for purpose. The main actions needed are to ensure that verifiers and building owners properly implement the system.

The areas for improvement should, in particular, consider the 20% higher value work. Although risk-based approaches are already in place they need to be better documented and consistently applied. Relevant factors include use, occupancy, height or complexity.

The re-shaping of the system should clearly define the differences in approach for higher and lower risk projects.

Risk profiling for buildings need to be clearly understood and procedures and actions proportionately applied. Taking account of recent events, improvements should primarily focus on these higher risk buildings, including high-rise domestic and non-domestic residential buildings (i.e. buildings containing sleeping accommodation), high value public buildings and buildings with a high level of design or construction complexity.

Theme 3 – Construction

There must be a greater focus on the construction and sign-off of buildings. Inspection regimes by the owner and the verifier must be fully developed, documented and delivered. In particular the final sign-off of the completion certificate by the owner or developer must be evidenced and fully justified, and for higher risk buildings, have assurance from a professional certifier of compliance

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

with the appropriate experience and qualifications. (Part 3 of this consultation refers to the competence and certification of those submitting completion certificates).

Also, temporary occupation and use authorisation must only be permitted where appropriate and be closely monitored.

Theme 4 – Safety critical building elements

There is a need to consider construction failure risk (quality) which has been a feature in recent building failures. The focus must be on safety critical aspects (e.g. building structure, fire safety) which should be considered at design, construction and completion stages.

Verifiers

The primary aim of verification is to protect the public interest, and compliance with building standards and regulations is paramount to ensure that Scotland’s buildings are safe, efficient and functional.

Recent events such as the Edinburgh Schools Inquiry, the Grenfell Tower fire and the DG One Complex in Dumfries Inquiry, have highlighted the need to shift the emphasis (and in turn resources) from systems and processes that has been largely about approving drawings and design as being compliant with the regulations to one where the completed building is constructed in accordance with the approved design.

There is currently inadequate emphasis on confirming that the actual construction of buildings complies with the approved design warrants thus undermining the fundamental purpose of the regulations of ensuring safe and fit-for-purpose buildings. Going forward there must be an increased focus on the higher risk buildings - the 20% - with a new priority being attached to the construction phase after the building warrant has been granted.

The following proposals are intended to provide the framework where the verifier has the necessary resources and skills to take the relevant actions at the appropriate times:

1. Verifiers must have appropriate levels of resourcing and skills to undertake suitable verification activities.
2. Verifiers must have procedures in place for commissioning additional resources when the necessary resources are not available in-house (e.g. for complex work, increased workload, staff absences or shortages) and should seek more structured arrangements for ways to share expertise and resources, in particular for specialist and safety critical areas.
3. The Operating Framework and the Performance Frameworks for verifiers should be reviewed to further clarify and strengthen the roles and responsibilities of verifiers.
4. The key activities of a verifier should be further clarified and strengthened, particularly in relation to the undertaking of ‘reasonable inquiry’ (including inspection) and the acceptance of completion certificates.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

5. Verifiers must put a greater emphasis on their inspection and testing role during construction and at completion, with a strong focus on safety critical aspects such as structure and fire safety.
6. Local authorities must not act as verifier for their own building work due to concerns over potential conflicts of interest. This is currently permitted under the Direction issued by Scottish Ministers in 2005 under the Building (Scotland) Act 2003. The Direction should be restricted to only minor or low value work and higher risk work should be checked by a different verifier.

Question 1.1: Do you agree that the roles and responsibilities of verifiers (including their key activities) must be clearly defined and recorded, including the expected level of resources and skills needed to undertake verification activity, and the actual level?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.2: Do you agree that verifiers must place a greater emphasis on inspection and testing throughout construction and at completion?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.3: Do you agree that verifiers must place a strong focus on safety critical elements such as structure (for example wall ties, lateral restraint) and fire safety (for example fire protection, fire-stopping, cavity barriers)? If possible, please provide details in the comments box of other elements that should be included.

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.4: Do you agree that local authorities should not be able to act as verifier for their own “higher risk” building work due to possible conflicts of interest?

Please select only one answer and provide any comments in the box below.

Yes No Unsure

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Question 1.5: Do you agree that local authorities should still be able to act as verifier for their own lower risk building work?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Building Owner or Developer

Building owners or developers must have or procure the appropriate professional resources and skills for their project, and as such they should commission the appropriate specialists with the necessary expertise and assurance. They must take responsibility for compliance throughout the whole project and assure themselves of compliance levels, by using competent people and obtaining documented evidence. They must place a greater emphasis on their own inspection and testing regimes during construction and at completion. They must provide the verifier with appropriate levels of documented evidence of compliance throughout construction and when they certify compliance of the building at completion. This should be produced by appropriately qualified and experienced professionals with suitable indemnity insurance cover.

Proposals – Building Owner or Developer

The following proposals are intended to provide the framework where the building owner or developer has the necessary resources and skills and takes the relevant actions at the appropriate stages.

7. The level of resourcing and skills that an owner or developer is expected to have, or have access to, should be defined and met (e.g. project specific).
8. The key activities of an owner or developer should be further clarified and strengthened, in particular during construction and when signing the completion certificate.

Question 1.6: Do you agree that the roles and responsibilities of building owners and developers (including their key activities) must be clearly defined within the building standards system and recorded including the expected level of resources and skills needed to assure themselves and verifiers of compliance, and the actual level?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.7: Do you agree that the building owners and developers must, to ensure compliance, place a greater emphasis on inspection and testing throughout construction and at completion, with focus on the safety critical elements?

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Compliance Plan

For higher risk buildings, a documented “Compliance Plan” approach should be introduced running from design inception to completion. This must be prepared and maintained by the building owner or developer throughout the project life. The Plan must be developed before the building warrant application is made, agreed before the building warrant is granted, and formally reviewed before work commences and at completion. The Plan must include all relevant building standards related regulatory authorities.

The approach will be integrated throughout building standards procedures and will include documenting the following:

- the evidence of construction compliance that will be required from the contractor;
- the inspection and testing plan the building owner or developer will undertake;
- the inspection and testing regimes the verifiers will undertake; and
- the inspection and testing regimes actually carried out.

The Plan would run for the life of the project and be regularly reviewed. The Plan will be developed at mandatory pre-application discussions and agreed before the building warrant is granted. It will be formally reviewed at mandatory pre-construction discussions before commencement of work, and at completion of the work. Discussions and reviews should include other regulatory bodies as necessary.

The Plan would cover aspects such as the intended form of procurement, the competence of the client’s professional technical representatives, the expertise of the contractor, project timetable, any proposed staging of warrants, the safety critical buildings elements, the evidence to be provided to building standards officials during construction, and the planned inspection regimes by the client and the verifier.

It should recognise the need for the client to appoint a competent person to provide them with the necessary level of assurance on compliance issues before they (the client) certify compliance by signing the completion certificate, for example a certifier of compliance with the appropriate experience and qualifications. The Plan should also recognise the need for engagement with and between regulators at key design and construction stages, in particular the Scottish Fire and Rescue Service at completion, prior to occupation and use.

Proposals – Compliance Plan

The following proposals are intended to provide a framework where the building owner or developer demonstrates their approach to compliance from initial design, through detailed design and construction, and leading to their final sign-off and certification of the completed building:

9. The introduction of a documented “Compliance Plan” for higher risk projects to set out the agreed level of detail needed for the design (building warrant application) and the construction

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

(post building warrant to completion certificate). The Plan will be developed by the building owner or developer and agreed with the verifier.

This proposal is intended to provide a framework by which the building owner or developer demonstrates their proposed approach to compliance from initial design, through detailed design and construction, and leading to their final sign-off and certification of the completed building.

Question 1.8: Do you agree with the requirement for a “Compliance Plan”, to be provided by the owner or developer, to demonstrate their approach to compliance from initial design, through detailed design and construction, and leading to their final sign-off and certification of the completed building?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.9: Do you agree that the building owner or developer should be required to appoint a competent professional person, with the appropriate experience and qualifications, to act on their behalf in order to assure them of compliance when they submit the completion certificate?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Building standards system

The existing procedures must be reviewed and strengthened, with the initial focus on higher risk buildings, including high-rise domestic and non-domestic residential buildings (i.e. buildings containing sleeping accommodation), high value public buildings and buildings with a high level of design or construction complexity. These should cover building warrant application, construction and completion certificate submission and consider electronic processes and the use of digital documentation for evidence of compliance.

The Compliance Plan approach (set out in the previous section) runs through the whole building warrant and completion certificate process and each key aspect requires recognition in legislation. There should be mandatory discussions at pre-building warrant application stage and before work starts.

The application for building warrant needs to include the key information. For example alternative solutions, (third party designs where detailed design will be finalised during construction), and fire safety strategy (drawings indicating separation, compartmentation, protected zones etc.). As well as addressing the introduction of changes to building warrants to allow project-specific conditions (e.g. for third party designs, manufacturers details).

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Construction related procedures and guidance need to be reviewed and strengthened for higher risk buildings. For low rise housing and residential developments, the level of inspection could be structured similarly to the inspection regimes by new housing warranty providers. This includes the introduction of mandatory notification of work stages and intrusive surveys if notifications are not made.

The completion certificate should be expanded to require the owner or developer to sign-off safety critical sub-sets of the building and provide the appropriate evidence to the verifier (for example relating to the building structure and fire safety aspects such as fire-stopping). Sign-off at completion should also involve engagement with other regulators, particularly the Scottish Fire and Rescue Service.

Work that requires a building warrant cannot start until it has been granted, although work can progress through staged warrants. A new building, which includes an extension to an existing building, cannot be occupied or used unless the verifier has accepted the completion certificate. Although the verifier may grant temporary permission for occupation or use, this creates problems when work is not finished or compliance issues are not addressed as expected.

Proposals – Building Standards System

The following proposals are intended to strengthen the building standards procedures so the building owner or developer, and verifier take the relevant actions at the appropriate stages:

10. Design (procedures up to granting of building warrant by verifier):

- For higher risk buildings, the introduction of mandatory discussions at pre-application and pre-commencement.
- Amendments to building warrants to be dealt with proportionately taking account of whether they are for minor or major changes to design, or for progressing staged warrants.

Question 1.10: Do you agree that mandatory pre-application discussions and pre-commencement of construction discussions should be introduced for higher risk buildings?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.11: Do you agree that amendments to warrant should differentiate between minor changes, major changes, and staged warrants?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

11. Construction (procedures throughout construction):

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

- Construction procedures and guidance to be reviewed and strengthened for higher risk buildings to cover notifications, inspections, disruptive surveys and recording non-compliances.
- Design changes to be notified to the verifier as the project progresses and subsequently covered by an amendment granted before the completion certificate is submitted.

Question 1.12: Do you agree that the construction procedures and guidance should be reviewed and that mandatory notifications are introduced, including notification of progress on higher risk projects?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.13: Do you agree that verifiers should carry out ad-hoc (unannounced) progress inspections and be able to require disruptive surveys when mandatory notifications are not made to them?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.14: Do you agree that verifiers should record safety critical building standards non-compliances and feedback at a national level to drive improvements?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.15: Do you agree that verifiers should be notified of minor changes in design as the project progresses, on the understanding that they are to be covered by an amendment to warrant before the completion certificate is submitted?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

12. Completion (submission of completion certificate and acceptance by the verifier):

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

- Completion certificate procedures and guidance to be reviewed and strengthened for higher risk buildings to cover as-built drawings, compliance planning and sub-sets for safety critical aspects.
- Temporary occupation or use procedures to be reviewed to cover declaration of compliance, expiry dates and significant alterations to higher risk buildings.

Question 1.16: Do you agree that the completion certificate for a higher risk building should have sub-sets for safety critical aspects, and be accompanied by as-built drawings and the completed Compliance Plan?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.17: Do you agree that the procedures for the temporary occupation or use of a building should be strengthened for example requiring a declaration of compliance and monitoring of the expiry dates?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.18: Do you agree that restrictions to the occupation or use of existing buildings should be considered when significant alterations are being carried out to higher risk buildings?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Enforcement

Under the Building (Scotland) Act 2003, the building standards procedures requires for certain processes to be undertaken and for work to be technically compliant with building regulations. The Act includes offences which include for, in simple terms:

- Any person carrying out work or a conversion (which required a building warrant) without a building warrant ;
- Any person carrying out work or a conversion not in accordance with the building warrant;
- Any person not demolishing a limited life building in accordance with the building warrant;
- Certifiers of design or construction issuing certificates recklessly or containing false or misleading information;

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

- Any person submitting a completion certificate to a verifier recklessly or containing false or misleading information; and
- Any person occupying or using a new or converted building (which required a building warrant) without a completion certificate having been accepted.

Enforcement action may be undertaken informally by the verifier but might escalate to the local authority instigating formal enforcement under sections 25 to 30 of the Act. This includes taking emergency action (dangerous buildings), serving notice and undertaking work when the notice is not complied with. The local authority can recover their reasonable costs from the building owner. Although informal action can often resolve the issue, this is not always the case.

Local authorities (in both their verifier and regulator roles) must be required to act more pro-actively to enforce compliance with legislation. This requires regular monitoring of construction activities, particularly when a building warrant has been granted and in the lead up to completion, occupation and use. They must identify proactive key activities intended to regularly monitor progress through construction to completion. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 (£1,000) or level 5 (£3,000), depending on the offence.

Proposals – Enforcement

The following proposals are intended to provide a framework where the local authority actively monitors construction progress and takes appropriate enforcement action:

13. The introduction of enforcement guidance for local authorities on key building standards related activities in the roles as verifiers (informal) and as enforcing authority (formal) to drive a proactive approach
14. Local authorities must identify their enforcement policy and resourcing, and commitment to undertake formal enforcement when necessary.
15. Local authorities must have appropriate levels of resourcing and skills, be more pro-active and monitor projects regularly, and undertake appropriate enforcement activities.
16. The level of fine that can be applied by local authorities should be increased such that they incentivise developers to fully comply first time with building standards. Fines should allow for full cost recovery in the most serious failures with compliance.

Question 1.19: Do you agree that local authorities should be more pro-active in enforcing building regulations and monitor construction regularly?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.20: Do you agree that local authorities should have a building standards enforcement policy in place that is based on national guidance?

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.21: Do you agree that national guidance on building standards enforcement should include what enforcement related actions local authorities should carry out and the level of resources and skills they should have to do so?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.22: Do you agree the penalties and levels of fines associated with serious failures in compliance should be increased?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

PART 2 – FIRE SAFETY IN BUILDING STANDARDS

Overview

The report of the Fire Safety Review Panel can be accessed at **Annex B**. You may wish to read the report before adding your response to the questions set out in this document.

The panel identified five themes covering their recommendations.

- Structure of building standards and supporting guidance
- Fire safety engineering
- External walls and cladding
- Escape
- Automatic fire suppression systems.

Structure of building standards and supporting guidance

Compliance with building standards is mandatory and following the guidance in the Technical Handbooks is intended to assist in achieving compliance. This current structure of mandatory functional standards supported with performance based or prescriptive guidance in the Technical Handbooks works well and the review panel’s view was that it should be retained. However, to make clearer their existing status, functions and limitations there is a need to reinforce the principle that while compliance with the building standards is the mandatory requirement, this is possible without following the guidance in the Technical Handbooks. Alternative compliance pathways with equal status could be used.

When alternative pathways to compliance are used it is important to ensure that those designing and those verifying the designs must be competent to do so.

Proposals – Structure of building standards and supporting guidance

The following proposals are intended to provide a framework for making the status, functions and limitations of the guidance in the Technical Handbooks clearer. In addition, the panel agreed the need for minor changes to the wording of some of the buildings standards. These are not to change policy intent but simply to remove ambiguities and close potential loopholes. This will require the Building (Scotland) Regulations 2004 to be amended and will be subject to legislative timetable.

1. The introduction of alternative guidance to make clear that there is more than one way of achieving compliance with the functional technical standards. A model proposed is:
 - A prescriptive set of guidance, for use by all;
 - A middle set of guidance, combining engineering principles and prescribed or performance requirements, for those competent to use it; and
 - Design from a fully performance based fire safety engineering approach, from first principles, only by those competent to do.
2. The annexes in the Technical Handbooks for residential care buildings, hospitals and enclosed shopping centres should not be used without sufficient understanding and experience. They should be published separately so they can be individually reviewed and updated as required.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

3. An additional Technical Handbook for simple domestic detached and semi-detached dwellings (up to 3 storeys) should be introduced as a means of compliance with fire, and all applicable building standards and sections of the Handbooks.

Question 2.1: Do you agree that the guidance should be developed to make clear that there is more than one way of achieving compliance with the mandatory functional standards?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.2: Do you agree that the annexes in the Technical Handbooks for residential care buildings, hospitals and enclosed shopping centres should be published separately?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.3: Do you agree that an additional Technical Handbook for simple domestic detached and semi-detached dwellings (up to 3 storeys) should be introduced as a means of compliance with fire, and all applicable building standards and sections of the Handbooks?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Verification of fire safety engineering

The introduction of a new framework for making the status, functions and limitations of the guidance in the Technical Handbooks clearer must also be accompanied by additional guidance for verifiers on how to verify compliance with these different guidance sets. The proposed model is set out in the previous section and proposals.

The review panel agreed the need to develop a better mechanism for the verification of fire safety engineering solutions for buildings with more complex design strategies. They also recognised that there are a limited number of fully performance based “fire safety engineering” approach designs, probably less than 20 each year and that the skills and experience needed to verify these may be limited and not freely available across all verifying authorities.

In considering this issue the panel reflected on whether or not a system for Building Standard Certification of Design for Section 2: Fire could be developed and also on the recent research

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

commissioned by the Scottish Government, relating to the creation of a central verification hub. The research, Feasibility of a Centralised Hub for the Verification of Complex Fire Engineered Solutions in Scotland, by Meacham Associates can be accessed at **Annex B**.

Proposals – Fire safety engineering

The following proposal is intended to provide a framework for a better mechanism for the verification of fire safety engineering solutions for complex buildings.

4. That a central hub be developed with responsibility for verifying fully performance based fire safety engineering approaches, developed from first principles.
5. That consideration be given to a longer term aim of a certification scheme for fire engineering.

Question 2.4: Do you agree that a national “hub” approach should be developed to share expertise and skills and be responsible for verifying fully performance based “fire safety engineering designs”?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.5: Do you agree that consideration should be given to a certification scheme for fire engineering?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Reaction to Fire - External walls and cladding

This section relates to the specific details of the functional standards and the current guidance in the Technical Handbooks. In 2018 the Scottish Government commissioned research on ‘Regulatory Appropriateness of Currently Cited Reaction to Fire Tests in Technical Handbook – Section 2: Fire – Standards 2.4 – 2.7’ (this can be accessed at **Annex B**). The research concluded that the currently cited British Standard and harmonised European reaction to fire tests should not be used for external cladding systems as they are designed for internal wall and ceiling linings. Furthermore the research highlighted that the European Harmonised tests offer a better and more cohesive structure for testing “reaction to fire”.

It was also the view of the review panel who concluded that the current guidance which cited both British Standard (BS) ‘reaction to fire’ tests was no longer required as they are no longer being reviewed by the British Standards Institution. Going forward only the European harmonised tests

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

should be applied to Euro class A1 and A2 cladding materials and internal wall and ceiling linings. The linked group of standards that are all related to the reaction of materials to fire comprise:

- Cavities (2.4)
- Internal linings (2.5)
- Spread to neighbouring buildings (2.6)
- Spread on external walls (2.7)

Although Scottish building standards already require robust fire tests for high rise domestic buildings there is the need to consult on the impact of proposals on high rise non-domestic buildings and low rise higher risk assembly, entertainment, residential care buildings and hospitals.

Proposals – External walls and cladding

The following proposals are intended to update the simple guidance to building standards relating to external cladding, cavities, internal lining and fire spread on external walls (standards 2.4 to 2.7):

6. That the reference to British Standard reaction to fire tests be removed from the Technical Handbook. It is also recommend that a suitable transition period is agreed and signalled to industry.
7. The trigger height for non-combustibility of external wall cladding should be reduced from 18m to 11m. This is the height the fire service is expected to reach from a ground level mounted water jet. Alternatively, the cladding system would need to pass a full scale fire test to BS 8414 (and BR135). The review panel concluded that the BS 8414 test was robust when compared with other full scale tests around the world but understood that the standard is likely to be reviewed following the Grenfell Tower fire.
8. Currently, thermal insulation material exposed in a cavity of an external wall requires to be non-combustible where the building has a storey at a height of more than 18m above the ground or meets the full scale fire tests to BS 8414 (and BR 135). This should also be reduced to a trigger height of 11m.
9. It is recommended that the revised guidance will equally apply to domestic and non-domestic buildings.
10. That the guidance in the Technical Handbooks should only be changed as described in respect of the reaction to fire tests referred to above, i.e. the proposed removal of reference to the BS 476 series of fire tests.

Question 2.6 Do you agree that the reference to British Standards Reaction to Fire Tests BS 476 should be removed from the Technical Handbook?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Question 2.7: Do you agree that only A1 and A2 materials, using the European Harmonised “reaction to fire tests”, should be required for external walls or insulation exposed in a cavity of a high rise building (domestic and non-domestic) with a storey at a height of more than 11m above ground?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.8: Do you agree that only A1 and A2 materials, using the European Harmonised “reaction to fire tests”, should be required for external walls or insulation exposed in a cavity of entertainment and assembly buildings, residential care homes and hospitals of any height?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.9: Do you agree that BS 8414 (and BR135) may still be used as an alternative method of providing evidence to show compliance?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Escape

The basis for guidance in the Technical Handbooks regarding escape in domestic high rise buildings is the ‘stay put/defend in place’ strategy. This strategy is based on the fire safety design of buildings, for example each flat is a self-contained fire “compartment” and was endorsed by the review panel as the basis for continued guidance. It was also acknowledged that, whilst uncommon, there may be occasions where total evacuation is deemed necessary.

In light of the Grenfell Tower tragedy the review panel sought to establish if there were any additional requirements for escape that could ensure future domestic buildings above 18m were even safer. The means of escape and alarm and evacuation sounders inside flats were the focus of considerations. No clear consensus was reached on the issue of two staircases, however the view of the chair, which was endorsed by all members of the international sub-group, was that there was a need to require at least two stairways in high rise domestic buildings with a storey at a height of 18m. This is firstly to provide an alternative in case of the failure of the first stairway and secondly to provide a route for escape if the other stairway is being used for fire-fighting operations.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Proposals – Escape

11. To provide for the rare situations where entire building evacuation is necessary it is proposed that fire service activated evacuation sounders be required in each flat for new domestic buildings over 18m.

12. That for new domestic buildings over 18m two stairways should be required.

Question 2.10: Do you agree fire service activated evacuation sounders should be required in each flat in new domestic buildings which have a storey at a height of more than 18m above ground level?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.11 Do you agree that two stairways should be required for new domestic buildings which have a storey at a height of more than 18m above ground level?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Automatic fire suppression systems

The need for certain building types to have automatic fire suppression systems fitted has been the subject of much debate in recent years. The Welsh Assembly, under the Domestic Fire Safety (Measure) 2011, introduced the requirement for automatic fire suppression systems to be fitted in all new build homes in 2016 and other residential buildings in 2014.

The Ministerial Working Group on Building and Fire Safety tasked the review panel to consider if any changes or additions were necessary to the mandatory requirements for buildings requiring automatic fire suppression systems.

In considering this the panel agreed a series of principles which should underlie any decision to expand the mandatory requirement. These are that decisions should:

- be evidence based, using fire statistics and recognising continuing demographic and social changes;
- consider the cost-effectiveness of such requirements;
- recognise the public desire for action after Grenfell; and
- learn from the Welsh experience of introducing automatic fire suppression systems in domestic buildings.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

The panel also agreed that it was not acceptable to “trade-off” the provision of sprinklers as compensation for a reduction in the number of stairs or a lower fire safety performance of the external cladding.

The issue of vulnerability and targeting automatic suppression to those groups that would receive most benefit was a key consideration for the panel. There were differences of opinion among Panel members on the necessity of increasing the number of building types required to install automatic fire suppression systems.

However, the panel members agreed that the following building types should be required to have automatic fire suppression systems:

- Houses in Multiple Occupation (HMOs) used for “care” 24/7, which will necessitate a very careful definition of “care” linked to Care Inspectorate definitions;
- large HMOs (10 or more residents);
- all flats.

In May 2018 David Stewart MSP lodged a private members bill seeking to introduce automatic fire suppression systems in all new build social housing in Scotland.

In June 2018, the Scottish Government committed to initiate legislation to require all new build Scottish social housing to be fitted with automatic fire suppression systems.

Proposals – Automatic fire suppression systems

13. The list of new buildings (included conversions) with a mandatory requirement for automatic fire suppression systems should be expanded to include:

- Houses in Multiple Occupation (HMOs) used for “care” 24/7, which will necessitate a careful definition of “care” linked to Care Inspectorate definitions;
- large HMOs (10 or more residents);
- all flats.

Question 2.12: Do you agree that new HMOs used for “care” 24/7 should be included in the list of buildings with a mandatory requirement for automatic fire suppression systems?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.13: Do you agree that new HMOs with 10 or more occupants should be included in the list of buildings with a mandatory requirement for automatic fire suppression systems?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Question 2.14: Do you agree that new flats should be included in the list of buildings with a mandatory requirement for automatic fire suppression systems?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

PART 3 – BUILDING STANDARDS

Overview

This section covers two areas of existing legislation and guidance which were not part of the scope of the two Review Panels, but on which views are sought.

Shared residential accommodation

Shared residential buildings are small residential buildings. They are defined as a unit of residential accommodation, other than a dwelling, having an occupancy capacity not exceeding 10, entered from the open air at ground level and having no storey at a height exceeding 7.5m.

Since 2010, the guidance for shared residential buildings in the Non-Domestic Technical Handbook has called for protected lobbies to a single stair used for escape. This is to inhibit the movement of fire and smoke from an adjoining room. Protected lobbies were not required in shared residential buildings prior to 2010.

The Domestic Technical Handbook guidance does not call for protected lobbies to be provided to a stair used for escape within a dwelling, which could be of a similar size and occupancy.

It is therefore considered that the need for protected lobbies in shared residential buildings is removed to align with the guidance provided for domestic buildings.

Proposal – Shared residential accommodation

14. The need for protected lobbies as part of single stair escape routes in shared residential accommodation should be removed.

Question 3.1: Do you agree that protected lobbies need not be provided to shared residential accommodation with only one escape stair?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Temporary buildings

The Building (Scotland) Act 2003 defines what a building is and provides for buildings that are exempt and do not have to comply with all building regulations.

Building regulations recognise limited life buildings which are dealt with through the building warrant procedures but they do not define what constitutes a temporary or permanent building. However schedule 1 to regulation 3 of the Building (Scotland) Regulations 2004 as amended does define a type of temporary building that is considered exempt from building regulations.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

“Temporary Buildings

Type 16. A building which, during any period of 12 months, is either erected or used on a site–

(a) for a period not exceeding 28 consecutive days; or

(b) for a number of days not exceeding 60,

and any alterations to such buildings.”

Prior to 2005 under the 1959 Act, the exempt type only defined the 60 or 28 day period as the period of erection. The type did not recognise periods of use.

There has been evidence that type 16 does not adequately cover buildings that are only used periodically. This may be an existing building where the use changes for a short period of time before reverting back to its prior use. It may also be a temporary structure such as a marquee which although being used periodically, remains erected which could be for a considerable period of time.

Proposal – Temporary buildings

15. Exempt type 16 of building regulations should be reviewed particularly in respect of an existing building where the use changes for a short period of time before reverting back to its prior use and for when a temporary structure such as a marquee being used periodically, remains erected for a considerable period of time.

Question 3.2: Do you agree that exempt type 16 of building regulations should be reviewed in respect of the criteria for the erection of a temporary building and the temporary use of a building?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

PART 4 – AREAS FOR FURTHER CONSIDERATION

Overview

In addition to the proposals set out in Part 1, the Review Panel on Compliance and Enforcement also identified areas of the building standards system that require further thought which could require changes to primary legislation. Your view on these proposals would be welcome.

Re-shaping the building standards system

The panel recognised that approximately 80% of all building warrant applications are for low value work (£50,000 or less) for which the current building standards system is generally fit for purpose. Therefore the proposals in Part 2 for Compliance and Enforcement focus on the 20% higher value work, applying a proportionate approach.

The move away from a one size fits all system should be further considered in how it works for **the higher risk buildings** across the whole system. The differences in approach should be clearly defined. One aspect might be the structure and layout of the Technical Handbooks.

The **building warrant fees system** is designed to reflect, as best it can, the costs of providing verification services. The level of fees was reviewed in 2017 in the knowledge that further work would be necessary on the level of verification activity through the construction phase.

The panel considered that future fees should be reviewed to cover **any new verification activities**, in particular a higher level of inspection activity during construction, resulting from the proposals in Parts 2 and 3.

The panel considered merit in looking at **phasing payment of the fee** between the building warrant (design) phase and the completion certificate(construction) phase. This would stagger the fee payment to align with the two distinct building standards procedures and importantly it avoids all the fees having to be paid at application stage.

The panel considered that **staged warrant fees** should be reviewed to reflect the additional work for verifiers. Also that when the verifier has to undertake further verification activity after non-compliances are identified, **additional fees** should be considered

The consultation proposals include differentiating the **amendment to warrant** form to separate design changes from staged warrants, which currently use the same form. The panel considered that further work is required on amendments to warrant to take account of their significance and timing. Also to place more responsibility on building owners and developers to manage their changes and allow them to self-certify them, to allow work to progress without unnecessary delays. This could be by introducing a **certification of amendment** scheme.

The panel recognised the importance of the completion certificate and the consultation proposals strengthen procedures for them. The panel also considered the introduction of a **certification of compliance at completion** scheme to provide assurance for the building owner or developer before they submit their completion certificate confirming compliance.

The building standards system includes legislative backstop **processing deadlines** to prevent building warrant applications stalling i.e. not being checked by the verifier or responded to by the

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

applicant. Examples being the deemed refusals where an application first report is not issued within three months or the warrant is not decided within nine months (or agreed longer period) of the first report. Although the performance framework for verifiers includes performance targets for first reports and granting a building warrant, there might be merit in introducing processing timescales into legislation, particularly for low value work (for example deemed granting if not met).

The building standards system recognises **exempt types** of buildings and work. Also types that **do not require a building warrant** but must still meet building regulations. The panel considered that there may be areas for expansion of these and the introduction of a notification system of such work, allowing scrutiny by local authorities for enforcement purposes.

The consultation recognises that local authorities should be pro-active in enforcing building standards procedures and technical standards and that they have enforcement policies in place based on national guidance. Whilst this should generate more enforcement activity, the panel also considered that **the level of penalties** for non-compliance should be reviewed to provide a stronger disincentive for building owners or developers who fail to comply with building regulations.

Resourcing and skills

The consultation proposals recognise the need for the building owner or developer and the local authority in their verifier and enforcement roles, to have the appropriate levels of resources and skills.

The construction industry has been experiencing **skills shortages** and the panel considered ways to encourage and promote building standards training and opportunities, to address skills shortages and improvements in compliance.

The panel considered that **certification of design and construction** should be further developed where possible, particularly for safety critical elements, for example fire safety engineering, fire-stopping and structure.

The panel also considered how contractors can take more responsibility for their work and provide reassurance to owners and developers. For example through **licensed contractors schemes**.

Question 4.1: Do you agree with the areas identified for further consideration?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 4.2: Do you consider there are other areas of the building standards system that require further consideration?

Yes No Unsure

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Please select only one answer and provide any comments in the box below.

Comments:

Question 4.3: If Yes above please tell us what they are in the box below.

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

PART 5 – IMPACT ASSESSMENTS

Equality Impact Assessment

The Scottish Government does not think that the proposals in the consultation will have potentially negative impacts for equality groups. However, we welcome your comments on the impact of the proposals on particular groups of people in respect of their age, disability, gender reassignment, race, religion, sex or sexual orientation, being pregnant or on maternity leave and children’s rights and wellbeing. Your views on the impact of these proposals will be used to inform the final Equality Impact Assessment that will be prepared in support of any changes required to the building standards legislative framework .

Question 5.1: Are there any proposals in this consultation which impact or have implications on ‘equality groups’? Choose from the following options:

Part 1 – Building Standards (Compliance and Enforcement)

Yes No Unsure

Please select only one answer and provide any comments in the boxes below.

Verifiers

Comments:

Building Owner or Developer

Comments:

Compliance Plan

Comments:

Building standards system

Comments:

Enforcement

Comments:

Part 2 – Building Standards (Fire Safety)

Question 5.2: Are there any proposals in this consultation which impact or have implications on ‘equality groups’? Choose from the following options:

Yes No Unsure

Please select only one answer and provide any comments in the boxes below.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Structure of building standards and supporting guidance

Comments:

Fire safety engineering

Comments:

External walls and cladding

Comments:

Escape

Comments:

Automatic fire suppression systems

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Business and Regulatory Impact Assessment

To help us determine the impact of the policies proposed in the consultation, we are interested to find out if these proposals would lead to increased costs and/or impact on resources for you or your business (if applicable).

Any comments received will be used to inform the final BRIA which would be prepared in support of any Order to lay new regulations.

Question 5.3: Do any of the proposals in this consultation have any financial, regulatory or resource implications for you and/or your business (if applicable)? Choose from the following options:

Part 1 – Building Standards (Compliance and Enforcement)

Yes No Unsure

Please select only one answer and provide any comments in the boxes below.

Verifiers

Comments:

Building Owner or Developer

Comments:

Compliance Plan

Comments:

Building standards system

Comments:

Enforcement

Comments:

Part 2 – Building Standards (Fire Safety)

Question 5.4: Do any of the proposals in this consultation have any financial, regulatory or resource implications for you and/or your business (if applicable)? Choose from the following options:

Yes No Unsure

Please select only one answer and provide any comments in the boxes below.

Structure of building standards and supporting guidance

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Comments:

Fire safety engineering

Comments:

External walls and cladding

Comments:

Escape

Comments:

Automatic fire suppression systems

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Responding to this Consultation

We are inviting responses to this consultation by 26 September 2018.

Please respond to this consultation using the Scottish Government’s consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/local-government-and-communities/compliance-and-enforcement-and-fire-safety>. 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 26 September 2018.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to buildingstandards@gov.scot or by post to:

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

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. 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.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

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.gov.scot>. If you use the consultation hub 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. An analysis report will also be made available.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Comments and complaints

If you have any comments about how this consultation exercise has been undertaken, please send them to buildingstandards@gov.scot, or by post to:

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

Scottish Government consultation process

Consultation is an essential part of the policymaking 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.gov.scot>. 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.

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.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
- Organisation

Full name or organisation’s name

Address

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

CONSULTATION QUESTIONS

Part 1

Question 1.1:

Do you agree that the roles and responsibilities of verifiers (including their key activities) must be clearly defined and recorded, including the expected level of resources and skills needed to undertake verification activity, and the actual level?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.2: Do you agree that verifiers must place a greater emphasis on inspection and testing throughout construction and at completion?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.3: Do you agree that verifiers must place a strong focus on safety critical elements such as structure (for example wall ties, lateral restraint) and fire safety (for example fire protection, fire-stopping, cavity barriers)? If possible, please provide details, in the comments box of other elements that should be included.

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.4: Do you agree that local authorities should not be able to act as verifier for their own “higher risk” building work due to possible conflicts of interest?

Please select only one answer and provide any comments in the box below.

Yes No Unsure

Question 1.5: Do you agree that local authorities should still be able to act as verifier for their own lower risk building work?

Yes No Unsure

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.6: Do you agree that the roles and responsibilities of building owners and developers (including their key activities) must be clearly defined within the Building Standards system and recorded including the expected level of resources and skills needed to assure themselves and verifiers of compliance, and the actual level?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.7: Do you agree that the building owners and developers must, to ensure compliance, place a greater emphasis on inspection and testing throughout construction and at completion, with focus on the safety critical elements?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.8: Do you agree with the requirement for a Compliance Plan, to be provided by the owner or developer, to demonstrate their approach to compliance from initial design, through detailed design and construction, and leading to their final sign-off and certification of the completed building?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.9: Do you agree that the building owner or developer should be required to appoint a competent professional person, with the appropriate experience and qualifications, to act on their behalf in order to assure them of compliance when they submit the completion certificate?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Question 1.10: Do you agree that mandatory pre-application discussions and pre-commencement of construction discussions should be introduced for higher risk buildings?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.11: Do you agree that amendments to warrant should differentiate between minor changes, major changes, and staged warrants?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

17. Construction (procedures throughout construction)

- Construction procedures and guidance to be reviewed and strengthened for higher risk buildings to cover notifications, inspections, disruptive surveys and recording non-compliances.
- Design changes to be notified to the verifier as the project progresses and subsequently covered by an amendment granted before the completion certificate is submitted.

Question 1.12: Do you agree that the construction procedures and guidance should be reviewed and that mandatory notifications are introduced, including notification of progress on higher risk projects?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.13: Do you agree that verifiers should carry out ad-hoc (unannounced) progress inspections and be able to require disruptive surveys when mandatory notifications are not made to them?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Question 1.14: Do you agree that verifiers should record safety critical building standards non-compliances and feedback at a national level to drive improvements?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.15: Do you agree that verifiers should be notified of minor changes in design as the project progresses, on the understanding that they are to be covered by an amendment to warrant before the completion certificate is submitted?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.16: Do you agree that the completion certificate for a higher risk building should have sub-sets for safety critical aspects, and be accompanied by as-built drawings and the completed Compliance Plan?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.17: Do you agree that the procedures for the temporary occupation or use of a building should be strengthened for example requiring a declaration of compliance and monitoring of the expiry dates?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.18: Do you agree that restrictions to the occupation or use of existing buildings should be considered when significant alterations are being carried out to higher risk buildings?

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.19: Do you agree that local authorities should be more pro-active in enforcing building regulations and monitor construction regularly?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.20: Do you agree that local authorities should have a building standards enforcement policy in place that is based on national guidance?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.21: Do you agree that national guidance on building standards enforcement should include what enforcement related actions local authorities should carry out and the level of resources and skills they should have to do so?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 1.22: Do you agree the penalties and levels of fines associated with serious failures in compliance should be increased?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Fire Safety

Question 2.1: Do you agree that the guidance should be developed to make clear that there is more than one way of achieving compliance with the mandatory functional standards?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.2: Do you agree that the annexes in the Technical Handbooks for residential care buildings, hospitals and enclosed shopping centres should be published separately?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.3: Do you agree that an additional Technical Handbook for simple domestic detached and semi-detached dwellings (up to 3 storeys) should be introduced as a means of compliance with fire, and all applicable building standards and sections of the Handbooks?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.4: Do you agree that a national “hub” approach should be developed to share expertise and skills and be responsible for verifying fully performance based “fire safety engineering designs”?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.5: Do you agree that consideration should be given to a certification scheme for fire engineering?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Comments:

Question 2.6 Do you agree that the reference to British Standards Reaction to Fire Tests should be removed from the Technical Handbook?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.7: Do you agree that only A1 and A2 materials, using the European Harmonised “reaction to fire tests”, should be required for external walls or insulation exposed in a cavity of a high rise building (domestic and non-domestic) with a storey at a height of more than 11m above ground?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.8: Do you agree that only A1 and A2 materials, using the European Harmonised “reaction to fire tests”, should be required for external walls or insulation exposed in a cavity of entertainment and assembly buildings, residential care homes and hospitals of any height?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.9: Do you agree that BS 8414 (and BR135) may still be used as an alternative method of providing evidence to show compliance?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.10: Do you agree fire service activated evacuation sounders should be required in each flat in new domestic buildings which have a storey at a height of more than 18m above ground level?

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.11 Do you agree that two stairways should be required for new domestic buildings which have a storey at a height of more than 18m above ground level?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.12: Do you agree that new HMOs used for “care” 24/7 should be included in the list of buildings with a mandatory requirement for automatic fire suppression systems?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.13: Do you agree that new HMOs with 10 or more occupants should be included in the list of buildings with a mandatory requirement for automatic fire suppression systems?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 2.14: Do you agree that new flats should be included in the list of buildings with a mandatory requirement for automatic fire suppression systems?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Miscellaneous

Question 3.1: Do you agree that protected lobbies need not be provided to shared residential accommodation with only one escape stair?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 3.2: Do you agree that exempt type 16 of building regulations should be reviewed in respect of the criteria for the erection of a temporary building and the temporary use of a building?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 4.1: Do you agree with the areas identified for further consideration?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 4.2: Do you consider there are other areas of the building standards system that require further consideration?

Yes No Unsure

Please select only one answer and provide any comments in the box below.

Comments:

Question 4.3: If Yes above please tell us what they are in the box below.

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Question 5.1: Are there any proposals in this consultation which impact or have implications on ‘equality groups’? Choose from the following options:

Part 1 – Building Standards (Compliance and Enforcement)

Yes No Unsure

Please select only one answer and provide any comments in the boxes below.

Verifiers

Comments:

Building Owner or Developer

Comments:

Compliance Plan

Comments:

Building standards system

Comments:

Enforcement

Comments:

Part 2 – Building Standards (Fire Safety)

Question 5.2: Are there any proposals in this consultation which impact or have implications on ‘equality groups’? Choose from the following options:

Yes No Unsure

Please select only one answer and provide any comments in the boxes below.

Structure of building standards and supporting guidance

Comments:

Fire safety engineering

Comments:

External walls and cladding

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Escape

Comments:

Automatic fire suppression systems

Comments:

Question 5.3: Do any of the proposals in this consultation have any financial, regulatory or resource implications for you and/or your business (if applicable)? Choose from the following options:

Part 1 – Building Standards (Compliance and Enforcement)

Yes No Unsure

Please select only one answer and provide any comments in the boxes below.

Verifiers

Comments:

Building Owner or Developer

Comments:

Compliance Plan

Comments:

Building standards system

Comments:

Enforcement

Comments:

Part 2 – Building Standards (Fire Safety)

Question 5.4: Do any of the proposals in this consultation have any financial, regulatory or resource implications for you and/or your business (if applicable)? Choose from the following options:

Yes No Unsure

Please select only one answer and provide any comments in the boxes below.

Structure of building standards and supporting guidance

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

Fire safety engineering

Comments:

External walls and cladding

Comments:

Escape

Comments:

Automatic fire suppression systems

Comments:

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

ANNEX A

IMPROVING BUILDING STANDARDS

Building Standards system – Background

VERIFICATION

A building warrant is required for most new buildings and building work, as well as for particular changes of use or occupation (conversions), extensions or alterations. The role of the verifier is to provide independent checking of the design (leading to granting of building warrant) and construction (leading to acceptance of the completion certificate). Verifiers are appointed by Scottish Ministers for set periods of time. All 32 Scottish Local Authorities are currently appointed as verifiers for their own geographic area.

New building work must meet the building regulations and mandatory standards and the Scottish Government publishes Technical Handbooks which provide supporting guidance on meeting the building standards. Alterations and refurbishments to existing buildings may attract the full current standards relevant to the alteration work. In addition, the whole building must not, as a result of the alteration, fail to comply with building regulations if it complied originally, or fail to a greater degree if it failed to comply originally. However, the procedures for obtaining a warrant and submitting a completion certificate do not apply to certain defined types of work listed in Schedule 3 of the building regulations, including the provision of services, fittings and equipment. Schedule 3 is split into 3 categories and application of the standards varies depending on the nature of the work undertaken.

In 2013 local authority building standards services introduced a risk assessed approach to site inspections that targeted building elements that were at greatest risk of non-compliance. This approach should decrease the likelihood of the defects identified in the Cole report and achieve improved levels of compliance with building regulations.

The applicant is responsible for demonstrating compliance on their building warrant application. The relevant person (the owner or developer) is responsible for compliance during construction and when the building is complete, they must submit a completion certificate in which they certify that the work, or conversion, meets the building warrant and building regulations. Building owners are ultimately responsible for the on-going safety of their own buildings.

Local Authorities must undertake ‘reasonable inquiry’ checking before they accept a completion certificate. In 2012, the performance framework was introduced and under KPO2 Increased quality of compliance during the construction, the “Construction, Compliance and Notification Plan” (CCNP) was developed in conjunction with Local Authorities. The CCNP sets out the LA’s “risk-based” inspection regime and is issued with the building warrant. Scottish Government commissioned research in 2015 to ‘Investigate the impact of the introduction of CCNPs on building standards compliance levels’.

The owner or developer must submit a completion certificate when work is complete, and is often reliant on other professionals (design/construction) to provide them with the reassurance that their work is compliant. It is important note the following:

- It is imperative that completion certificates are not accepted by a verifier unless the appropriate checks have been done.

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

- Also that buildings are not occupied or used without a completion certificate having been accepted by a verifier.

ENFORCEMENT

Local authorities also have a range of enforcement powers to deal with work done without a building warrant (when one was needed) or not in accordance with a building warrant. They can also deal with buildings they consider to be defective or dangerous and can serve notice and carry out work if the notice is not met. They have powers to undertake emergency action on dangerous buildings, and can recover their reasonable costs from the building owner.

CERTIFICATION

Certification of design and construction is an optional process for determination of certain aspects of the design and construction of buildings under the Building (Scotland) Act 2003. Scottish Ministers have approved three Building Standards Certification of Design Schemes (Building Structure, Energy (Domestic) and Energy (Non domestic)) and two Building Standards Certification of Construction Schemes (Electrical and Heating and Plumbing and Drainage). Certificates of design and construction indicate compliance with building regulations.

Third party certification by suitably qualified persons can also provide evidence of compliance with regulations. There are schemes already in existence in the UK for the installation and certification of construction products. Since the performance of a system, product, component or structure is dependent upon satisfactory site installation, testing and maintenance, independent schemes of certification and accreditation of installers and maintenance firms of such will provide confidence in the appropriate standard of workmanship being provided. It is the responsibility of the verifier to satisfy themselves that such schemes allow evidence for compliance with regulations.

PROCEDURES

The building standards system is pre-emptive, a building warrant is required before work starts and a completion certificate must be accepted before a new building can be occupied or used. The procedure regulations set out the processes from application through to completion and places responsibilities on applicants. This includes application details and information, notifications of start of work, drainage and completion. These regulatory requirements imply a responsibility for verifiers to check they are being met.

LOCAL AUTHORITY VERIFIER PERFORMANCE

Verifier appointments included the condition that local authorities must meet the terms of the Performance Framework 2017, updated for the new appointment term, and the newly introduced Operating Framework 2017. The Operating Framework 2017 sets out the key functions of the verifier and requires that ‘Verifiers must adhere to legislative procedures and deadlines, appeals processes and complaints processes.’

Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people

ANNEX B

IMPROVING BUILDING STANDARDS

The review panels on compliance and enforcement, and fire safety were chaired by Professor John Cole and Dr Paul Stollard respectively. The reports produced by the panels are as follows:

- Building Standards (Compliance and Enforcement) Review Panel Report (Professor John Cole, Chair) – <http://www.gov.scot/Publications/2018/06/4794>
- Building Standards (Fire Safety) Review Panel Report (Dr Paul Stollard, Chair) - <http://www.gov.scot/Publications/2018/06/1427>

Supporting documents

- SG website – Building Standards Division <http://www.gov.scot/bsd>
- Technical Handbooks - <http://www.gov.scot/Topics/Built-Environment/Building/Building-standards/techbooks/techhandbooks>
- Procedural Handbook - <http://www.gov.scot/Topics/Built-Environment/Building/Building-standards/ProceduralLegislation/ProceduralHandbook>
- Ministerial Working Group on Building and Fire Safety - <https://beta.gov.scot/groups/ministerial-working-group-building-and-fire-safety/>
- Cole Report into Edinburgh Schools – http://www.edinburgh.gov.uk/news/article/2245/independent_report_into_school_closures_published
- DG One Complex in Dumfries - <http://www.dumgal.gov.uk/article/17432/DG-One-build-inquiry>
- Dame Judith Hackitt Report - <https://www.gov.uk/government/publications/independent-review-of-building-regulations-and-fire-safety-final-report>
- Scottish Parliament – Education and Skills Committee - <http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/education-committee.aspx>
- Scottish Parliament – Local Government and Communities Committee - <http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/local-govt-committee.aspx>
- Research – CCNP – BRE <http://www.gov.scot/Topics/Built-Environment/Building/Building-standards/publications/pubresearch/ResearchVerification/ResearchVerification>



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2018

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78781-007-5 (web only)

Published by The Scottish Government, July 2018

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS432386 (07/18)

W W W . G O V . S C O T