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Chief Executives – Scottish Local Authorities

Copy to: Local Authority Building Standards
Managers

Our ref: A32558368
26 March 2021

Dear Chief Executive

**THE BUILDING (SCOTLAND) ACT 2003: SECTION 34 – REPORTS AND INFORMATION
NOTIFICATION OF APPLICATION FOR BUILDING WARRANT – SECTION 2: FIRE.**

I am writing to you to extend the type of applications for building warrant that a verifier must notify to the Building Standards Division (BSD) under Section 34 of the Building (Scotland) Act 2003. This letter is supplementary to the section 34 letter issued on 27 July 2018.

Currently, local authorities as verifiers are formally requested to notify BSD of the following applications for building warrant –

- a) Developments with any storey at a height of more than 60 metres
- b) A dwelling having a floor area of more than 200 square metres
- c) A non-domestic building where the design is not in accordance with the guidance issued by Scottish Ministers
- d) A domestic building with a storey height over 7.5 metres where the design is not in accordance with the guidance issued by Scottish Ministers

We would now also seek notification, from 1 April 2021, of any building warrant application which includes reference to a BS 8414/BR 135 large scale fire test as a means of demonstrating compliance with standards 2.1, 2.2, 2.4, 2.6 or 2.7.

Whilst this requirement to notify BSD of applications for building warrant applications in the circumstances outlined above is made on a statutory basis, you should note that the determination of the application rests with the local authority.

In addition to notification, local authority verifiers should seek information from the applicant to confirm that the cladding system tested is representative of, and can be applied to, the system designed and appropriate risk management protocols are in place to demonstrate compliance during construction as part of an issued Construction Compliance Notification

Plan. Further detail on the assurance process will be developed and agreed with Local Authority Building Standards Scotland, who have been consulted on this issue.

Background information is provided in **Annex A**. A note of the information that should be included with the 'Notification of Application for Building Warrant' is provided in **Annex B**.

A separate letter is issued to all Local Authority Chief Executives and Building Standards Managers confirming related minor changes to guidance on external wall cladding systems within section 2 of the Technical Handbooks applicable from 1 April 2021. These changes remove reference to BS 8414 tests as a cited alternative means of compliance and advice on the need to avoid use of Category 3 Metal Composite Material cladding products. These interim measures are introduced pending the outcome of a technical review on both topics, to be concluded later in 2021.

Any enquiries about this letter should be addressed in the first instance to:

Benny Rooney / Scott Young
Building Standards Division
Denholm House
Almondvale Business Park
LIVINGSTON
EH54 6GA
buildingstandards@gov.scot

Yours sincerely

Benny Rooney

BENNY ROONEY
Building Standards Division

Background

The Scottish Government is considering the case for continued citation of large scale fire testing of external wall cladding systems as a means of compliance with building regulations. This follows discussion on this matter at the Ministerial Working Group on Building and Fire Safety in [November 2020](#) and [March 2021](#) referencing evidence submitted to both the Grenfell Tower Inquiry and statements by Ministers to the Local Government and Communities Committee of the Scottish Parliament.

Whilst it remains the case that the BS 8414 test is considered a robust test for the performance of external wall cladding systems under fire conditions, issues continue to be raised over the potential risks arising from the application of test results in the design and construction of specified systems on buildings.

A Fire Review Panel was convened to consider this issue and it is intended that confirmed proposals for revision to published standards and guidance on this and other external wall cladding issues will be consulted upon from June 2021 and concluded later in the year.

However, as an interim measure, citation of the test is being removed from published guidance within the Technical Handbooks and a further assurance process for applicants introduced into the building warrant verification process.

Changes made to published guidance

Previously, guidance to standards 2.1, 2.2, 2.4, 2.6 & 2.7 within the Building Standards Technical Handbooks have cited BR 135, 'Fire Performance of external thermal insulation for walls of multi-storey buildings' when read in conjunction with the test methodology in BS 8414: Part 1: 2015+A1: 2017 or BS 8414: Part 2: 2015+A1: 2017 as alternative guidance on meeting provisions for fire spread on external wall cladding systems.

From 1 April 2021, BR 135 and BS 8414 (and reference to BS 9414) are no longer cited within guidance in the Technical Handbooks. This does not preclude an applicant proposing such a solution as a means of meeting the relevant standards.

Changes to process

Where an application does propose BR135 / BS 8414 as a means of compliance, notification of this should be sent to Building Standards Division as set out in Annex B.

The information confirmed by the applicant can then be incorporated within a Construction Compliance Notification Plan for the project, to support confirmation of intent during the construction phase.

Notification to BSD of Application for Building Warrant

The Notification by the verifier on the use of BS 8414 should include the following information to be submitted to the Building Standards Division (BSD), Denholm House, Livingston EH54 6GA – email: buildingstandards@gov.scot

| Application Details* | |
|------------------------|--|
| Stage of application | <ul style="list-style-type: none"> • Application • Application in Progress |
| Type of development | Any (state building type and maximum storey height above ground level) |
| BS 8414 test reference | <ul style="list-style-type: none"> • Testing organisation and reference; • BS 8414 test results; • BR 135 report; • BS 9414 extended field of application (if applicable); • Related third party certification (if applicable). |

*Delete as appropriate