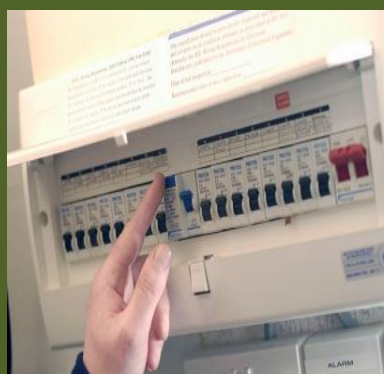


Building Standards Certification in Scotland

Report from the Building Standards Certification
workshop held on 24 September 2014

May 2015



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Chairs Foreword

The Building (Scotland) Act 2003 introduced the option of certification of design or construction of building work as a means of complying with the Building (Scotland) Regulations 2004. The certification system is based on the principle that suitably qualified and experienced building professionals and tradespeople can be responsible for ensuring that specified works comply with building regulations. Use of certification provides a number of benefits to users including cost savings, faster processing of building warrants and completion certificates and quality assurance in relation to the work covered.

Five certification schemes are in operation, covering building structures, energy, electrical installations and drainage, heating and plumbing. Certification is now an accepted part of the Building Standards system in Scotland with, for example, the majority of building warrant applications having a structural aspect being accompanied by a Certificate of Design (building structures). Nevertheless, there is a recognition that certification has yet to achieve its full potential in Scotland.

In March 2014, The Minister for Local Government and Planning gave the keynote address to a building standards certification event at Edinburgh Castle which was held to launch an updated building standards certification register and to promote and raise awareness of building standards certification in Scotland. The event was attended by just under 100 delegates from across the construction sector.

In his address, the Minister stated that:

“Certification is an integral part of the Scottish building standards system and it is a core element of collaborative working between Government and the construction industry to raise standards and improve compliance with building regulations. In order to build on the success of Certification, it is important that we reflect and review our policies, learn lessons from our past experience in order to realise the full potential that certification can provide. I am not an advocate of mandatory certification. I believe that consumers should always have the choice of who they wish to employ. The challenge is to understand the levers that make for a successful certification system and how we can collectively make it more accessible and attractive to professionals, tradespeople and the end user.Only then will certification realise its true potential. As a government we are determined to make this happen.”

At the event, the Minister tasked the Building Standards Division (BSD) with organising a workshop to advise on a ‘Future Vision and Strategy for Building Standards Certification’ in Scotland.

I had the pleasure and privilege of chairing that workshop which was held on 24 September 2014. The workshop was attended by representatives of the bodies operating the certification schemes, staff from BSD and representatives of other organisations concerned with building standards and building safety issues.

Over a full day of intensive discussion, all of the workshop attendees contributed fully to mapping out a way forward for certification in Scotland and to the development of this publication ‘Building Standards Certification in Scotland’. I wish to thank each of them for giving their time and expertise and for their valuable contributions.

Peter Wood (Optimal Economics Ltd)
Chair of the Building Standards Certification Workshop

The Certification Workshop

The Scottish Government hosted a Building Standards Certification event at Edinburgh Castle in March 2014 which was attended by a wide representation from the construction industry. The main purpose of the event was to launch the new on-line Certification Register and start a conversation with industry on how to build on the success of certification to date and how to achieve further improvements.

The Minister for Local Government and Planning gave the keynote speech and stressed the important role that Building Standards Certification can play in the construction industry. He acknowledged the need to promote the benefits of certification services to those people who use the services, and to those professionals and competent tradespeople who provide the services. The Minister went on to task the Building Standards Division (BSD) with organising a workshop for industry to work together in order to advise on a Future Vision and Strategy for Building Standards Certification in Scotland.

The workshop took place on 24 September 2014 and was attended by representatives from local authorities, scheme providers, construction industry, health and safety, British insurers and consumer groups. The workshop was chaired by Peter Wood (Optimal Economics Ltd) and supported by officials from the Scottish Government, including the Head of Building Standards.

The Scottish Government commissioned a number of research projects in advance of the workshop. The workshop considered the outcomes from the research and focussed on four key themes:

- **Equivalence** (between certified and verified approaches)
- **Incentives** (to improve the take up of certification)
- **Value** (of approved certifiers)
- **Promotion and Awareness** (of certification)

Papers for each theme are attached as **Appendices A-D**.

The research reports have been published on the Building Standards Division website www.scotland.gov.uk/bsd and individual links are provided below:

- [A Study of the level of checking of Structural Design](#)
- [Investigation of compliance levels with the Building \(Scotland\) Regulations 2004 \(including Schedule 3\)](#)
- [Improve and raise awareness of certification in Scotland](#)
- [Review the Current Building Standards Fee Structure and Future Requirements](#)

Research a) considered the equivalence of certification and verification routes leading to design and completion sign-off. Research b) considered the compliance of the types of construction work that can be certified when finished. Research c) looked at ways to improve and raise awareness of building standards certification. Research d) looked at current fee structure and considered areas for further

investigation. These included aspects of certification such as discounts of the building warrant fee.

A further research project following on from research a) was commissioned but was not completed prior to the workshop. This replicated research a) but looked at electrical installations and an update on progress was provided at the workshop. The report was subsequently published on the SG website in December 2014 and been used to inform the outcomes of this report.

e) [A Study of the level of checking of electrical installations to BS 7671](#)

The Head of Building Standards introduced the workshop and the chair explained the aims and objectives of the day and gave a brief outline of the discussion papers.

Session one centred on the themes Equivalence and Incentives. Session two covered Value and Promotion and Awareness.

BSD introduced the papers which provided background, key issues and posed questions for the workshop members to consider.

The chair summarised each session and next steps were discussed. It was agreed that the report would be collaborative with relevant actions being identified and assigned to the most appropriate organisation(s) for delivery of successful outcomes.

Workshop members and organisations

Member	Organisation
Peter Wood (Chair)	Optimal Economics Ltd
Douglas Barnett	Association of British Insurers
Stephen Garvin	Building Research Establishment
Stephen McKay	Building Research Establishment
Chris Beedel	Certsure trading as NICEIC
Alan Wells	Certsure trading as NICEIC
Gary Mees	Chartered Institute of Architectural Technologists
Stuart Macpherson	Chartered Institution of Building Services Engineers
Fraser Sutherland	Citizens Advice Scotland
Wayne MacKay	Electrical Safety First
Garry Stimpson	Health and Safety Executive
Michael Barton–Maynard	Homes for Scotland
Nick McLaren	Local Authority Building Standards Scotland
Dave Aitken	Local Authority Building Standards Scotland
Richard Atkins	Royal Incorporation of Architects in Scotland
Lesley Fox	Scotland and Northern Ireland Plumbing Employers Federation (SNIPEF)
Shirley Williamson	Scotland and Northern Ireland Plumbing Employers Federation (SNIPEF)
Dave Forrester	Scottish Electrical Trade Association (SELECT)
Newell McGuinness	Scottish Electrical Trade Association (SELECT)
Alan Wilson	Scottish Electrical Trade Association (SELECT)
David Melhuish	Scottish Property Federation
Robert Jopling	Structural Engineers Registration Ltd (SER)

Theme 1 – Equivalence

This theme considered the certified and non-certified routes to compliance with building regulations, through both design and construction phases. It looked at the equivalence of both routes in the lead up to granting the building warrant (design phase) and acceptance of completion certificate (construction phase) and whether there needs to be closer alignment between the two different approaches.

The workshop paper is included in **Appendix A – Equivalence**. The relevant research commissioned by the Scottish Government is

- [A Study of the level of checking of Structural Design](#)

Discussion

Members acknowledged that the certified or verified routes have a common desired outcome, this being that a building project complies with building regulations. The research concluded that although there is no evidence to suggest that there is a difference in building performance, it does not necessarily follow that there is equivalence between the two approaches. This view was supported and members agreed that compliance checking should be risk based and proportionate to the work being undertaken.

Certifiers suggested that there is presently no equivalence between certification and local authority verification. Certifiers provide indemnity insurance and take personal responsibility, through their approved bodies, for declaring compliance with building regulations this is absent in verification.

Verifiers suggested that the verification role is different from certification. Verifiers set the competence of those undertaking verification checking of non-certified work and control it through their risk management protocols. However, the view was also expressed that the setting of levels of competency to become a member of the scheme and the setting of levels of checking in certification schemes was more rigorous than for verification.

The research concluded that Approved Certifiers have the competence to undertake work within the scope of the schemes and that scheme providers have measures in place to ensure that certifiers do not work outside their area of competence. Verifiers face resource limitations and whilst verifiers generally have laid down procedures, there was a lack of consistency and transparency. Members agreed that the development of guidance on verification would encourage a consistent approach to verification checking of certifiable elements of work. Also any guidance should cover technical and procedural aspects as well as relevant competency levels of staff.

Verifiers explained that they will advise applicants which official was dealing with any aspect of verification. However they did not consider there were any benefits to maintaining and publishing a list of the specialised staff who would deal with specific aspects of the building standards. Therefore the publication of a list of approved staff in relation to certifiable work was not supported by verifiers.

Looking further at verification, it was accepted that there should be a level of auditing of the verification checking of certifiable work. There was openness to incorporating

auditing measures into any guidance however verifiers expressed concerns over the cost implications of such measures.

BSD explained they had commissioned a follow-up piece of research to the structural design investigation, but this time to look into the level of checking of electrical installations. The research was on going at the time of the workshop but BSD advised that early indications were that the conclusions would be similar to that for structural designs (now published December 2014). BSD also explained that in 2006 guidance on verification of electrical installations was developed by the electrical certification scheme liaison group, made up of BSD, LABSS, NICEIC and SELECT, to improve consistency. The liaison group had already identified that the guidance needed revising and simplifying and although that review had already started, it had been put on hold pending the outcome of this workshop. The findings should be incorporated into any future guidance.

In summary there was overall support for the development of guidance setting out a consistent approach for verifiers to take but it should allow some flexibility. Guidance should cover all schemes. However, due to the differences in the scope of the scheme, each one must be considered individually however there may some commonalities. Although members agreed that closer alignment between the two approaches was desirable, they warned that approaches could never be the same as the role and responsibilities of the verifier and certifier are different.

The discussion moved to another research recommendation concerning the proportionately high costs of having low value structural work certified (e.g. small extensions). Structural Engineers Registration Ltd explained that they recognised the issue. They indicated their intention to look at it further but felt that the scope is fairly limited due the overarching need for any design and checking to be carried out properly. There may be opportunities to simplify some of the administrative work on smaller projects to lower costs however there may be a limit to the options given the nature of such work. Overall it was agreed there was limited scope for any simplified or less rigorous certification but there may be opportunities for SER to provide guidance to members on simplifying or streamlining procedures and administration for lower risk projects. It was agreed that similar opportunities may exist for all certification schemes.

Actions

We recommend:

- 1. Guidance should be developed to encourage a consistent approach to the verification of certifiable work***
- 2. Verification of certifiable work should examine proportionate auditing measures***
- 3. Certification processes for all schemes should be investigated for opportunities to streamline processes for low risk projects***

Theme 2 – Incentives

This theme considered the incentives to use certification services. The main incentives was seen as assurance of compliance with building regulations, time savings and cost effectiveness. The challenge is to encourage building warrant applicants and their duly authorised agents to fully understand the benefits of using an approved certifier. This theme focusses on financial and time incentives whilst promotion and marketing are covered in Theme 4.

The workshop paper is included in **Appendix B – Incentives**.

The relevant research projects commissioned by the Scottish Government are:

- [A Study of the level of checking of Structural Design](#)
- [Improve and raise awareness of certification in Scotland](#)
- [Review the Current Building Standards Fee Structure and Future Requirements](#)

Discussion

Members acknowledged that the discounts of the building warrant fee are generally not providing a strong incentive, particularly for the construction schemes where the discount is much less.

When using an Approved Certifier for a design scheme, there is a discount of 10% for providing certification of Section 1: Structure or Section 6: Energy. This is more of an incentive on the larger projects with more significant warrant fees. On smaller projects the discount is not that significant. This is an important issue as the smaller projects, say below £100k value, form the bulk of building warrant applications. For construction schemes, the discount is even less at 1% for each certificate. Again this only starts to become significant on the larger projects and clearly has negligible or even no incentive for smaller projects, which includes most domestic work.

BSD explained that certification should be promoted as the recommended route to compliance for applicants. On this basis members strongly supported changing the emphasis for warrant fee incentives by moving away from discounts, which provide little incentive.

Members supported the move to base the level of fees on the assumption that certification is used, the principle being that the base warrant fee is set assuming all possible certificates would be provided. Then, for any aspect that is not certified, a surcharge should be applied to the warrant fee to cover the additional verification for that particular type of work. This would provide better transparency between the fees for both routes.

Members also supported the principle that the surcharges should ideally cover the cost of the verification service needed. It was agreed that the level of verification checking of certifiable work will vary between different schemes and individual projects. It was therefore noted that there might be proportionality issues particularly applying this approach on the smaller value work. Members agreed that any changes to fees must take account of the findings in Theme 1 – Equivalence. Each scheme should be considered separately and the general principles of the warrant fees reflecting the verification cost should be considered.

It was suggested that the level of surcharges could be developed by doing a comparison of the fees charged by certifiers. However it must be clear what fees are charged for certification services and what fees are charged for normal design services. It was noted that the certifier fees may reflect more aspects of work activity for them on the design or construction phases and also that the certifier provides assurance of compliance with the building regulations.

The view was expressed that a blanket approach to surcharges would be desirable. However, it was acknowledged that it would be difficult if not impossible to achieve this for very small value projects where the implied increase in warrant fees might increase the prevalence of work being undertaken without a warrant. This might encourage work to be done outside of the building standards system.

The current fees structure takes a simple approach with escalating fee levels based on value of work, with certification discounts applied accordingly. The overall view was that further investigation is needed on an appropriate fee structure (with due allowance for very small projects) and how to incorporate the 'surcharge' principle for non-certified aspects. It is also imperative that any future fees model must be 'future proofed' to take account of any new certification schemes being approved. In addition, it was suggested that the role of certification in speeding up the granting of warrants and accepting completion certificates should be emphasised, which could be achieved through Theme 4 – Promotion and Awareness.

It was suggested that changes to the fee structure would, not, in themselves provide all the impetus needed to increase the use of certification. The low position in the construction industry supply chain was cited as a problem for electrical and plumbing certifiers. This made it difficult for them to be able to influence decisions to use certification and compete for work in a system which placed a high priority on offering the lowest tender price. The decision to use certification needed to be taken higher up the chain – a process which could be assisted by using financial disincentives for not using certification. The methods and strategies that could be adopted to take certification higher up the procurement chain require further consideration under Theme 4 – Promotion and Awareness.

Discussion moved to the 'timing' of the production and submission of certificates. In normal cases the certificate of design will be presented with the building warrant application to cover the design and attract the fee discount. It has been identified that a potential problem exists when the initial design then needs to change before the building warrant can be granted, with these changes being applied after the certificate of design had been issued and after the verifier had validated it. This issue does not create the same problem for certification of construction as these certificates are only issued once the building is complete.

It was agreed that in real terms the most appropriate time for a certificate of design to be produced was when the details are fully compliant and the verifier is prepared to grant the building warrant. This is not usually at application stage and a suggested solution was that a "note of intent" or similar was submitted when the warrant is applied for, followed up by the certificate when all changes have been made. This could allow the appropriate fee to be applied when the building warrant application is lodged and the certificate to be provided at the best time i.e. just before the building warrant is granted.

The 'timing' of certificates of construction was also considered and it was agreed that the issues do not exist. This is because the certificates are provided when the construction is complete and if there are subsequent changes, they will probably need an amendment to warrant and a further certificate will be required to incorporate the post-completion changes.

We recommend:

- 4. Resource implications for verifying certifiable aspects of work should be investigated and any impacts on the current fees system identified***
- 5. Building warrant fee structure to be investigated for options to better promote certification***
- 6. The timing of the submission of the certificate of design should be investigated to align it more closely to the "approved" building warrant design***

Theme 3 – Value

This theme considered the scope for raising awareness of the value of certification to users of the services and for certifiers themselves. This included – recording non-compliance with building regulations for certain aspects of building work; the value of extending the scope of certification to non-warrantable work; and the number of Certificates of Design or Construction issued.

The workshop paper is included in **Appendix C – Value**.

The relevant research project commissioned by the Scottish Government is:

- [Improve and raise awareness of certification in Scotland.](#)
- [Investigation of compliance levels with the Building \(Scotland\) Regulations 2004 \(including Schedule 3\)](#)

Discussion

Members discussed the research project '[Investigation of compliance levels with the Building \(Scotland\) Regulations 2004 \(including Schedule 3\)](#)'. Although the research set out examples of non-compliance with building regulations, the overall findings were generally inconclusive in terms of non-compliant work. The research brief was wide ranging and looked to consider work that was warrantable, work that did not need a warrant but still had to meet building regulations, and work carried out without permission. The last two of these sit outside the building standards permissions regime and are therefore more difficult to identify.

However, the research report did raise specific concerns on the poor compliance levels of solid and multi-fuel appliances and recommended that a register of certified installers is developed (similar to the Gas Safe Register). The Scottish Government hosts and maintains the on-line Building Standards Certification Register which provides the definitive list of all Approved Certifiers and Approved Bodies. The register is used for finding certification services and validating certificates it also includes those Approved Certifiers who install solid and multi-fuel appliances. BSD and SNIPeF agreed to continue to promote the use of Approved Certifiers and engage with industry (including HETAS) to assess what more can be done to raise compliance levels.

Members acknowledged the difficulties in establishing as-built compliance levels. They discussed the issues around recording data where work did not comply with building regulations. The general view was that work carried out by Approved Certifiers was checked, and due to nature of the membership of some scheme providers, this covered work beyond that needing a building warrant. NICEIC explained they carry out annual surveillance visits at which any departures from standards in work done by their members are noted. The data from these visits over several years exists in individual records but has never been collated or analysed, although this could be made available. SELECT record similar information during surveillance visits of their membership. There was agreement that identifying non-compliant work by non-certified or “black economy” contractors would be very difficult, although such problems were believed to exist. It was felt that to ask contractors to look out for and report non-compliant work done by others was unrealistic.

Members recognised that there should be further investigation into identifying other possible sources of data which could cast light on the extent of non-compliant electrical, drainage, heating and plumbing installations. These could include insurance databases (Association of British Insurers), fire records (Scottish Fire and Rescue Service) and records of prosecutions/enforcement. Also, consumer rights/advice organisations such as Citizens Advice Scotland may have data on building problems raised by clients. It was also explained that verifiers are expected to record significant non-compliances with building regulations through their Construction Compliance and Notification Plan (CCNP) inspection regime and it is possible for issues with certifiable work to become a focus of the CCNP reporting.

Discussions then moved to the constraints of what work can be certified. The current building standards system limits certification to work that needs the formal permissions i.e. work that needs a building warrant and completion certificate. However, there are aspects of lower risk work that, although not requiring a building warrant, must still meet building regulations. This is known as schedule 3 work. Although Approved Certifiers cannot provide certificates of design or construction for these types of work, it is still important that a certifier is used because they can provide their client with assurance of compliance.

The merits of scheme providers developing services for their certifiers to issue confirmation of compliance for schedule 3 work was discussed. It was agreed that this was of less value for the design schemes due to nature of the schedule work types. However it was noted that the use of approved certifiers for electrical, drainage, heating and plumbing installations could add significant value as building owners are unlikely to be aware of their legal obligations to comply with building regulations.

The scheme providers confirmed that they would be willing to discuss the issue of some form of 'notice of compliance' with their membership. However, it would need to be distinct and separate from the certificate required to satisfy the provisions relating to building warrants. It would also be necessary to clarify exactly what work was covered by any such certificates. The initial value of this service would be to provide assurance to the customer however, as part of subsequent property transactions, it could also provide assurance for future house buyers that such work had been undertaken by suitably qualified and experienced tradespeople. During discussions reference was made to the benefits of the Competent Persons Scheme in England and Wales which covers a similar range of work to that covered in schedule 3.

Overall the general view on providing certification services for schedule 3 (non-warrantable) work was positive and the benefits of offering this service were recognised. There was less certainty as to how attractive the approach would be to customers and therefore how successful it would be. It was accepted that scheme providers would need to develop the schedule 3 service but other partners should encourage the use of such a service. It was clear that such services are more appropriate to certification of construction rather than design, and each certification scheme should be considered separately.

Finally it was explained that extending the scope of an Approved Certifiers activities to non-warrantable work will also help mitigate current non-compliance levels, and raise awareness of certification. The take-up of the service can be monitored and if widely used, could mitigate the impact of any future re-regulation of these work types.

The discussions then focussed on the number of certificates issued by individual certifiers. Members acknowledged that, with the exception of the Certification of Design (Building Structures) Scheme, the number of certificates issued was relatively low compared to the number of projects that could be certified. This aspect of certification has been a cause for concern for some time. There was a suggestion that Approved Certifiers should be expected to promote certification and therefore issue certificates. Clients should be made aware of the benefits of certification so they can make an informed decision. It will always be the client who makes the decision whether to use certification or not but they should not opt out of certification through ignorance or lack of promotion from the certifier.

The discussions finished by considering whether the scope of certification should be expanded to other areas of work. There was no overriding consensus on this but several other areas where certification might be considered appropriate in the future were suggested:

- Window and door installations
- Design of underground drainage
- Design for noise (acoustics)
- Design for Gold and Silver standard (Sustainability)
- Micro-generation scheme installations
- Roof installation

We recommend:

- 7. Recording of non-compliances of certifiable work should be further investigated to establish whether a better indication of compliance levels can be provided in the future***
- 8. Scheme providers should develop services to recognise and promote the use of approved certifiers for all work that must meet building regulations***
- 9. Scheme providers should consider ways to get approved certifiers to actively issue certificates for their work***

Theme 4 – Promotion and Awareness

This theme considered the scope for promoting certification and raising awareness, both across the construction industry and wider for example with consumers and home owners. The main focus of the theme was the concept of a collaborative communications strategy.

The workshop paper is included in **Appendix D – Promotion and Awareness**.

The relevant research project commissioned by the Scottish Government is:

- [Improve and raise awareness of certification in Scotland](#)

Discussion

Members recognised immediately the importance of promoting certification and the need to raise awareness and fully endorsed the concept of a joint Communications Strategy. This was followed with feedback from the recent collaborative LABSS/scheme provider certification roadshows being held across Scotland, which was viewed as a successful initiative. The subsequent discussion focussed on the key elements of a strategy, confirming them as wide ranging and identifying the following points:

- The communications strategy must identify the key recipients of messages whose actions will affect the take up of certification
- Key recipients include commercial developers and builders, agents and professionals in the development process as well as individual households
- The strategy must clearly identify the key drivers for certification and devise appropriate messages
- Building standards information and advice for applicants should clearly explain certification, which could be equally applicable to other permissions e.g. planning permission
- Information and advice should set out the benefits of using certification and emphasise the risks related to failure to comply with building regulations.

Members agreed that the Scottish Government Certification Register (as mentioned in theme 3) is the only authoritative online database of firms operating under Scottish Government approved certification schemes. The site provides two key services, firstly allowing the public to search for a suitable firm and secondly allowing verifiers to undertake validation checks of certificates submitted.

The Register sits within the BSD section of the Scottish Government website which also provides a comprehensive range of building standards advice and technical information. It is widely used by the public and professionals and other external websites provide links to the register for example the Electrical Safety First website and the Scottish Building Services Certification website.

Members agreed that the Scottish Government Certification Register should be promoted as the place for the public to go to in order to identify competent engineers, architects, technologists, electricians and plumbers to work on their project. The Register has been in place since 2005 and verifiers are very familiar with the certificate checking function. However it was suggested that the register needs to be overhauled to provide a clear customer focussed brand, have simpler

and stronger signposting and provide better advice targeted at the people wanting to find firms to self-certify their work as compliant with building regulations.

The research highlighted the need to work with all stakeholders to improve the availability of information to property owners across Scotland. It was accepted that this is perhaps the most challenging audience to get the key messages about certification and verification too, and advice from appropriate agencies such as the Citizens Advice Scotland should be sought. When developing the strategy, there may also be the need to consult the Scottish Law Society as a means of promoting certification to their clients.

BSD explained that they had commissioned, as part of their 2014-15 research programme, a research project to develop a National Building Standards Customer Information pack to cover the life of a project. The aim of this research was to identify and clarify the key roles and responsibilities of the main players in the building standards process (such as applicant, agent, local authority verifiers, certifiers of design and construction, designers, and builders). The information has been developed in discussion with verifiers, scheme providers and customers. It will cover the “customer journey” from pre-application through to post-completion, and will be used to develop “key messages” (including promotion of certification) for customers at each stage of the journey. The research also considered the best way to communicate the customer journey and the key messages through the BSD website and the eBuilding Standards on-line application which is currently being developed.

The information will also be available for verifiers to utilise through their own website and other communications with customers. One particular aspect recommended is that the National Building Standards Customer Information pack clearly explains a building warrant applicant’s legal responsibility to comply with building regulations and to explain how a certifier can assist them to satisfy that requirement.

The discussion moved to the role of certification in procurement and whilst it was supported in principle, it was thought that EU Procurement Guidance could preclude any move to make membership of a certification scheme a requirement in Scottish Government and local authority contracts. Information on Building Standards Certification is contained in the Scottish Government’s procurement manual (due for revision 2015-16). BSD will work with SG Colleagues and explore opportunities to strengthen key messages and raise the profile of Building Standards Certification in Scotland.

We recommend:

- 10. A working group should be set up to develop and take forward a communications strategy***
- 11. The benefits and use of approved certifiers should be promoted with certification highlighted as the route to compliance with building regulations***

Summary of recommendations

The following are the key recommendations from the Building Standards Certification workshop held on 24 September 2014. An expanded action plan is set out on the following page.

We recommend:

- 1. Guidance should be developed to encourage a consistent approach to the verification of certifiable work**
- 2. Verification of certifiable work should examine proportionate auditing measures**
- 3. Certification processes for all schemes should be investigated for opportunities to streamline processes for low risk projects**
- 4. Resource implications for verifying certifiable aspects of work should be investigated and any impacts on the current fees system identified**
- 5. Building warrant fee structure to be investigated for options to better promote certification**
- 6. The timing of the submission of the certificate of design should be investigated to align it more closely to the “approved” building warrant design**
- 7. Recording of non-compliances of certifiable work should be further investigated to establish whether a better indication of compliance levels can be provided in the future**
- 8. Scheme providers should develop services to recognise and promote the use of approved certifiers for all work that must meet building regulations**
- 9. Scheme providers should consider ways to get approved certifiers to actively issue certificates for their work**
- 10. A working group should be set up to develop and take forward a communications strategy**
- 11. The benefits and use of approved certifiers should be promoted with certification highlighted as the route to compliance with building regulations**

Action Plan

	Theme 1 – Equivalence	<i>Priority/ timing</i>	<i>Who (BSD/ SPs; LABSS)</i>
1.	Guidance should be developed to encourage a consistent approach to the verification of certifiable work	High Dec 2015	ALL
2.	Verification of certifiable work should examine proportionate auditing measures	High Dec 2015	ALL
<p><i>Commentary</i></p> <ul style="list-style-type: none"> • <i>Guidance should cover the scope of design and construction work that can be certified</i> • <i>Guidance should be based on a risk assessment approach and consider work under each scheme separately</i> • <i>Guidance should consider technical and procedural aspects and the competencies of verification staff or other resources</i> • <i>In-house auditing measures by verifiers should cover the scope of design and construction work that can be certified</i> • <i>Auditing measures should be based on a risk assessment approach and consider work under each scheme separately</i> 			
Action	Recommendations 1. and 2. and actions agreed (Scheme Providers/LABSS/BSD liaison meeting)	Feb 2015	ALL
Action	Meetings for each scheme (building structures; energy; electrical installations; drainage, heating and plumbing)	Mar/April/ May 2015	ALL
Action	Draft guidance prepared (Scheme Providers/LABSS/BSD liaison meeting)	Sept 2015	ALL
Action	Guidance for each scheme finalised.	Dec 2015	ALL
Action	Implement procedures for each scheme	Jan 2016	LAs
3.	Certification processes for all schemes should be investigated for opportunities to streamline processes for low risk projects	Medium Dec 2015	SPs BSD
Action	Recommendation 3. and actions agreed (Scheme Providers/LABSS/BSD liaison meeting)	Feb 2015	ALL
Action	Meetings for each scheme (this recommendation to be taken forward alongside recommendations 1. & 2.)	Mar/April/ May 2015	ALL
Action	Any process streamlining identified (Scheme Providers/LABSS/BSD liaison meeting)	Sept 2015	SPs
Action	Implement procedures for each scheme	Jan 2016	SPs

Action Plan

	Theme 2 – Incentives	<i>Priority/ timing</i>	<i>Who (BSD; SPs; LABSS)</i>
4.	<i>Resource implications for verifying certifiable aspects of work should be investigated and any impacts on the current fees system identified</i>	High Dec 2015	BSD LABSS
<i>Commentary</i> <ul style="list-style-type: none"> <i>Investigation should consider the outcomes emerging from recommendations 1 and 2 above and should consider work under each scheme separately</i> 			
5.	<i>Building warrant fee structure to be investigated for options to better promote certification</i>	High Dec 2015	BSD LABSS
<i>Commentary</i> <ul style="list-style-type: none"> <i>Investigation should consider the outcomes emerging from recommendation 4 above and should consider work under each scheme separately</i> <i>Investigation should consider fee models to present “certified” design and construction approaches as the baseline, with surcharges applied for the verification of the “non-certified” aspects of work</i> 			
Action	Recommendation 4. and 5. and actions agreed (Scheme Providers/LABSS/BSD liaison meeting)	Feb 2015	ALL
Action	Options identified for changes to fees from discounts to surcharges (Scheme Providers/LABSS/BSD liaison meeting)	Sept 2015	BSD
Action	Fees consultation	Oct 2015	BSD
Action	Fees review implemented	May 2016	BSD
6.	<i>The timing of the submission of the certificate of design should be considered to align it more closely to the “approved” building warrant design</i>	Medium Oct 2015	SPs BSD
Action	Recommendation 6. and actions agreed (Scheme Providers/LABSS/BSD liaison meeting)	Feb 2015	SPs (d) BSD LABSS
Action	Proposal developed for building structures scheme and energy schemes	July 2015	SPs (d) BSD LABSS
Action	Certificate of design proposal implemented October 2015 (subject to any legislation changes) (Scheme Providers/LABSS/BSD liaison meeting)	Sept 2015	SPs (d) BSD LABSS

Action Plan

	Theme 3 – Value	<i>Priority/ timing</i>	<i>Who (BSD; SPs; LABSS)</i>
7.	<i>Recording of non-compliances of certifiable work should be further investigated to establish whether a better indication of compliance levels can be provided in the future</i>	Medium Sept 2015	ALL
<p><i>Commentary</i></p> <ul style="list-style-type: none"> <i>Investigation should cover electrical installations, and drainage, heating and plumbing installations</i> <i>Investigation should reference the Association of British Insurers (ABI), Citizens Advice Bureau (CAB), certification scheme providers, approved certifiers, LABSS and local authorities, Fire Authorities and the HSE</i> 			
Action	Recommendation 7. and actions agreed (Scheme Providers/LABSS/BSD liaison meeting)	Feb 2015	ALL
Action	Local authorities to report non-compliances on non-certified work through KPO2 reporting	April 2015	LABSS
Action	Further indicators of compliance levels identified (Scheme Providers/LABSS/BSD liaison meeting)	Sept 2015	ALL
8.	<i>Scheme providers should develop services to recognise and promote the use of approved certifiers for all work that must meet building regulations</i>	Low Oct 2016	SPs(c) BSD
<p><i>Commentary:</i></p> <ul style="list-style-type: none"> <i>Services should cover work that must meet building regulations but does not need a building warrant (i.e. work types in schedule 3 of building regulations).</i> 			
Action	Recommendation 8. and actions agreed (Scheme Providers/LABSS/BSD liaison meeting)	Feb 2015	ALL
Action	Scheme Providers to further consider opportunities (Scheme Providers/LABSS/BSD liaison meeting)	Sept 2015	SPs (c)
Action	Implemented by scheme providers	Oct 2016	SPs (c)
9.	<i>Scheme providers should consider ways to get approved certifiers to actively issue certificates for their work</i>	Low Oct 2016	SPs (c)
<p><i>Commentary:</i></p> <ul style="list-style-type: none"> <i>This could consider work under each scheme separately</i> <i>This should consider the outcomes of recommendation 8</i> 			
Action	Recommendation 9. and actions agreed (Scheme Providers/LABSS/BSD liaison meeting)	Feb 2015	ALL
Action	Scheme Providers to identify opportunities (Scheme Providers/LABSS/BSD liaison meeting)	Sept 2015	SPs
Action	Implemented by scheme providers	Oct 2016	SPs

Action Plan

	Theme 4 – Promotion and awareness	<i>Priority/ timing</i>	<i>Who (BSD; SPs; LABSS)</i>
10.	<i>A working group should be set up to develop and take forward a communications strategy</i>	High Oct 2015	ALL
Action	Scheme Providers/LABSS/BSD liaison meeting	Feb 2015	ALL
Action	Working group inception meeting	April 2015	ALL
Action	Draft communications strategy developed (Scheme Providers/LABSS/BSD liaison meeting)	Sept 2015	ALL
Action	Finalise communications strategy	Oct 2015	ALL
11.	<i>The benefits and use of approved certifiers should be promoted with certification highlighted as the route to compliance with building regulations</i>	High Sept 2015	ALL
<p><i>Commentary:</i></p> <ul style="list-style-type: none"> <i>The Scottish Government Certification Register should be developed to be the main place for the public to identify people who can approve their own work under building regulations</i> <i>Key stakeholders to develop key messages and linkages to SG certification Register</i> 			
Action	Scoping meeting for all scheme providers	Feb 2015	ALL
Action	SG to review certification register and identify any short-term or long-term improvements	July 2015	BSD
Action	SG to implement any short-term improvements to certification register and website (Scheme Providers/LABSS/BSD liaison meeting)	Sept 2015	BSD
Action	SG to implement any long-term improvements to certification register and website	TBC	BSD

Appendix A – Workshop paper – Equivalence

Background

1. The purpose of this paper is to consider the certified and non-certified routes to compliance. The main aim of the building standards system is to protect the public interest and an integral part of the system is mandatory standards for building work. To ensure that these standards are successfully delivering in the public interest, in most cases some form of verification that they are being achieved is needed.
2. The introduction of the new building standards system in 2005 established two key roles. The role of the verifier, to provide independent confirmation that the standards have been fulfilled, and the role of a certifier, to certify that certain design or construction work is compliant with building regulations.
3. Over the years regular liaison has taken place between certification scheme providers, Local Authority Building Standards Scotland (LABSS) and the Scottish Government's Building Standards Division (BSD). These meetings have successfully achieved many improvements and refinements to the schemes and local authority service delivery. However one issue that has remained unresolved is the perceived gap between the robustness of certified (and equivalent) non-certified design and construction work.
4. It is now nearly 10 years since the introduction of the new system. Scottish Ministers felt it appropriate to review the Certification process and identify any areas for potential improvement. This timeframe also meets the Scottish Government's commitment to undertake post-implementation policy reviews.
5. To help establish the current position, BSD engaged the Building Research Establishment (BRE) to undertake a study into the level of checking of structural design. The main objectives of this research were to examine the differences in approach from the current Structural Engineers Registration Ltd. (SER) building structures design scheme and the approach taken by local authorities in dealing with non-certified designs. A key objective being to consider in terms of the "public interest" whether there was a gap between the robustness of certified (non-verified) structural designs and equivalent non-certified (verified) designs.
<http://www.scotland.gov.uk/Resource/0044/00449738.pdf>
6. Although this research looks specifically at structural design it is considered that the conclusions and recommendations are equally valid for other design and construction schemes. BSD have currently commissioned a similar project to look specifically at the level of checking of electrical installations and hope to be able to update workshop members on progress before or at the meeting.

Robustness of the Certification Approach

7. The research confirmed that those involved in certification of structural design within the SER scheme have the competence to undertake such work. The scheme has controls and measures in place to ensure that certifiers do not work outside of their competence.

Robustness of the Non-Certified Approach

8. The research confirmed that the non-certified approach by verifiers is typically only used for low complexity and low risk projects. It also revealed that there was a lack of consistency in the approach by verifiers. All verifiers had procedures in place to deal with structural design checking, but it varied across the verifiers.
9. In non-certified work the process was found to be typically controlled by experienced building standards surveyors. Each verifier has their own approach, with only a few having experienced Building Standards Engineers (civil or structural) in the verifier team. All verifiers take measures to ensure that competent individuals undertook the structural checking. However, the assessment of competence was by the individual verifier with no evidence of consistency being presented. The use of external consultants or other authorities was also considered essential to delivering the service.
10. The lack of consistency in approach has meant that the overall robustness of the approach is reduced. Although there is no evidence that this has resulted in safety concerns at the moment, any further erosion in verifier resource may well impact on the public interest in the future.

Gap between Certified and Non-Certified Work

11. The research found that there was lack of consistency and indeed transparency in the approach amongst verifiers to structural checking. The approach typically reflected the resources available to the verifier, with the smaller authorities in particular having less resource of qualified civil or structural engineers to call upon. However, all verifiers interviewed had procedures in place to manage structural checking. The research did not find evidence that the different approaches resulted in differences in the ultimate structural performance or safety of the public. However, there were substantial differences between the certified and non-certified route, not least of which is the point in the project that the structural checking is carried out.
12. In the future, an important aspect to be considered is that compliance checking, by either route, is risk based and proportionate to the work being undertaken. Ultimately the desired outcome with both routes is a building project that complies with building regulations.

Alignment of the Approaches (Equivalence)

13. The research concluded that it does not necessarily follow that because there is no known difference in building performance that there is equivalence between the two approaches. It is however recognised that the two approaches can never be entirely the same due to the different starting points for compliance checking.
14. It further concluded that the SER scheme describes different levels of risk in projects and gives options for the role of the certifier in projects. Low risk projects fall into the category that the designer is also the certifier. This effectively involves a self-check on the design being necessary. Whilst this is appropriate for low risk projects the scheme processes expect a substantial amount of checking. The report concluded that the requirements for checking of structural design for low complexity and low risk work should be investigated to see if processes could be simplified and streamlined.
15. In the BRE report several recommendations to better align the approaches have been suggested:
 - To improve consistency, risk assessed procedural guidance for checking non-certified design work should be produced
 - The competence of those checking non-certified work should be controlled by the verifier
 - Verifiers should produce a publicly available approved list of staff and consultants who could undertake checking
 - The approved list should be accompanied by an audit of compliance checking of projects on an annual basis
 - The requirements for checking of structural design for low complexity and low risk work should be investigated
16. It is recognised that the additional work proposed by these recommendations could have resource implications for local authorities and BRE have suggested that the fees structure be reviewed to re-align the certified and non-certified processes. This is dealt with in Paper 2 "Incentives".

Route to compliance			
	Certified	Verified	
Certification			
Designer or installer used	Approved Certifier (working under scheme)	Approved Certifier (<u>not</u> working under the scheme)	Other designer or installer
Evidence	Certificate of design/construction provided	Variable* (e.g. submission of calculations)	Variable* (e.g. submission of calculations)
Verification			
	Not applicable	<i>Verification required* (e.g. checking of calculations either in-house, or by external consultants)</i>	<i>Verification required* (e.g. checking of calculations either in-house, or by external consultants)</i>
Outcome	↓	↓	↓
In all cases (certification plus verification)	Compliance with building regulations		

* Note : Further clarification required for verification of the non-certified aspects.

17. We would seek the view of the workshop group on the following specific questions arising out of the research report recommendations. We would also ask you to provide any additional thoughts on how to better align the certified and non-certified route to compliance checking of building standards.

QUESTIONS

1.1 Should risk assessed procedural guidance for verification checking of non-certified work be produced?

1.2 Should the competence of those checking non-certified work be controlled by the verifier?

1.3 Should verifiers produce a publicly available approved list of staff and consultants who could undertake checking?

1.4 Should the approved list be accompanied by an audit of compliance checking of projects on an annual basis?

1.5 Should the requirements for checking of structural design for low complexity and low risk work be investigated?

Appendix B – Workshop paper – Incentives

Background

1. The purpose of this paper is to agree a strategy to improve the take-up of certification. As explained in the background paper, anyone having building work done has the choice of whether or not to use an approved certifier. When an approved certifier is used, the aspects covered by a certificate do not need checking by the verifier.
2. While certification should be viewed and promoted as the best route to compliance, the appropriate incentives must be in place which are currently cited as:
 - Reduced building warrant fees
 - Speed of processing by the local authority
 - Certainty that the certified work has been done by a competent person properly, and with regard to the wider building standards
3. Whilst these are true, there are differences in the effectiveness of the incentives between design and construction schemes.
4. The main overall aim is for building owners to understand the benefits that using an approved certifier gives them. It provides reassurance of compliance with building regulations, saves time and it is cost effective. For the approved certifier, the aim is that their input into compliance is fully recognised across all the work they do.

Building Warrant Fees

5. The Building (Fees) (Scotland) Regulations 2004, as amended, provides for discounts of the building warrant fee. A 10% discount is applied to the fee when a certificate of design of a whole section (Section 1 Structure; or Section 6 Energy) is provided with the building warrant application. A discount of 1% is applied to the fee when the applicant confirms that they will provide a certificate of construction with the completion certificate (note in 2009, the 1% refund at completion stage for construction certificates was changed to the current 1% discount applicable at application stage).
6. When the current system came into force in 2005 there were 6 sections in the Technical Handbooks. The intention was that if certification became widespread and covered all aspects of verification, the maximum discount possible would be 60% for design (10% for each section) and 20% for construction (irrespective of number of construction certificates). This left 20% to cover the verifiers administration costs.

7. Section 7 Sustainability was introduced in 2011 which could result in an additional 10% discount. Although currently this is not a problem as only Sections 1 and 6 can be certified at present, the fees discount model needs revisiting for future proofing.

Discounts of warrant fees for using certification

8. For design schemes, the discount of 10% for providing certification of Section 1 Structure or Section 6 Energy is more of an incentive on the larger warrant fees. For the smaller projects that make up the bulk of the applications, say below £100k value, the discount is not that significant. For construction schemes, the discount is less at 1% for each certificate.
9. To explore this further, consider that approximately 82% of all applications for building warrant or amendment to warrant have a value of work less than £50k. The warrant fee for a £50k project is £580, resulting in a discount of £58 for a certificate from an approved certifier of design, and £5.80 for a certificate from an approved certifier of construction.
10. It is clear that the discounts for both design and construction schemes provide little incentive. Even work with a value of £1 million, the discount for using a certifier of construction is only £46.30. At the other end of the scale, the warrant fee for £5k or less value of work is only £100.
11. There have also been concerns raised that approved bodies charge more to certify their work. This clearly negates the discount incentive for the client.
12. In addition, the difference in the fee probably does not represent the cost to the local authority of checking uncertified aspects of work, which is a view expressed by local authorities particularly for checking structural calculations.

Research

13. As explained under Equivalence (Paper 1), the Scottish Government commissioned the Building Research Establishment (BRE) to undertake research into – “A Study of the Level of Checking of Structural Design”.
14. An important conclusion is that there are differences in the two approaches – the certified approach is more highly regulated by the scheme and there is scope to improve the consistency of the non-certified approach. The report recommends each verifier maintains an approved list of those undertaking their structural design checking, and for competency of individuals, reflect the complexity of structural design and risk involved in the project. This should be supported by appropriate training. It is also recommended that local authorities undertake audits of verification checking on an annual basis.
15. The research recommends that “...the fees structure should be reviewed in order to re-align the certified and non-certified process.” This was also reflected in the research “To Improve and Raise Awareness of Certification in Scotland”.

16. One of the conclusions was that “the current financial incentives around certification appear negligible in encouraging use of the schemes”, and “careful consideration would require to be given to the appropriate additional charge for non-certified work”. This could have resource implications for local authorities.

Fees review

17. Therefore, a review of the fees structure should consider the following aspects:

- The need for any additional warrant fees to address the current consistency of verifiers issue raised in the research
- The difference in the building warrant fees for certified/uncertified work should reflect the additional cost of the verification checking by the local authority of uncertified work
- The difference in the level of verification checking by local authorities should reflect the different aspects of uncertified work. For example the checking of the structural or energy design of the same building may not require the same level of input, and so should be reflected in the fee scale, and
- The fee structure should be more transparent to better promote the preferred certified route and reflect the difference in fees and reasons (e.g. the additional fee for uncertified work should be viewed as a burden to cover the verification costs).

Incentives – Timing of Certificates

Background

1. Certificates of design and construction cover the work included on the building warrant. They are issued when the design or construction is complete to support the building warrant application and completion certificate submission. Any changes to the design that occur after the building warrant has been granted are dealt with by an amendment to warrant, for which a further certificate of design is likely. The same principle applies for any changes needed after a completion certificate has been submitted and before it has been accepted.

Certification of Design

2. A building warrant application should provide the full details of the project (unless a staged warrant approach is taken) and show compliance with building regulations. The verifier checks the proposals and if they cannot grant the building warrant, they will issue the first report identifying those aspects that are non-compliant or for which further information is needed. The applicant will address these and submit the new or revised details for the verifier to check. This process can be repeated before the verifier grants the building warrant.
3. A certificate of design must be provided with the building warrant application to get the discount. However, the design can change post-application to address issues raised in the first report and subsequent checking by the verifier. Generally these might be small changes but sometimes may be significant (for example a new stairway required for means of escape, or changes to layouts). The applicant is responsible for the design team and ensuring any changes are considered across all sections (for example changes to meet Section 2 Fire are compliant with Section 1, Structure).
4. However there is no formal mechanism to demonstrate the certifier of design has covered any changes post-application, to issue to the applicant or submit to support the application. In addition, the status of a certifier of design may change after they have issued the initial certificate and not be able to deal with the post-application changes (the certifier may have been suspended or struck-off, or ceased trading).
5. It is important that the certifier is involved in any design changes whether they are applied post-application (i.e. post-certificate issue), post-warrant (through an amendment to warrant), or post-application for amendment to warrant.
6. The verifier needs to be advised with the application for building warrant that a certifier of design is being used, to alert them that a certificate of design is being presented and to allow the discount of the warrant fee. There are two key timings for certificates of design. Firstly with the application for building warrant and secondly, if subsequent changes are needed, at the point the revised design is compliant. The latter does not currently exist in the current system.

Phase	Certification confirmation	Comments
Application for building warrant (or for amendment to building warrant)	Certificate of design provided (or for amendment to building warrant, a letter of confirmation if appropriate)	Covers design already done, but not any subsequent changes
Design changes after verification checking	None	Reliant on applicant involving certifier
Design compliance finalised	None	No confirmation of certification provided
Building warrant (or amendment to building warrant) granted	None	Certification based on initial certificate and assumptions

Certification of Construction

7. The same analogy can be applied to certification of construction. Changes may be needed as a result of verifier checking of the non-certified aspects before the completion certificate acceptance is issued. However the possible issues at completion are less of a concern. With the pre-emptive system any changes arising are likely to be less significant than those at design phase. Also, if the changes necessitate an amendment to warrant, a new completion certificate submission is required which would result in a new certificate of construction being provided.
8. The verifier also needs to be advised with the application for building warrant that a certifier of construction is to be used to allow the discount, although the certifier may not be actually known at that time.
9. Another related issue raised by certifiers of design is pressure put on them by clients to provide a certificate of design. Clients want to submit their applications as soon as possible to enable work to get going on site, which is due to the pre-emptive nature of the system, and uncertainty as to when they will get their warrant. This can lead to an application being made prematurely before the design has been fully done, making it difficult for the approved certifier to issue their design certificate to be submitted with the application. However these issues can be addressed in two ways. The certification system has procedures for dealing with some types of contractor designed details (schedule 1 of the certificate) and when this is not appropriate, the use of the staged warrant approach will allow work to get going on site in a planned way.

Phase	Certification confirmation	Comments
Completion certificate submitted	Certificate of construction provided	Covers construction already done, but not any subsequent changes
Remedial work following verification checking*	None*	Reliant on relevant person involving certifier*
Construction compliance finalised	None	No confirmation of certification provided
Completion certificate accepted	None	Certification based on initial certificate and assumptions

* Note that changes for remedial works to allow the CC to be accepted could require an amendment to warrant, and a new CC and a new certificate of construction.

QUESTIONS

- 2.1 Should the difference in building warrant fees between a certified and non-certified project better reflect the difference in the level of checking undertaken by the local authority verifier? (i.e. the additional fee for a “non-certified” project should reflect the additional verification of the non-certified aspects).**
- 2.2 Should the additional building warrant fee for a “non-certified” project reflect the different levels of verification for each “certifiable “aspect? (i.e. the work covered by each certification of design and construction scheme).**
- 2.3 Should the additional building warrant fees for a “non-certified” project be presented as a surcharge to the “certified” project approach? (i.e. apply a surcharge rather than a discount as at present).**
- 2.4 Should the timing of certificates of design be reviewed to consider the design changes that occur after the application for building warrant (and amendment to warrant) is made and the building warrant (and amendment) is granted?**
- 2.5 Should the timing of certificates of construction be reviewed to consider the construction changes that occur after the completion certificate has been submitted for which an amendment of warrant is not required?**

Appendix C – Workshop paper – Value

Background

1. The purpose of this paper is to consider the value of having work done by an approved certifier. The building standards system has two aspects, firstly the overarching compliance with the technical aspects of building regulations, and secondly the supporting permissions and procedures.
2. “Building” is defined in section 55 of the Building (Scotland) Act 2003 and covers any structure or erection with some exceptions. The Act also provides for exempt buildings, work or conversions, or services, fittings or equipment and these are set out in schedule 1 to regulation 3 of the Building (Scotland) Regulations 2004 as amended.
3. Therefore the technical building standards apply to a wide range of building and work, unless it is not a building under the Act or exempt under schedule 1.
4. There are types of building and work that must meet the technical building standards, but are considered to be minor or of lower risk and as such do not require formal permission to be done (i.e. a building warrant or completion certificate). These types are set out in schedule 3 to regulation 5 of the Building (Scotland) Regulations 2004 as amended. Although the types in schedule 3 do not require formal permission, they must still meet the technical standards and local authorities can take enforcement action if necessary.

Certification and Building Warrants/ Completion Certificates

5. The current system links certification with work requiring a building warrant. The mechanism being through providing a certificate of design to support a building warrant application and providing a certificate of construction to support a completion certificate.
6. This means that the building and work that does not require a building warrant is not able to be certified, although it must meet building regulations in the same way as warrantable work.

Use of an approved certifier

7. The use of an approved certifier of construction for the work not requiring a building warrant is still important because they will give the building owner the reassurance that the work has been done properly, particularly as there is no verification involved. As the owner’s ultimate concern is compliance of the completed work and considering the type of work that does not require a warrant, and use of a certifier of design is equally relevant.

8. Another aspect where the use of an approved certifier might be valuable is as part of the verification checking by local authorities. This could for example be for checking structural calculations or testing electrical installations.
9. The current advice given in the Building Standards Procedural Handbook for schedule 3 work is that verifiers may choose to offer a service to owners who are seeking advice on whether the proposed work “not requiring a warrant” does meet the building standards.
10. Although certification is only applicable to work that requires a building warrant, approved certifiers may wish to provide advice, to anyone seeking it, on whether work not requiring a warrant does comply with the regulations. It is for certification scheme providers to decide if they wish to develop such a service, which may assist building owners in showing future purchasers that work has been properly done.
11. This will be distinct from the warrant system and it will be for the provider of the service to determine reasonable charges. If owners have used the BSD certification register to identify approved bodies, the contractual arrangement under which the non-warrant work is done should be clarified by the approved body, as there are none of the normal building warrant checks. No such services have been formally set up.
12. The number of active certifiers and the numbers of certificates issued in relation to the number of building warrants have raised some concerns over the years. Certifiers have stated that building owners do not always ask for a certificate, and that many projects do not need a warrant and therefore cannot be certified.
13. The current arrangements do not encourage owners to use an approved certifier or approved certifiers to promote the use of one. The current focus limited to “certificates from an approved certifier” should be switched to “the use of an approved certifier”, with the certificate demonstrating that one has been used.
14. Making certification mandatory is not an option, as made clear by the Minister in March, but it is clear **that it is preferable that an ACD or ACC should always be used** and this should be the message given out. However there is no formal mechanism to recognise such a service or the issue of a certificate of conformity or similar, to provide reassurance to the building owner.
15. The development of such a service for schedule 3 work would further recognise the role of approved certifiers in the compliance with building regulations and allow a strong message “An approved certifier should always be used for any work that must meet building regulations” to be sent out. Also, an approved certifier would be able (and could be expected) to issue certificates for most of their work, with the only exception being exempt work under schedule 1.

Building or Work			
	Exempt (Schedule 1)	Requiring a BW (Schedule 3)	Warrantable (BW/CC required)
Verification by LA?	No	No	Yes
Must meet technical standards?	No	Yes	Yes
BW/CC required?	No	No	Yes
Should an ACD or ACC be used?	Yes	Yes	Yes
Is certificate from ACD/ACC applicable?	No	No	Yes

16. The variable take-up of certification in some schemes has often been put down to clients not being aware of certification and therefore asking for it, which is addressed in Paper 4 Promotion and Awareness. Firms and individuals acting as approved bodies and approved certifiers have the use of the certification registration mark, and so have a role to push the benefits. Over the years the numbers of certificates issued by each certifier within each scheme will vary depending on their different work profiles and activity. However it could be from a lack of promotion or reluctance to self-certify.
17. It has therefore been suggested that approved certifiers should be expected to promote certification and whenever possible issue certificates. A client will always make the decision whether to use certification or not but they should not decide without knowing all the facts and benefits. Their decision should not be through ignorance or lack of promotion from the certifier.

Research

18. The Scottish Government commissioned Pye Tait to undertake research into – “Investigation of Compliance Levels with the Building (Scotland) Regulations 2004 (including Schedule 3), which was targeted at electrical installations, and drainage, heating and plumbing installations.
19. The conclusions recommended that a picture of non-compliance with building regulations is established and maintained through central recording in a more consistent way. This will require all aspects of industry to record non-compliances such as local authorities, scheme providers, approved certifiers, HSE, Trading Standards etc. Under KPO2 of the verification performance framework, local authorities must record instances of major non-compliances in their Scottish Government quarterly returns. This aspect could be expanded to all non-compliances associated with electrical installations, and drainage, heating and plumbing installations.

20. The report raised concerns on the compliance levels of solid and multi-fuel appliances and recommended that a register of certified installers is developed (equivalent to the Gas Safe Register). With the drive to promote approved certifiers and their use becomes more prevalent, this could be the Scottish Government Certification Register.
21. The conclusions also recommended consideration of the widening of certification of certain types of building under Schedule 3 and further investigation into the potential for re-regulating aspects of Schedule 3. This would require legislative changes and to do so, there must be a strong evidence base to re-regulate work which has to date not been clearly demonstrated.
22. Therefore the first steps should be:
- to develop a better mechanism to record non-compliances to provide the evidence base, and
 - to increase industry take-up of self-certification to minimise the impact of any future re-regulation.

QUESTIONS

- 3.1 Should local authorities, scheme providers, approved certifiers and other parts of industry develop better mechanisms to record non-compliances (of building regulations) of electrical installations, and drainage, heating and plumbing installations?**
- 3.2 Should scheme providers develop a service to recognise and promote the use of ACDs and ACCs for all work requiring to meet building standards? (i.e. covering schedule 3 work that does not need a building warrant).**
- 3.3 Should approved certifiers be expected to issue certificates confirming compliance with building regulations for their warrantable work, and (subject to a service described above being developed) be expected to issue similar confirmation for non-warrantable work?**
- 3.4 Should the use of approved certifiers for other aspects of work be considered for warrantable or non-warrantable (schedule 3) work? If so, what aspects?**

Appendix D – Workshop paper – Promotion and awareness

Background

1. The purpose of this paper is to consider ways to promote and raise awareness of Building Standards Certification in Scotland.
2. The Building Scotland Act (2003) introduced the option of certification for work requiring a building warrant. Certification is based on the principle that suitably qualified and experienced building professionals and tradespeople can be responsible for ensuring that specified works comply with the building regulations without the need for detailed scrutiny of designs or inspections by local authority verifiers.
3. Optimal Economics were appointed by the Building Standards Division (BSD) of the Scottish Government to undertake a research project to help improve and raise awareness of certification in Scotland. The report '[To improve and Raise Awareness of Certification in Scotland](#)' was published in April 2014.
4. The key findings of the research identified that:
 - Certification needs to be considered the norm with a range of other features set in place to support this position
 - Certification should be promoted more aggressively by central and local government, emphasising that certificates are expected for all certifiable work and there will be a clear benefit in providing the certificates
 - It is important that all relevant parties (users, scheme providers, certifiers and regulators) work together to help improve and make certification more attractive in the future
 - Further promotion of the database as the place to find all approved certifiers under a simple brand would ensure searching for a certifier was a simple, straightforward task.
5. To develop these further, the following workstreams have been identified:
 - a) Communications Strategy
 - b) Building Standards Certification Register
 - c) Information to building owners
 - d) Public Procurement

Communications Strategy

6. It is clear from the research that there is a need to develop a robust collaborative Communications Strategy to help promote and raise awareness of Building Standards Certification in Scotland. The strategy will assist central and local government as well as scheme providers to work both collectively and independently to promote and encourage the take up of certification services and help raise building standards in Scotland. It will be used to establish and manage on-going communications with external customers to raise public

awareness of the certification schemes and heighten the profile of Approved Certifiers. This will need to be achieved under a simple brand with common messages.

7. The Communications Strategy must be collaboratively developed by all partner organisations. The strategy should have clear deliverables and include monitoring and reporting mechanisms. Whilst it is very important to report on successes it is equally important to reflect on any lessons learned. This process will help inform continuous improvement following implementation of the strategy.

Scottish Government Building Standards Website

8. The Scottish Government Certification Register (accessed via the Building Standards Division part of the SG website) is the only definitive online database of firms operating under Scottish Government approved certification schemes. The site provides two services, firstly allowing the public to search for a suitable firm and secondly for local authorities to undertake validation checks of certificates submitted.
9. The SG website provides a wide range of building standards advice and technical information. It includes basic certification information and links to all Scheme Providers and the Building Standards Certification Register. The certification pages currently focus more on the certificate checking function rather than the promotion of the various certification schemes. Other external websites have links to the register for example the Electrical Safety First website and the SBSC website.
10. The Scottish Government Certification Register has been operating since 2005 and local authorities are very familiar with the certificate checking function. However the register, as the definitive list of approved certification bodies, needs promoting further. It should have stronger signposting and more prominence, and provide better advice targeted at people wanting to find firms to self-certify their work as compliant with building regulations.
11. In the short term the certification pages on the SG website have been reviewed and textual changes have been identified to provide stronger messages and signposting. However changes to functionality are not so simple and will take longer, needing programming input.
12. In the longer term, it is felt that a clear “certification” landing page is needed which should be easily found through the SG and external partner websites. This landing page should present the key messages, be the focal point for building standards certification in Scotland and, particularly for the public user, set out:
 - The benefits of certification
 - What types of work can be certified
 - How to use the Scottish Government Certification Register to find a suitable firm (e.g. identify the scheme and enter postcode to get a list of the approved bodies).

Information to property owners

13. The building owner is ultimately responsible for compliance with building regulations, and signing the completion certificate that is submitted to the local authority when work is finished. The research highlighted the need to work with stakeholders to improve the availability of information to property owners across Scotland. This is perhaps the most challenging audience to get the key messages about certification and verification to, and advice from appropriate agencies such as the Citizens Advice Scotland should be sought. When developing the strategy, there may also be the need to consult the Scottish Law Society as a means of promoting certification to their clients.
14. The Scottish Government expects to shortly commission a research project to develop a National Building Standards Customer Information Pack. The aim is to identify the key roles and responsibilities of the main players in the building standards process (such as applicant, agent, LA, certifiers of design and construction, designers, builders). The pack will cover the “customer journey” from pre-application through to post-completion, and will be used to develop “key messages” for customers at each stage of the journey and the best way to communicate them.

Public Procurement

15. EU Procurement Directives 2004/17/EC and 2004/18/EC set out detailed procedural rules which are based on the principles outlined in the Treaty on the Functioning of the European Union. They are intended to support the single market by harmonising procedures for higher value contracts, ensuring that they are advertised in the Official Journal of the European Union in standard format.
16. The Directives are given effect in Scottish law by the Public Contracts (Scotland) Regulations 2012 and the Utilities Contracts (Scotland) Regulations 2012 as amended, which came into force on 1st May 2012.
17. The transposition of the revised EU Procurement Directives will set the overarching legislative context for public procurement in Scotland. They are to be transposed into domestic legislation by 18 April 2016 through the Procurement Reform (Scotland) Act 2014.
18. The Act establishes a national legislative framework for sustainable public procurement, maximising the economic benefit brought to Scotland from effective and efficient public procurement spend. The Act contains powers for Scottish Ministers to issue statutory guidance on the selection of tenderers in relation to a regulated procurement i.e. procurement that falls within the scope of the Act.
19. While minimum standards to undertake a public contract can be expressed by reference to a certain certification or accreditation scheme, public bodies are obliged to consider any other form of evidence that a bidder may submit that demonstrates the minimum standards set out for the contract. This is to comply with the overarching EU Treaty principles to treat bidders equally, not to discriminate against them and to ensure that there is mutual recognition.

20. The research suggested that Certification should become compulsory for public sector procurement contracts and made a requirement of tenderers (bidders). This suggesting is contrary to EC Treaty Obligations, EU Procurement Directives and Scottish Regulations.
21. Current guidance on Building Standards Certification is contained in the Construction Procurement Manual. The Building Standards Division will continue to liaise with the Scottish Government Procurement Directorate in the development of and strengthening of replacement guidance within EU Procurement guidelines.

QUESTIONS

- 4.1 Should a collaborative Communication Strategy be produced?**
- 4.2 Should the Scottish Government Building Standards Register be promoted as the main place for the public to identify people who can self-certify key aspects of work as compliant with building regulations?**
- 4.3 Should the SG website include a suitable certification landing page to help the public quickly understand the benefits of certification and be able find a suitable firm?**
- 4.4 Should the Building Standards Division continue to liaise with the Scottish Government Procurement Directorate in the development of and strengthening of replacement guidance within EU Procurement guidelines?**
- 4.5 Should any other opportunities be considered for promoting certification and raising public awareness?**

Appendix E: Building Standards Certification: Terminology

Term	Definition
Approved Body	A firm, public body, or other organisation that employs at least one Approved Certifier and operates systems to check compliance with Building (Scotland) Regulations 2004. They must also hold appropriate insurances, provide access to up-to-date regulations, codes, guidance and training for their Approved Certifiers.
Approved Certifier of Construction	An individual with appropriate qualifications, experience and understanding of the role of Approved Certifier to certify that specified aspects of the construction of completed buildings comply with the Building (Scotland) Regulations 2004. Approved Certifiers of Construction may be approved by a scheme provider under Section 7(2) of the Act or by the Scottish Ministers under Section 7(1) of the Act. They may only issue certificates that are countersigned by the certification co-ordinator of an Approved Body. They must keep a record of all the certificates of construction that they issue.
Approved Certifier of Design	An individual with appropriate qualifications, experience and understanding of the role of Approved Certifier to certify that specified aspects of design comply with the Building (Scotland) Regulations 2004. Approved Certifiers of Design may be approved by a scheme provider under Section 7(2) of the Act or by the Scottish Ministers under Section 7(1) of the Act. They may only issue certificates that are countersigned by the certification co-ordinator of an Approved Body. They must keep a record of all the certificates of design that they issue.
Building Warrant	A warrant granted under Section 9 of the Building (Scotland) Act 2003. A building warrant is required for- (a) any work for: (i) the construction or demolition of or (ii) the provision of services, fittings or equipment in or in connection with (iii) a building of a description to which building regulations apply (b) any conversion of a building.

Term	Definition
Certifiable Work	Work that can be certified under the scope of the scheme
Certificate of construction	<p>A building owner, developer or other relevant person may use a certificate of construction to support the submission of a completion certificate. A certificate of construction certifies that construction work complies with the Building (Scotland) Regulations 2004 and is only valid under the Act when issued by an Approved Certifier of Construction.</p> <p>Each certificate that is issued by a Section 7(2) Approved Certifier of Construction must be countersigned by the certification co-ordinator of an Approved Body that belongs to the same scheme.</p> <p>A certificate of construction issued by a directly appointed Approved Certifier will be signed by the certification co-ordinator only.</p>
Certificate of design	<p>A building owner or developer may use a certificate of design to support an application for building warrant. A certificate of design certifies that design described in the application complies with the Building (Scotland) Regulations 2004 and is only valid under the Act when issued by an Approved Certifier of Design.</p> <p>Each certificate that is issued by a Section 7(2) Approved Certifier of Design must be countersigned by the certification co-ordinator of an Approved Body that belongs to the same scheme.</p> <p>A certificate of design issued by a directly appointed Approved Certifier will be signed by the certification co-ordinator only.</p>
Certification Co-ordinator	An individual registered as responsible for countersigning certificates on behalf of an Approved Body. The certification co-ordinator acts as the contact point for the Approved Body and is responsible for maintaining the system of checking, insurance policies, access to documents, training and handling complaints.
Scheme	A membership scheme under the terms of Section 7(2) of the Building (Scotland) Act 2003. Approved schemes must be operated by an appointed scheme provider and must be specific to the certification of certain aspects of design or construction. The scheme must include both individual Approved Certifiers and Approved Bodies. Schemes must not exclude any individual or firm on the basis of membership of a trade association.

Term	Definition
Scheme Guide	A document produced by the Scheme Provider and approved by the BSD setting out the terms and conditions for membership of the scheme.
Scheme Provider	An organisation that operates one or more schemes to certify compliance with Building (Scotland) Regulations 2004 for specified aspects of a project. The BSD criteria for appointment of scheme providers include evidence of status, expertise in relevant aspects of design or construction, expertise and capacity to operate schemes, financial probity, and appropriate disciplinary procedures.
Verifier	Verifiers are appointed to verify that work complies with the Building (Scotland) Regulations 2004, both in terms of design and construction. The Scottish Ministers have appointed the 32 local authorities in Scotland as verifiers. The work of verification will usually be undertaken by their Building Standards Departments. Verifiers verify applications for building warrants and must make reasonable enquiry to assess whether completion certificates should be accepted. They must accept certificates by registered Approved Certifiers of design or construction as conclusive of the matters certified. Verifiers do not scrutinise certified matters and are only expected to check that, for Section 7(2) approvals, the Approved Certifier and Approved Body were appropriately registered on the date the certificate was signed.

Appendix F: Glossary of Acronyms

- AB Approved Body
- ABI Association of British Insurers
- ACC Approved Certifier of Construction
- ACD Approved Certifier of Design
- BSD Building Standards Division
- BRE British Research Establishment
- CAS Citizens Advice Scotland
- CIAT Chartered Institute of Architectural Technologists
- CIBSE Chartered Institute of Building Service Engineers
- CoC Certificate of Construction
- CoD Certificate of Design
- CPD Continuous Professional Development
- ESF Electrical Safety First
- HSE Health and Safety Executive
- LA Local Authority
- LABSS Local Authority Building Standards Scotland
- NICEIC National Inspection Council for Electrical Installation Contracting
- RIAS Royal Incorporation of Architects Scotland
- SELECT Scotland's Electrical Trade organisation
- SER Structural Engineers Registration Ltd
- SG Scottish Government
- SNIPEF Scotland and Northern Ireland Plumbing Employers Federation.
- SP Scheme Provider