

QTAH/17/16

GLASGOW CITY COUNCIL
ENVIROMENTAL PROTECTION SERVICES
BUILDING CONTROL & PUBLIC SAFETY

CONSULTATION RESPONSE TO BUILDING (PROCEDURE)(SCOTLAND)
REGULATIONS 2004 HANDBOOK

Paragraph Reference	COMMENT
2.3	Exempt work
2.3.2	Guidance is required on how the L.A. can ensure works are undertaken by the appropriate parties in accordance with the relevant Building Regulations.
3.2	How to apply for a building warrant
3.2.2	Clarification is required on whether or not electronic signatures are legally acceptable.
3.2.10	If there are no Technical Standards to demonstrate compliance with Building Regulations 10,13,14 and 15 then there is no need for this information to be included in the building warrant application.
3.3	Late application for building warrant
3.3.4	Certification of Design work should be permitted for late applications for Building Warrant. To not permit this could present difficulties for applicant/designer/verifier.
3.4	Staged Warrants
3.4.2	The Proc.Regs. do not state that Building Warrants for 'shell' units are no longer permitted. If ' the shell is built to the extent it can be occupied and it complies with all relevant standards' then it can no longer be described as a shell. Difficulties are foreseen with respect to speculative type projects e.g. shop malls, industrial estates etc.
3.5	Duration of warrant
3.5.1	The sentence starting with the word 'Normally....' should be removed. Any request for an extension to the life of a Building Warrant should be left to the discretion of the Verifier.
3.6	Limited Life Warrants
3.6.2	The timescale should read 3 calendar months to concur with Proc.Reg No.16 (2)
3.7	Application of regulations to existing buildings

3.7.9 The definition of Historic Building as used by Historic Scotland is not helpful in clearly defining when the historic nature of a building should have an influence on the application of the functional standards.

3.8 Demolitions

3.8.1 The wording of this paragraph should be amended as it currently implies a start date requires to be known before a Building Warrant for demolition can be granted.

3.9 How a building warrant application is assessed, decided and issued

3.9.1 The Handbook should not set response times e.g. 'immediately/2 days', as this is not required by the Proc. Regs. or the Act.

3.9.3 The Handbook states that Verifiers should not comment on certified works, but if the design obviously does not comply the Verifiers will still have to issue a Building Warrant. Section 16(2) of the Act states that any Verifier issuing a Building Warrant knowing that it contains a statement which is false is guilty of offence.

The Handbook should contain a statement that clarifies a Verifier is not guilty of an offence by accepting a Design Certificate where the Verifier does not believe the Certificate to be conclusive of the facts to which it relates.

3.9.5 This clause is superfluous and should be deleted as it is already covered under Chapter 14.

3.9.6 Documentation should be returned in a similar format unless otherwise agreed.

3.9.8 The Handbook states if no first response is given by the Verifier within 3 months the Building Warrant may be deemed refused but this is not reflected in Proc Reg. 9. There appears to be a contradiction between the information in the Handbook and the wording of the Proc. Regs that requires to be clarified.

3.9.9 This should be amended in accordance with Proc. Regs. 58(5) and 59(4) which state that refused plans may only be retained with the owner's permission. The grounds for refusing a Building Warrant application are usually because there has been little or no communication with the applicant. For this reason it could be difficult to obtain the applicants permission to retain their plans whenever they are refused.

3.10 Inspection and tests

3.10.1 Section 27 of the Act does not give the Verifier the right of entry for the purposes of carrying out routine inspections of work that has a Building Warrant.

The phrase 'and powers to inspect works in progress' should be clarified to reflect the above statement.

3.10.2 Only the Fees Regs state that the Verifier requires to be notified of an intention to issue a Certificate of Construction prior to works commencing. Perhaps this should be a condition of the Building Warrant.

Proc. Reg 61 b) and c) state it is a requirement for the applicant to advise the Verifier when the drains have been laid and when drainage works are complete. It would seem inappropriate to include specific construction stages when provision is already made for this under Proc. Reg. 61. e).

3.12 Maintenance of records

3.12.1 Clearer requirements are necessary if the Verifier is not the L.A. A Verifier that is not an L.A. should be required to check that the address given is the officially recognised address in order that the application may be correctly entered into the Building Standards Register.

4.2 Reference to the Scottish Ministers for a view

4.2.2 Guidance is required in situations where one party does not think a view is necessary.

4.3 Relaxations

4.3.2 It is considered unnecessary for the Fire Authority to be consulted on fire matters other than those that relate to the specific duties of the Fire Service.

4.4 Type relaxations

4.4.1 Clarification is required on whether or not all L.A.'s and Verifiers will be consulted on all type approvals.

5.1 Why a Completion Certificate is needed

5.1.2 This means if 'alteration' works can be occupied before a Comp Cert. has been issued or permission to temporarily occupy the building has been granted, the L.A. have to wait until the expiry of the Building Warrant to take action.

If the intention is that the owner may occupy any part of the building other than the area where the alterations are taking place then this should be expressed more clearly.

5.2 How to submit a Completion Certificate

5.2.2 Clarification is required on whether or not electronic signatures will be accepted on Completion Certificates.

Guidance is required on whether or not SAP Certificates have to be submitted with Completion Certificates if they have already been lodged to prove compliance with the Building Regulations for Building Warrant approval.

5.2.4 Definition of "Registered Electrician" is required.

5.2.7 It is also necessary for the appropriate common areas outside the building to be completed i.e. suitable access and facilities for fire fighting.

5.3.4 It would seem appropriate that submission of a Certificate of Design should be permitted with a late Building Warrant application.

- 6.2 Time Limits**
- 6.2.1 This states an application for a building warrant may be deemed refused if the Verifier has not determined the application or issued a first report within 3 months of the application being lodged. This is not reflected in the wording of Proc. Regs. 9 and 62.
- 7.1 Building regulations compliance notices**
- 7.1.1 Guidance on how the Scottish Ministers will identify these buildings is required.
- 7.2.2 The option to remove or reinstate the building to its original condition should be provided.
- 7.6.2 Procedures for reporting false or misleading certifiers to the Procurator Fiscal are necessary. (see also comment to 3.9.3)
- Diagram
P. 42 A definition of 'too old' is required.
- 7.7 Consultation and limitations for historic buildings**
- 7.7.2 The Scottish Executive should outline the purpose of consultation with Scottish Ministers (through Historic Scotland) and how Historic Scotland will respond when it receives consultation.
- 8.1 Maintenance of records**
- 8.1.3 The requirement for an index of the principle drawings related to an application has significant resource implications for the L.A. and the benefits are unclear.
- 8.2 Inspection of records**
- 8.2.1 Clarification is required of what documents are in the public domain.
An explanation of copyright restrictions should be provided.
- 10.3 Establishing the danger and taking action**
- 10.3.1 It is unclear whether it is a consultation process or notification to Scottish Ministers that is required. If a consultation process is required then the time period for such a process should be specified.
- 10.3.7 This paragraph requires clarification with regards to the need for the owner to apply for a Building Warrant in cases where the building presents an immediate danger to the public. If the owner wishes to respond to a request to remove an immediate danger there should be no need to apply for a Building Warrant under these circumstances.
- 10.4 Dangerous buildings notices**
- 10.4.1 In relation to the phrase "including any protective works and specialist supervision required".- this should be a matter for the owners to decide and not be specified by the Local Authority.

- 10.5 Failure to comply with a dangerous building notice**
- 10.5.2 It is recommended that the grounds for the objection should be limited to matters relating only to the dangerous building.
- 10.5.4 The notes should not dictate contract procurement procedures.
- It is unnecessary for the owners, who are in default of the notice, to be provided with the opportunity to comment on the process.
- 11.1 Defective buildings notice**
- 11.1.3 This states a Building Warrant must be obtained, but S28(6) of the Act appears to leave the need for a Building Warrant to the discretion of the L.A.
- 12.1 Appointment of verifiers**
- 12.1.5 It is essential that Scottish Ministers permit Local Authority Verifiers to verify an application in which they have an interest. It is suggested that the application form should clearly show when a Verifier has an interest in the property as this will be very difficult to regulate due to the wide range of interests a Local Authority may have.
- 14.1 General**
- 14.1.3 Consultees should be advised that any comments should relate directly to matters relating to the Building (Scotland) Regulations. Other matters should not be referred to the Verifier.
- 14.2 Fire authorities**
- 14.2.1 A specific timescale for response by the Consultee should be provided in the Handbook. The Scottish Executive should note that the need to consult will have an affect on performance indicators.
- 14.2.2 a) The 1st, 3rd and 5th bullet points would imply the Executive wish the Fire Authority to make comment on all Regulations.
- b) The 2nd and 4th bullet points: It would seem appropriate that the Fire Authority consultation should be limited to specific standards which have a direct relationship with the Fire Authorities duties and not all of Section 2. This will avoid the applicant of possibly being provided with two views.
- 14.2.3 A specific timescale for response should be provided. If no response is received within that timescale it should be deemed that the Fire Authority has no comment to make on the acceptance of the Certificate. The Executive should note that consultation at this stage will have an affect on the relevant performance indicator.
- 14.4 Highways department**
- 14.4.1 This is duplication as it would have been undertaken at the Planning Permission stage.
- 14.7 Planning authorities**

14.7.1 This should have no affect on the granting of a Building Warrant and this requirement seems irrelevant.

14.9 Historic Scotland

14.9.1 This is a matter on which the Planning Authority and Developer should consult.

General Comments

1. The order of the Handbook should follow that of the Regulations, and should relate to specific regulation sections.
2. The language appears legislative and should be explanative in order that the users are not confused between the Handbook and the Procedures Regulations.

CONSULTATION RESPONSE TO THE CERTIFICATION PROPOSALS

Paragraph Reference	COMMENT
1.2	Principles of Certification
1.2.5	Further clarification is required on what will be considered as "appropriate steps" and the process, undertaken by the Certifier, should be recorded for future reference.
1.2.7	If applicants have previously indicated that they intend to submit certificate(s) of construction and do not do so when they submit their certificate of completion, what action can be taken by the Verifier. The Verifier will not have undertaken a site inspection of that portion of the works on site.
1.3	Certification schemes
1.3.10	See comments to 1.2.5 above.
1.5	Examples of potential certification schemes
1.5.1	The scheme should be particularly attentive to areas of certification where a certifier certifies work which has an effect on other parts of a building or aspect of construction, and does not have particular expertise in these areas.
1.5.2	The level of designations should be fully controlled to ensure that the Verifier can easily identify what is being certified and the area of design or construction being certified is meaningful and specific.
2.2	Application for building warrant
2.2.2	Clarification is required on whether or not electronic signatures are legally acceptable.
2.2.4	Does this paragraph preclude a certifier from certifying a part of one section?
2.3	After issue of building warrant
2.3.10	This requirement should be reflected in the wording of the relevant application form.
2.3.11	This requirement should be reflected in the wording of the relevant application form.
2.4	Completion
2.4.7	The certificate should state that certified work does not prejudice compliance of any other part of the building, or aspect of construction (see 1.5.1) As the system of certificate of construction is developed it may become appropriate to insert the Standards on the relevant form.
4.	Practical implementation of certification

4: Any further development of the certification scheme should ensure that it does not detract from the intended improvements to be delivered from the new building standards system and, in particular, the system should pay particular attention to areas of design and/or construction which are certified and can have a significant affect on other areas which may not seem relevant to the certifier.

4.1.4 As the design of structure and electrical installation can be certified under the existing system, it is vital that the new certification scheme uptake in these two areas matches the existing use to avoid significant delays in the warrant approval and completion certificate acceptance processes.

**CONSULTATION RESPONSE TO BUILDING (PROCEDURE)
(SCOTLAND) REGULATIONS 2004**

REGULATION (paragraph)	COMMENT
5: Warrants granted where section 9(4) of the Act applies:(staged warrants): Paragraph 1(h)	The requirement that accepting stages other than those listed in paragraphs (a) – (g) must be in accordance with guidance issued by Scottish Ministers is restrictive and is inconsistent with the discretion afforded to verifiers when considering staged demolition warrants. The way the application is staged should be at the discretion of the Verifier.
6. Building Warrants: Conversions: All	The intent of the procedural regulation is unclear and requires clarification within the Handbook. It would seem that it will be no longer appropriate to submit an application incorporating an 'alteration and conversion' for example, but these works require to be submitted separately or as accompanying applications.
8. Building Warrants: Late Applications: Paragraph (1)	It is considered that the Verifier should return the entire application pack as this will avoid the need to administer plans or associated documentation supporting such applications or create systems to administer the 42 day period outlined in Paragraph (2).
8. Building warrants: Late Applications: Paragraph (3)	It is considered that the opening exception should refer to Schedule 2, section F, paragraph 9. Guidance is required as to process to be followed where specified plans are not lodged within 7 days in respect of determining the application and loss or otherwise of fee.
9: Determination of application: 9 (1) (ii)	The guidance within the procedural handbook relative to a deemed refusal where no "first report" has been issued within three months is not stipulated within the Regulations.
9 (4) (a)	The guidance within the procedural handbook relative to agreement between a Verifier and applicant to extend the mandatory 1 year refusal criterion is not stipulated within the Regulations.
11: Consultation: 11(1)	The provisions of the regulation require to be more specific in determining appropriate types and time for consultation.

For example, consultation with the Fire Authority would be required on submission of a staged application relating to foundation design. It is recommended that consultation with the Fire Authority should be restricted to matters that relate to the Fire Authority's statutory duties to avoid duplication.

16: Building warrants: limited life buildings:
16 (2)

The intent of 'demolition' necessitating an application for warrant within three months of the relevant date requires to be clarified as to limited life buildings to be removed. For example, does removal of a modular type building constitute 'demolition' thereby requiring a warrant?

19: Documents to be sent with notification to owner:
All

The requirement to issue a copy of plans to an owner is administratively onerous and such plans may be of little use to the owner. It is recommended that the copy notification issued should intimate where and when the plans in question may be inspected, should the owner wish to do so.

21: Making of a reference for a view:
21(4)

It is considered that a formal consultation process is merited prior to Scottish Ministers expressing a view.

45. Acceptance and rejection of completion certificates:
45(2)

The regulation should be specific as to whom the Verifier must send acceptance of a Completion certificate. The term "person who submitted the certificate" is vague and contradicts references to the "relevant person" elsewhere in procedure.

46. Acceptance of Completion Certificate:
All

No mention of re-submission of Certificate if initially rejected i.e. the certificate will state the building is complete on a given date - if we reject it then the original cannot stand so a further submission should be required with a new date of completion

48. Acceptance/Rejection of Completion Certificate:
All

Second line should read "section 18(4) (b) of the Act."

50. Occupation without Completion Certificate:
All

The requirement to notify the Fire Authority of permission for temporary occupation is procedurally onerous as specified. The relevance for such with respect to, for example, housing/house extensions is questionable.

51. Imposition of Continuing Requirements:
All

This requirement is also considered to be procedurally burdensome and some particular requirements may be of no interest to the Fire Authority. It is suggested that notification be restricted to requirements dealing with specific issues as sections 7.3.2 and 7.3.3 of the Handbook state that Continuing Requirements are not intended to address matters covered by Fire Legislation or issues that rely on adequate maintenance of the building elements.

52. Notices Served by Local

The Register will not retain a record of a Notice if it is

- Authorities:
52(2) quashed by a sheriff. This does not appear to be in the spirit of why the register is kept. It would seem appropriate to keep the entire record of any notice on the register, whatever its outcome.
53. Notices Served by Local Authorities:
53(1) 1) The Handbook refers to notification of tenants but the Proc. Regs. do not have a requirement to do so.
2) Section 30 of the Act makes no reference to notify the owner of the building of a L.A's intention to serve a Notice. The intention that this subsection makes the requirement to consult appears contradictory.
58. Decisions:
58(5) Automatic retention of refused application plans should be allowed. This could be especially helpful for reference to possible enforcement action.
59. Maintenance of Records:
All 1) The requirement to list copies of all plans is a significant administrative duty. This list will also have to be updated by the time an application reaches approval stage where changes have been necessary thus increasing workload again. The purpose and benefit of this requirement is unclear. Additionally, is anomalous to keep lists of drawings for all time when the hard copies may be destroyed after 25 years.
2) 59. 4) contradicts 58(5) in relation to retention of refused plans.
60. Inspection of Records:
All 1) Existing restrictions on public access to the Register and associated plans have not been replicated in the proposed regulations. It is considered that the retention of the requirement to show cause to the local authority should be maintained.
2) Clarification should be inserted into (2) relating to obtaining the permission from the person or body who holds copyright over the plans, specifications, reports etc to enable copies to be provided to third parties.
61. Notices regarding Operations:
All 1) The requirement to automatically provide notification that a drain is ready for testing should be deleted as we have no requirement or power to inspect ongoing works.
2) It would be appropriate to insert a clause regarding the non - inspection of certified construction works.
3) The need for notification should be reviewed in light of the need for site inspections. The word 'require' in paragraph e) is inappropriate as the Verifier has no powers to carry out routine inspections of ongoing works. The word 'agree' would be more suitable.
62. Deemed Determination:
All There appears to be some confusion with regards to the timescale for refusal of a Building Warrant application. The Handbook states an application may be deemed refused if it has not been determined within a period of one year. Proc. Reg 62 (1) (a) (i) states this period to be one year from the date of lodging the application. Proc. Reg.9 (4) (a) states this period to be one year after the date of the first report.
- Schedule 2
- Section C (5) This would be an extremely onerous and difficult task when

considering buildings which are in multiple ownership.

Section D 6(2)

Wording should reflect requirements detailed in 3.8.2 of handbook.

Section F (9)

This could create incomplete records for a building warrant application.

**CONSULTATION RESPONSE TO THE BUILDING (FEES) (SCOTLAND)
REGULATIONS 2004**

INTRO. PAPER	COMMENT
Bullet Points (Page 2):	Enforcement work also includes emergency work undertaken with dangerous buildings.
Discounts:	See comments to Regulations.
Refunds:	See comments to Regulations. The difference between the proposed refund for domestic (80%) and non domestic (70%) is not clear in the Regulations and this may cause confusion.
Amendment Fees:	See comments to Table to Regulations.
Certification:	See comment Regulations. Notification should be in writing.
Local Authority income from Warrants:	It is not considered that the changes to fees proposed will increase the income of the authority by the figure stated. The paper suggests that the overall increase in income will be around 11.5% which will provide transitional support to Verifiers while running two systems and help cover the additional costs of verification introduced by the new system. The Executive have indicated that they would wish to have the Certification of structural design and Certification of electrical installation implemented at the time of the new Act coming into force to replace the existing certification system. Should the same number of applications utilise the new certification process as utilised the old system for these areas, the overall fee income would be reduced substantially as the discount would be 11% per application; (10% for the structural certification and 1% for the electrical certification.) It should also be noted that the last increase of fees was a considerable number of years ago and the proposed increase does not take account of the increase in costs during that time. The Appendix document acknowledges that the figures used to provide the suggested overall change in income are "an estimate", "not robust" and "used for indicative purposes". It is considered that the present fee proposals do not provide sufficient funding to meet transitional needs or the added costs associated with the role of the Verifier.
Views from Scottish Ministers:	Where an applicant is requesting a view, which has been accepted without the Verifier being party to the request, the Verifier should be provided with a copy of the view provided. It is considered that the maximum fee payable to SBSA is excessive.

REGULATION (paragraph)	COMMENT
2. Interpretation: 2.(c)	The definition of "value of work" is welcomed.
4. Exceptions: All	Clarification on when fee exemption is applicable for work to provide facilities for people with disabilities is welcomed.
5. Discounts: 5(2)	It is considered that the purpose of "certification" is to provide a means for agent/applicants to speed up the process of approval at warrant and completion certificate stages. It is not known how the certification scheme will impact on the approval process or the resource requirements of Verifiers. It is therefore considered inappropriate to provide discounts at this time.
	Should it be intended to retain discounts, it should be noted that the refund to an applicant of 1% for the use of a certificate in relation to the electrical installation or other areas of construction, for a significant proportion of applications will be uneconomic due to the cost of producing the refund.
5(3)	It is considered that an 80% discount is excessive and does not reflect the required input of the Verifier in processing a fully certified application.
5(4)	The word 'submitted' should be replaced with the word <u>decided</u> .
6. Refunds 6(2)	The Regulation should clearly state that notification of the intention to utilise certification of construction should be in writing.
8. Rebates for unused warrants: All	It is considered inappropriate to provide a refund in these circumstances.
9. Building Standards Register	See comments on Procedure Regulations and Handbook.
10. Revocations and savings 10 (2)	Clarification is required as to whether or not this includes amendments and stages.

**TABLE OF
FEES**

COMMENT

Items 4(ii)	There should be a minimum fee for an amendment application. A considerable number of applications attract amendments which may have no additional value, or limited change in value, but require administrative and technical input by the Verifier.
Item 8 (1)	The part of last sentence that refers to 'paragraph 3' is erroneous and should read 'paragraph 1'

CONSULTATION RESPONSE TO REQUIREMENT 2.15
AUTOMATIC LIFE SAFETY FIRE SUPPRESSION SYSTEMS

This Authority welcomes the inclusion of this requirement within the Building (Scotland) Regulations. We do feel that there are some issues that require clarification:

1. Non - Domestic
It is considered that the definition of residential care buildings be given further clarification. There are examples given but the list is unclear beyond this. Guidance would be appropriate on whether it is intended to include all of those types covered by the Regulation of Care (Scotland) Act 2001. It would be welcomed if Scottish Ministers carried out further research into other vulnerable groups that are being housed within the local communities as a result of Care in the Community policies.
2. Non - Domestic
The proposed definition of sheltered housing as set out in the Introductory Paper could be considered as categorising these properties as dwellings that would fall into the domestic rather than non-domestic category. In this regard the additional provision of extended automatic fire detection systems would be appropriate as the BRE research indicated that the typical response times were half of that required by sprinklers.
3. Domestic
It is the situation that, entirely contrary to the statement in the High Rise Flats section of The Introductory Paper, there are a number of developments within the boundaries of Glasgow City that are in excess of eleven storeys. Additionally it is noted that the cost benefit analysis for below eleven storeys cannot be fully verified due to lack of available statistics.
4. Domestic
As mentioned in relation to sheltered housing the BRE report provides commentary on the response times of automatic fire detection within the room of fire origin. Consideration should be given to extending the coverage of automatic fire detection systems in dwellings on the basis of the evidence presented.
5. Domestic
At present, Scottish Ministers have allowed the use of sprinklers in the Relaxation process as a compensatory feature, as an example for the non-provision of ventilated protected lobbies in new build properties. It is considered that the use of sprinklers as a trade off against this and other measures required in the guidance documents would no longer be possible if they are a minimum recommended standard for buildings of this type. We would ask that guidance be given on this matter.
6. Domestic - Annex 2A
The justification given for the inclusion of sprinklers appears to contain contradictory statements. The third paragraph of 2.A.15 states that there is no need, nor is it common practice, to fully evacuate high rise buildings. This is considered to be contrary to the statement regarding the supposed increased hazard of fires in high rise buildings, in the first paragraph of 2.A.0, that is given as a reason for inclusion of additional active protection.
7.
In relation to the Draft For Development it is not considered appropriate that the Scottish Ministers approve the use of a reference document for the design of the systems when it is not yet a full British Standard.