
Report To: Safe Sustainable Communities Committee **Date:** 3 May 2011

Report By: Corporate Director
Regeneration & Environment **Report No:**
SSC/11/05/01/SJ/NMcL

Contact Officer: Development and Building
Standards Manager **Contact No:** 01475 712420

Subject: Scottish Government Consultation – Improving Choice in
Verification of Building Standards

1.0 PURPOSE

- 1.1 This report seeks the endorsement of the Committee to respond to the Scottish Government consultation on Improving choice in Verification of Building Standards.

2.0 SUMMARY

When the Building (Scotland) Act 2003 came into force in 2005 it gave, for the first time, powers to Scottish Ministers to choose who should verify building warrant applications and completion certificates. At that time they decided that the responsibility for verification of building standards should be placed with local authorities for their geographical areas. However, they also recognised that alternative forms of verification may need to be considered in the future. This consultation considers the merits of introducing the National House-Building Council (NHBC) to the verification process in Scotland. They would, however, be limited to competing with local authorities as a verifier for new housing only.

- 2.1 The consultation posed 8 questions which were responded to as detailed in paragraphs 5.2 to 5.9.

3.0 RECOMMENDATION

- 3.1 It is recommended that the Committee agree to submit the consultation response to the Scottish Government.

Stuart Jamieson
Head of Regeneration and Planning

4.0 BACKGROUND

- 4.1 The Building (Scotland) Act 2003 came into force on 1 May 2005. It set out a framework for the current building standards system in Scotland. The Act gave powers to Scottish Ministers, for the first time, to choose who should verify building warrant applications and completion certificates. The verifier role is intended to protect the public interest by providing an independent check of applications from design through to completion. The successful outcome of the verification process should deliver a building that meets all relevant building regulations. With the introduction of the new system in 2005, Ministers decided that the responsibility for verification of building standards should be placed with local authorities for their geographical areas. However, they also recognised that alternative forms of verification may need to be considered in the future.
- 4.2 To support Ministers consideration on the future of verification, the Scottish Government Building Standards Division undertook a wide ranging engagement programme with key stakeholders of the service, including all thirty two local authority verifiers, COSLA, NHBC, other Government Departments, private sector interests and relevant professional bodies. This was supplemented by a research project undertaken by Optimal Economics, who looked at the present system and suggested options for the future. Not surprisingly, the engagement strategy highlighted differing views on the merits of a public or private verification system. Local authorities said they were best placed to protect the public interest. The private sector view was that they could also achieve this with the added advantage of a more consistent and predictable customer experience.
- 4.3 As part of their conclusions, Optimal Economics made the following observations on the present system of verification of building standards:

'The current system of verification as operated by the local authorities in Scotland is acknowledged to achieve fully the objective of serving the public interest and buildings erected in Scotland are generally considered to be safe and comply with building regulations.'

'Performance against the customer interest criterion has improved in recent years and is a clear priority for many Building Services teams. However, there is still some concern among customers about unevenness in performance, slowness of response in some cases and the possibility of being delayed indefinitely by a poorly performing authority. Large scale developers, notably in house building believe that there would be advantages in working with specialist verifiers such as the NHBC which plays this role in England.'

- 4.4 In January 2011 Scottish Ministers decided to appoint all 32 local authorities for a further six years (up to May 2017) to undertake the verification function on a reformed basis. This would see local authorities working to improve service delivery within a new performance framework to be introduced in 2012. They would also move forward the compliance with building regulation agenda.
- 4.5 In addition, Ministers are seeking views on the introduction of limited private verification to allow for limited private verification to work alongside local authority. This would introduce the NHBC to the verification process, limited to competing with local authorities as a verifier for new housing only.

5.0 RESPONSE TO THE CONSULTATION PAPER

- 5.1 The consultation poses 8 questions:
- 5.2 Q1. Do you think verification of building standards would be improved by introducing choice on who provides the service?

Response: No. Verifiers may, in an attempt to retain or attract business, shift emphasis from the ultimate requirement to protect the wider public interest towards meeting the immediate demands of an applicant for a faster service. It would also be natural for applicants to seek the path of least resistance should there be a choice – the verifier that is least exacting in the application of standards and /or is not as thorough in undertaking site inspection work – and in attempting to be competitive, a verifier may relax its requirements and interpretation and increase scope for error due to haste. While the applicant may desire a faster and more flexible service, which Optimal Economics recognise as increasingly being provided by local authorities, the ultimate customer is not the applicant but the person who lives in or visits the house and those who use the space around the building. To quote the Optimal Report, ‘The current system of verification as operated by the local authorities in Scotland is acknowledged to achieve fully the objective of serving the public interest and buildings erected in Scotland are generally considered to be safe and comply with building regulations.’ Clearly the current system works.

5.3 Q2. Do you think that NHBC should be appointed as a verifier?

Response: No. Consistency is already being addressed nationwide with local authorities committed to a building type approval scheme and a national customer charter including performance targets, all aimed at providing a predictable service to the customer. The demand for speed is driven largely by one sector of the development industry and aimed solely for the benefit of house builders. The wider public interest is best served by verification role being retained exclusively by local authorities, and by both developers and authorities working together in partnership agreements providing an integrated local authority response to major development projects.

5.4 Q3. Do you think there would be benefits in introducing NHBC as a verifier?

Response: In the wider public interest, no. Indeed, it is considered that local authorities can deliver a non-discriminatory service well in excess of any national service provided by the private sector.

Local authority building standards services are driven by “public service”, have no conflict of interest or commercial interest/pressure, and are both publicly and politically accountable. They are linked and integrated with other regulatory services integral to the development process, can link verification with enforcement and, significantly, can provide a local service with local knowledge linked into a national network of experience and good practice.

These all contribute to building standards in Scotland being the envy of much of the world, as is evidenced through benchmarking with the Consortium of European Building Control and with the Inter-Jurisdictional Regulatory Collaboration Committee.

5.5 Q4. Do you think that all appointed verifiers whether public or private should operate within the same legislative, fees, performance and scrutiny framework?

Response: Yes. If the Government is minded to introduce competition and the provision of building standard services is to be acknowledged as free from commercial cherry - picking, then service providers must be required to guarantee a non-discriminatory service where full cost recovery is achievable and accepting any warrants submitted no matter how large or small. Only this will allow potential customers to make a decision based on equal comparisons.

5.6 Q5. If NHBC are appointed as verifiers do you think the scope of work should be limited to newly constructed houses, flats and maisonettes?

Response: No. If the Government is minded to appoint NHBC, then it should be on the basis of providing a full verification service. New house building is the “soft” end

of building standards and attracts fee income equitable to the cost of service delivery. There is an expectation that most warrants are submitted by professionals, in an appropriately competent manner, and includes self certification of aspects of design and construction. By comparison, a significant amount other verification work includes low fee submissions and inquiries by non professionals, many submitting one off applications and requiring guidance through the process. Should the government see choice as improvement, this should not be limited to a particular type of applicant, but be open to all. Failure to do so would see local authorities disadvantaged.

- 5.7 Q6. If NHBC are appointed as verifiers do you think the scope of work should include conversion of existing buildings to form new houses, flats and maisonettes?

Response: Yes – see the response to question 5.

- 5.8 Q7. If NHBC are appointed as verifiers do you think they should be allowed, on a mixed use development of mainly housing, to verify the commercial building aspect?

Response: Yes - see the response to question 5, although the words “should be allowed” in the question should be replaced by “should be required”.

- 5.9 Q8. Do you have any other comments on the proposals?

Response: The Scottish Association of Building Standards Managers submitted a detailed report to Ministers in support for the case for the appointment of local authority verifiers. In addition to highlighting the notable success of local authority building standard verifiers, this case emphasised further improvements to service delivery. It is clear that local authorities are best placed to meet the demands of a range of customers and to deliver a rounded building standards service in the public interest. Continued retention of the present sole verifier role will provide Inverclyde Council with the confidence to support and participate fully in a programme of continuous improvement agreed with SABSM and the Building Standards Division.

5.0 IMPLICATIONS

- 5.1 Finance:

Financial Implications – One off Costs

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
n/a	n/a	n/a	n/a	n/a	n/a

Financial Implications – Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From	Other Comments
n/a	n/a	n/a	n/a	n/a	n/a

- 5.2 Personnel: None.

- 5.3 Legal: None.

6.0 LIST OF BACKGROUND PAPERS

Scottish Government – Consultation on Improving Choice in Verification of Building Standards – copy available in the Members Lounge.

