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*improving living in scotland*



**HOMES FOR SCOTLAND RESPONSE TO LOCAL  
GOVERNMENT AND COMMUNITIES COMMITTEE CALL  
FOR EVIDENCE ON BUILDING REGULATIONS IN  
SCOTLAND**

**28 FEBRUARY 2017**

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## ABOUT HOMES FOR SCOTLAND

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Homes for Scotland is **the** voice of the home building industry.

With a membership of some 200 organisations together providing 95% of new homes built for sale in Scotland each year as well as a significant proportion of affordable housing, we are committed to improving the quality of living in Scotland by providing this and future generations with warm, sustainable homes in places people *want* to live.

Visit [www.homesforscotland.com](http://www.homesforscotland.com) for further information and follow us on twitter @H\_F\_S

## PROCESS

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Homes for Scotland represents members on a wide range of issues affecting their ability to deliver much needed homes.

Our views are endorsed by operational committees utilising the skills and expertise of key representatives drawn from member companies.

This response has been discussed, drafted and approved by the Technical Group.

## HOMES FOR SCOTLAND RESPONSE TO LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE CALL FOR EVIDENCE ON BUILDING REGULATIONS IN SCOTLAND

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1. Homes for Scotland (HFS) is the representative body for the home building industry in Scotland, representing some 200 organisations who together help deliver 95% of all new homes built for sale each year as well as a significant proportion of affordable homes. We are committed to improving the quality of living in Scotland by providing this and future generations with warm, sustainable homes in places people want to live.
2. HFS represents members on a wide range of issues affecting their ability to deliver much needed homes. Our views are developed and endorsed by operational committees utilising the skills and experience of key representatives drawn from member companies.
3. The performance of the building standards verification service plays a crucial factor in the delivery of new homes of all tenures. Feedback from our member companies raises concerns regarding local authorities' capacity and ability to deliver this service, reporting significant delays to completions, and generally describing the service as poor and deteriorating. Ensuring the Building Standards Service is fit for purpose will be vital if the Scottish Government is to deliver year on year growth in housing completions as well as the overall goal of delivering 50,000 new affordable homes by the end of this parliament.

### **Should verification of building standards be extended to other organisations other than local authorities?**

4. Homes for Scotland (HFS) believes that there is an opportunity to extend the verification function to other reputable organisations such as warranty providers who have a vested interest in the quality and durability of new build homes and the standards they have been built to.
5. We believe opening up the building standards verification function to warranty providers offers a sensible approach to the future of building standards verification as well as offering incentives to improve performance to organisations already undertaking this role on behalf of the Scottish Government.
6. We are aware that in England non-local authority organisations can act as building standards verifiers. This includes organisations such as NHBC, Premier Guarantee and LABC (Local Authority Building Control) that can provide verification services as well as warranty provision for new build homes. Their involvement in warranty provision places them in an ideal position to put in place inspection regimes to ensure that new homes comply with appropriate building regulations and relevant British Standards, as well as their own technical standards. Indeed, given the involvement of LABC in such provision, there does not appear to be any conflict in interest of an organisation providing both services.
7. HFS is aware of the concerns raised around private sector verification within the APPG report into the Quality of New Build Homes in England. It should be understood that these concerns are explicitly related to new build homes in England and Wales, not Scotland where currently only local authorities can undertake the role of building standards verifiers. Whilst this is the case we are aware from our discussions with Scottish Government representatives that these concerns are not aimed at every private verifier in England. Nevertheless, we understand that these concerns can have an impact on the perception of new build homes in Scotland. We have therefore undertaken work with our members to help address many of the issues raised by the

report.

8. The feedback we have received from members raises concerns regarding local authorities' capacity and ability to provide a verification service that supports the delivery of the new homes that this country needs. While our members experiences with the service is mixed, with some authorities operating more effectively than others, overall our members are of the opinion that for the amount the process costs and uncertainties of timescales and outcomes, the service provided is generally poor and deteriorating. The Scottish Government's own research (Pye Tait, 2016) notes that the time taken to grant a building warrant has increased 19% between the years 2013/14 and 2014/15, going against one of the main key performance indicators which aims for a year on year reduction in turnaround of building warrants.
9. Extending verification services to other reputable organisations can only help local authorities free up resource to deal with householder applications and commercial development, as well as provide wider public services including, for example, statutory enforcement, safety at sports grounds, emergency planning, reporting on licencing for premises and structures. We would therefore welcome the opportunity for the verification function to be extended to new build home warranty providers in Scotland.

**Should procedural regulation specify a minimum requirement for the inspection of ongoing building works, to ensure compliance with building standards?**

10. Yes. HFS believes that inspections should always take place for items contained within the Technical Handbooks that are not already covered by approved certifier of design schemes; where warranty providers do not already undertake inspections; or where the designer does not hold sufficient professional indemnity insurance to cover such failures.
11. As noted within question one, warranty providers already undertake a robust inspection regime on items covered within their technical guidance.

**Should there be a statutory system to provide redress for new home buyers whose properties are subsequently found not to meet building standards requirement?**

12. No. New home buyers are already able to find redress by way of the Consumer Code for Home Builders which was developed to make the home buying process fairer and more transparent for purchasers. As part of this, it provides an independent dispute resolution service for home buyers who believe their builder has failed to meet the requirements of the Code. This includes, amongst other items, the provision of information of the standards to which the home is being built (e.g. relevant building regulations, planning conditions and home warranty body technical requirements) during pre-reservation, reservation and pre-contract periods. The Code applies to complaints arising and made within two years of the date of legal completion of the first purchase and covers all home builders registered with the UK's main new home warranty providers (NHBC, Premier Guarantee and LABC Warranty).
13. New home buyers can also find redress through their warranty provider. In terms of NHBC, we understand that the warranty cover prescribes that all work complies with all relevant building regulations and other statutory requirements relating to the completed construction work and that structural works are undertaken to the appropriate British Standard codes. NHBC also offers a dispute resolution service.

**Are the current building warrant and associated fees set at the correct level?**

14. This question directly relates to the recent Scottish Government consultation on Building Warrant Fees and the aspiration that the Building Standards System becomes fully cost recoverable. It is worth noting that, given the impact the proposals could have on the home building sector, we were disappointed that the timescale for the consultation was shortened from 12 to 8 weeks and, additionally, that the consultation period ran during the December holiday period. In practice, with many companies working toward end of year targets and likely under-resourced over the Christmas period, this resulted in the industry only having around 6 weeks to review and respond to the proposals. We welcome this additional scrutiny of the proposals set out by the Scottish Government.

15. As noted within the HFS consultation response, and following additional evaluation of the evidence put forward by the Scottish Government, we do not believe that there is sufficient evidence to justify an increase in building warrant fees at this time. The reasons for coming to this conclusion are outlined below.

#### 16. Statistics & Data

17. The financial and performance statistics referred to within the consultation and supplementary evidence are unclear given that they do not provide a detailed breakdown of the income and costs for the overarching Building Control function as reported by the Scottish Local Government Financial Statistics (SLGFS) or that of the verification service provision as reported by the Local Authority Building Standards Annual Return (LABSAR). Trying to compare 'apples with apples' to draw conclusions regarding the financial operation of the system is made more difficult given there have been significant changes to accountancy and reporting practices between 2011 and the present day. The table below shows the relevant Building Control figures extracted from the SLGFS and highlights the lack of detail reporting as noted above.

YEAR	SCOTTISH LOCAL GOVERNMENT FINANCIAL STATISTICS				
	2010-11	2011-12	2012-13	2013-14	2014-15
<b>INCOME</b>					
SALES, FEES, RENTS & CHARGES	£35,385,000				
OTHER CENTRAL GOVERNMENT GRANTS (EXCLUDING RSG)	£379,000				
ALL OTHER GRANTS, REIMBURSEMENTS & CONTRIBUTIONS	£126,000				
OTHER INCOME					
<b>TOTAL INCOME</b>	<b>£35,890,000</b>	<b>£28,438,000</b>	<b>£25,180,000</b>	<b>£29,462,000</b>	<b>£32,058,000</b>
<b>EXPENDITURE</b>					
SUPPORT SERVICE COSTS	£6,391,000	£6,802,000	£6,579,000	£5,197,000	£4,490,000
REVENUE CONTRIBUTIONS TO CAPITAL	£9,000	£0	£3,000	£14,000	£0
ADJUSTMENTS FOR INTER ACCOUNT & INTER AUTHORITY	<b>-£1,225,000</b>	<b>-£797,000</b>	<b>-£664,000</b>	<b>-£862,000</b>	<b>-£783,000</b>
ALL OTHER EXPENDITURE		£47,164,000	£35,014,000	£32,007,000	£30,765,000
BUILDING CONTROL EMPLOYEE COSTS	£29,760,000				
OPERATING COSTS	£9,164,000				
TRANSFER PAYMENTS	£23,000				
<b>TOTAL EXPENDITURE</b>	<b>£44,122,000</b>	<b>£53,169,000</b>	<b>£40,932,000</b>	<b>£36,356,000</b>	<b>£34,472,000</b>
<b>BALANCE</b>	<b>-£8,232,000</b>	<b>-£24,731,000</b>	<b>-£15,752,000</b>	<b>-£6,894,000</b>	<b>-£2,414,000</b>

**Table 1. Scottish Local Government Financial Statistics 2010-2015**

18. Following a review of the SLGFS, LABSAR and the Evaluation of the Performance of Local Authorities as Building Standards Verifiers (Pye Tait, 2016), we have produced a table that cross-references the figures provided for both Building Control and verification services and an analysis of the income and costs below.

YEAR	2010-11	2011-12	2012-13	2013-14	2014-15
<b>INCOME</b>					
<b>TOTAL INCOME</b>	<b>£35,890,000</b>	<b>£28,438,000</b>	<b>£25,180,000</b>	<b>£29,462,000</b>	<b>£32,058,000</b>
TOTAL INCOME FROM VERIFICATION SERVICES	£30,200,000	£22,500,000	£22,300,000	£27,115,000	£28,674,000
TOTAL INCOME FROM NON-VERIFICATION SERVICES	£5,690,000	£5,938,000	£2,880,000	£2,347,000	£3,384,000
CENTRAL GOVERNMENT GRANTS	£379,000				
OTHER GRANTS	£126,000				
UNKNOWN INCOME	£5,185,000	£5,938,000	£2,880,000	£2,347,000	£3,384,000
VERIFICATION INCOME AS % OF TOTAL INCOME	84.1%	79.1%	88.6%	92.0%	89.4%
<b>EXPENDITURE</b>					
<b>TOTAL EXPENDITURE</b>	<b>£44,122,000</b>	<b>£53,169,000</b>	<b>£40,932,000</b>	<b>£36,356,000</b>	<b>£34,472,000</b>
<b>TOTAL EXPENDITURE FROM VERIFICATION COSTS</b>	<b>£28,166,400</b>	<b>£26,380,000</b>	<b>£27,228,000</b>	<b>£25,416,000</b>	<b>£22,950,000</b>
VERIFICATION STAFF COSTS	£22,533,120	£21,104,000	£22,690,000	£21,180,000	£19,125,000
NON-STAFF RELATED VERIFICATION COSTS	£5,633,280	£5,276,000	£4,538,000	£4,236,000	£3,825,000
NON VERIFICATION SERVICE RELATED COSTS	£15,955,600	£26,789,000	£13,704,000	£10,940,000	£11,522,000
VERIFICATION COSTS AS % OF TOTAL EXPENDITURE	63.8%	49.6%	66.5%	69.9%	66.6%
NON VERIFICATION COSTS AS % OF TOTAL EXPENDITURE	36.2%	50.4%	33.5%	30.1%	33.4%
VERIFICATION SERVICES BALANCE	£2,033,600	<b>-£3,880,000</b>	<b>-£4,928,000</b>	£1,699,000	£5,724,000
NON-VERIFICATION SERVICES BALANCE	<b>-£10,265,600</b>	<b>-£20,851,000</b>	<b>-£10,824,000</b>	<b>-£8,593,000</b>	<b>-£8,138,000</b>
<b>BALANCE</b>	<b>-£8,232,000</b>	<b>-£24,731,000</b>	<b>-£15,752,000</b>	<b>-£6,894,000</b>	<b>-£2,414,000</b>

**Table 2. Analysis of Local Government Financial Statistics and Building Standards Annual Returns**

Objectives for Building Warrant Fee Increases

19. The objective for building warrant fee increases is clearly noted within the consultation paper as being to ensure the Building Standards System is fully cost recoverable, and that fees are charged to the “true users” of the system to cover the costs to the public purse for providing the service. Furthermore it is noted that “true users” are:

*“those who apply for permission to build, through the submission of building warrant applications, and are required to construct buildings in such a way that satisfy matters that are in the public interest.”*

20. However, we understand that the Building Standards Service, currently provided by Local Authority Building Standards Scotland (LABSS), has a much wider remit and stakeholder base than solely those seeking permission to build through the submission of a building warrant application. LABSS outlines a number of services it delivers outwith verification as including: statutory enforcement, safety at sports grounds, emergency planning, reporting on licencing for premises and structures, solicitors property enquiries for letters of comfort, and street naming and numbering. It is clear that the Building Standards Service is not just used by the development community through the verification process but also aims to deliver wider public benefit.
21. Both LABSAR and Pye Tait reports highlight that the building standards verification service currently operates at a surplus, making a significant contribution to the overarching building control budget. Table 2 shows the derived balance of Building Control finances where verification and non-verification incomes and expenditures are isolated. In referring back to the terminology used within the consultation, the “true users” of the building standards system already subsidise the non-verification related services provided by local authority building control. Indeed, Pye Tait reports that one verifier describes building standards as a “cash cow” for their local authority which leads to the suggestion that the “profitable” element of the building standards service is

being targeted, with surpluses used to fund other services within a local authority, given they are not ring-fenced to support the service they are derived from. The figures contained within the Pye Tait report for 2013-14 and 2014-15 certainly support this position, suggesting that fee income, as a percentage of staff costs, has risen from 141% to 150% across these years. Yet this comes at a time where the sector has experienced a significant drop in the performance of verification services across local authorities.

22. If the objective is to make the Building Standards System fully cost recoverable, firstly greater detail should be provided with regard to the income and expenditure relating to the system and, secondly, revenues generated from the system must be ring-fenced to support the service. Additionally, the Scottish Government and local authorities should consider how costs are recovered for each of its services, not simply placing an additional financial burden on users who utilise a verification service that already produces significant surplus to support the system. This is the only way in which the service can begin to be made more sustainable and transparent in the long-term.

#### Fees Discounts and Further Efficiencies

23. Our members continue to highlight that there is little recognition, financially or in terms of service, of the efficiencies experienced by local authorities when dealing with warrant applications that have gone through an approved certifier of design or through the Scottish Type Approval Scheme (STAS). Whilst the sector welcomes proposals to increase the discounts available through the approved certifier's schemes, there are no such discounts available for warrants pre-processed through STAS, where fees are paid for STAS approvals as well as full fees paid on individual warrant applications thereafter. In effect, home builders are double-charged through the verification process.
24. More generally it is noted that home building offers significant efficiencies given the level of repetition of house types on any given development. To illustrate the resource savings by a local authority, it is useful to consider a typical 100 unit development with construction costs of £100,000 per unit and a warrant fee in excess of £25,000. Given the likelihood of around 10 different house types repeated across the development, a building control officer could reasonably be required to assess only 10 different house types. In this situation the fee charged is not truly reflective of the resource required by a local authority to verify the development.

#### Fees for a Service or Wider Public Benefit

25. The proposals put forward by the Scottish Government seek to incorporate the costs of Building Standards Division into the building warrant fee. The industry is not supportive of this proposal. We believe there should be a clear distinction between the work undertaken by the Scottish Government for public benefit and that of a local authority delivering a service to the end user.
26. It is our view that it is the role and responsibility of the Scottish Government to undertake research, update legislation, consult stakeholders and produce guidance that ensures Scotland's built environment is constructed in a way that is safe and sustainable, delivering wider social and economic benefits to Scotland's people. As building warrant fees are a mechanism to support the verification service, they should not be used to fund the activities and responsibilities of the Scottish Government which should be drawn from general taxation.

**Any other issues relating to the regulations which you wish to bring to the attention of the Committee?**



### Performance of Local Authorities in their Role as Building Standards Verifiers

27. As previously noted, the feedback we have received from members raises concerns regarding local authorities' capacity and ability to provide a verification service that supports the delivery of the new homes that this country needs. While our members' experiences with the service is mixed, with some authorities operating more effectively than others, overall our members are of the opinion that for the amount the process costs and uncertainties of timescales and outcomes, the service provided is generally poor and deteriorating. The Scottish Government's own research (Pye Tait, 2016) notes that the time taken to grant a building warrant has increased 19% between the years 2013/14 and 2014/15, going against one of the main key performance indicators which aims for a year on year reduction in turnaround of building warrants.

### Long-term Thinking Around Scotland's Built-Environment Systems

28. We are keen that the Scottish Government explores alternative options to achieve full cost recovery for the Building Standards System. We would argue that the current approach to building control is fragmented, resulting in significant variances in income, costs and performance across Scotland's 32 local authorities. Given the sector is also considering proposals put forward under the Planning Review, it is worth considering how a more strategic, national approach to built environment services constructed around a more centralised system, structured around core strategic planning areas, could help deliver financial efficiencies and drive performance improvements in the service.
29. Taking a holistic approach to built environment services, integrating planning and building standards services could help generate a more streamlined and aligned approach to the consents process as well as provide greater joined-up thinking across built environment professions.

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