

# **Partial Business And Regulatory Impact Assessment**

**Building Standards Division – Verification  
Delivery Model Consultation On An Increase  
In Building Warrant Fees**

**July 2023**

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# **Partial Business and Regulatory Impact Assessment**

## **1. Title of Proposal**

Building Standards: Increase in Building Warrant Fees.

## **2. Purpose and Intended Effect**

The aim of this policy is to increase building warrant fees. The increase in fees is required to strengthen the building standards system and improve compliance with building regulations in Scotland.

### **2.1 Background and information**

Following the tragic fire at Grenfell Tower in 2017 and the construction failings of Edinburgh School buildings, a Ministerial Working Group was set up to review building and fire safety regulatory frameworks. The Group commissioned two Expert Review panels; Compliance and Enforcement and Fire Safety that subsequently published their own recommendations.

The Building Standards Futures Board was set up at the beginning of 2019 to provide guidance and direction on the development and implementation of the recommendations made by the Review Panels and workstreams were established to undertake this work. The Compliance and Enforcement Panel found that the building standards system in Scotland was not broken but did need strengthened in some areas. Both Review panels identified the potential for a 'national or central hub' that would provide expertise in specialist and safety critical areas of design of complex buildings.

The Verification Delivery Model Working Group (DMWG) was set up to review the current verification delivery model (VDM) while providing advice and comment on potential revisions to the VDM. The Group considered the potential for a national/central Hub with regional strengthening as proposed by Local Authority Building Standards Scotland (LABSS). To test this proposal, a pilot Hub was established in May 2022 for a 2-year period. The pilot Hub has been well received and has already had a positive impact on the resilience of the building standards system through increased stakeholder engagement and support, the transfer of the Scottish Type Approval Scheme and the Dispute Resolution scheme into the Hub, and the increased partnership working between local authorities. A business case for a permanent Hub following the pilot phase is being prepared.

It is proposed that by increasing building warrant fees, a proportion of fees will be used to fund a permanent Hub that will provide support and assistance to all 32 local authorities as well as the wider construction industry.

There are also key changes to the building standards system being brought forward through the work of the Futures Board which are likely to impact on the work of verifiers which will require additional financial support. The Compliance Plan Approach is in the process of developing a new Compliance Plan Manager role within the system for high risk building warrant projects which will seek to improve compliance with building regulations and other changes which will be rolled out to support improved levels of compliance across all building warrant projects.

The Digital Transformation workstream is in-scope of the Digital Planning Programme and the redesign of the eDevelopment Portal. It is also taking forward digital transformation of the building standards system in Scotland working with local authority verifiers, sharing best practice, creating guidance and driving change.

Local authority building standards verification teams are funded through the income generated from building warrant fees. Changes to the system, being brought forward through the Futures Board will put an additional requirement on resources and budget within local authorities. It is intended to increase building warrant fees to provide the additional funding to local authorities to support this requirement and strengthen the building standards system.

While work is underway to strengthen and improve the verification standards and compliance within the building standards system, it is acknowledged that a higher standard and more robust construction will also be needed within the construction industry and organisations. This is currently being addressed through the work of various stakeholders.

Changes to technical standards from December 2024 will introduce new minimum environmental design standard for all new-build housing to meet a Scottish equivalent to the Passivhaus standard, in order to improve energy efficiency and thermal performance. These changes, while improving standards, will introduce a further need for robust compliance.

The proposal to increase building warrant fees has led to research in the following areas:

- Fees Part 1 Research: To Review Building Standards Income and Level of Reinvestment in Service Delivery was undertaken in 2022 and looked at the 2017 building warrant fees increase, where fees were being spent and the level of reinvestment.
- Fees Part 2 Research: To Provide a Future Building Warrant Fees Model was undertaken at the start of 2023 and focusses on developing a flexible fee model for a future Building Standards Hub as well as anticipating the financial support required for other changes.

A public consultation on an increase in building warrant fees will be required before a final decision will be taken on any changes to building warrant fees and the subsequent fee regulations to effect a change in fees.

## **2.2 Objective**

The policy aim is to increase building warrant fees to facilitate the strengthening and improvement of service delivery within the building standards system in Scotland. A small component of the increase in fees would be used to fund a future BSH. The BSH will be a central resource that will support and provide assistance to all 32 local authority verifiers as well as the wider construction sector. It is intended that the BSH will support national developments to strengthen the building standards system through work on the provision of Fire expertise, Digital transformation and Learning and Development. The increase in fees will also be used to support other improvements to the building standards system being developed through improved compliance and enforcement and other workstreams.

The existing funding that supports the running of Scottish Government's Building Standards Division (BSD) will be increased to allow an uplift in line with inflation each year and to fund other activity such as monitoring the implementation of the Futures Board recommendations and the introduction of enhanced monitoring and auditing controls.

## **3. Consultation**

### **3.1 Within Government**

Before making or amending provisions within the building standards system, Scottish Ministers are required, under section 1(2) of the Building (Scotland) Act 2003, to consult "such persons as appear to them to be representative of the interests concerned".

Prior to public consultation on proposed changes, this duty is discharged through the development of proposals by the Verification Delivery Model Working Group (WG), consisting of representatives from a variety of organisations such as COSLA, LABSS, CIOB, Homes for Scotland and SNIPEF. It is also discharged through the Delivery Model Development Group (DMDG) comprised of Scottish Government Building Standards Officials, representatives of LABSS, Fife Council and Directors of the pilot Building Standards Hub.

Proposals created by these Groups were escalated to the Futures Board whose remit is to provide advice and oversee the activities that will improve the performance, expertise and sustainability of building standard services across Scotland.

BSD consulted with Scottish Government Colleagues in Local Government Finance Settlement unit for advice on changing building warrant fees and mechanisms to ensure funds are available to verifiers.

### **3.2 Public Consultation**

Prior to public consultation on proposed changes, research has been undertaken to review the previous fees increase from 2017, the level on income and look at the benefits and lessons learned. Phase two of this research is currently underway and focusses on developing a flexible fee model. The final report for this is expected around the start of June 2023.

As noted in 3.1, to develop the policy, high level proposals are taken to the Futures Board and then recommendations escalated to the Minister for consideration and final sign off. Proposals will also be shared with members of the Building Standards Stakeholders Working Group.

The outcome of the research on fees will be delivered to the relevant working groups and escalated to the Futures Board and Minister, to sign off on the decision for a public consultation, before fees can be increased.

A public consultation will take place to attempt to engage all users of the building standards service and seek a variety of opinions and views to proposed changes to the building standards fee model. Several changes are being considered such as a percentage increase in fees at each value work band and introducing additional payable fees for compliance discussions (pre-application discussions on High Risk Buildings (HRB)).

A consultation will usually run for 12 weeks, however as this will coincide with school summer holidays, it is proposed to run for 14 weeks to account for this. A number of discussions have been held with stakeholders both individually and as part of wider Working Groups to seek their views and opinions to assist in developing this policy. Through research carried out by an independent contractor, several local authorities, stakeholders and organisations were consulted through questionnaires, informal discussions and specific case studies to develop this work.

### **3.3 Business**

It is important to seek a wide variety of views from businesses across the construction and building standards sector. Some businesses and organisations were informally consulted through Working Groups on these proposals, others were met with individually.

LABSS have representatives in all relevant WGs and are fully aware of the proposal. LABSS is a not-for-profit membership organisation which represent Scotland's 32 local authority building standards services. The DMDG, consisting of approximately 6

representatives from LABSS, have met 22 times since its inception in early 2022. LABSS also have representatives in both the Verification Delivery Model Working Group and the Futures Board which have met 6 and 15 times respectively, both online and in person.

BSD have met with COSLA officials regularly to discuss the work of the Futures Board and development of the Building Standards Hub with an emphasis on how this will be funded through building warrant fees going forward.

Fife Council are members of the DMDG and are current hosts for the Building Standards Hub Pilot and participated in discussions around building warrant fees. SOLACE are also represented by the Chair of the Futures Board and have been kept updated.

A variety of organisations are represented in various WGs and have been involved in discussions at meetings about the work of the Futures Board and the Verification Delivery Model Workstream. This includes how the Hub will be funded through an increase to building warrant fees. These organisations include, but are not limited to, representatives from the Royal Incorporation of Architects in Scotland (RIAS), Homes for Scotland, the Chartered Institute of Architectural Technologists (CIAT) and SNIPEF.

BSD will continue to meet with the stakeholders listed above as a matter of BAU. It is envisaged that a number of engagement sessions will be held during the consultation process, be it as part of a group or individually with additional organisations and stakeholders in the construction sector to gather their views and opinions on this policy.

## **4. Options**

### **4.1 Options proposed.**

There are two options to be considered.

Option 1 – Do nothing.

Option 2 – Increase building warrant fees to facilitate the strengthening and improvement of the service delivery and compliance within the building standards system in Scotland.

### **4.2 Sectors and Groups Affected**

#### **4.2.1 Option 1**

This option will affect the users of the building standards service who, without additional funds for local authority verifiers, will see a decrease in the service they will

receive in the years to come due to the budget constraints, cuts in the public sector and the effects of inflation.

Local authority building standards departments will also be affected due to general rising costs and the need to fund additional services being brought forward through the work of the Futures Board to strengthen the building standards system.

Organisations in the construction industry will see a decrease in the level of service provided by local authorities' due to financial constraints. This reduction in level of service will increase in risk to building safety.

#### 4.2.2 Option 2

This option will affect all customers and users of the building standards system.

It will also affect local authority building standards departments by increasing the income generated by building warrant fees.

Additionally, those affected may include, but is not limited to:

- General public applying for a building warrant.
- Construction sector bodies involved in applying for building warrants.
- Organisations involved in large construction projects such as new shopping centres, hospitals, schools etc.

### 4.3 Benefits

#### 4.3.1 Option 1

There is no benefit to this option.

#### 4.3.2 Option 2

Users of the building standards system will benefit from a strengthened building standards service with funding available to support the improvements in services being introduced through the work of the Futures Board. These services include, but are not limited to:

- Introduction of a Building Standards Hub to serve all 32 local authority building standards departments and verifiers and support the construction industry.
- A strengthened compliance process for High Risk Buildings and enhanced compliance for all other building warrant projects.
- Introduction of new technical standards to support the Passivhaus standard equivalent.
- Digital transformation of the building standards service.



Local Authority Building Standards teams will have access to a central Building Standards Hub that will provide support across the service and additional resources for specialist activities and tasks.

## **4.4 Costs**

### **4.4.1 Option 1**

There are no implementation costs associated with this option. Some costs may be saved that would otherwise be put towards the consultation process and/or implementing this change.

Construction project costs will continue to rise with inflation, which will result in the increase in the 'value of works'. As a consequence, this will lead to a small increase in the building warrant fee. However, without significant additional funding, local authority building standards teams may see a decrease in staffing numbers over the years as salaries and costs rise with inflation, reducing the funding available for any additional staff.

Local authorities will see additional cost associated with the additional requirements brought through the work of the Futures Board.

### **4.4.2 Option 2**

Costs to the users of the building standards system who apply for a building warrant will increase. However, they will benefit from a more robust verification service, requiring increased inspections and reasonable inquiry to ensure compliance with building standards.

Development of a new fee model and a review of current funding is ongoing. It is worth noting, these figures and increased costs are still under consideration and are not final. It is not envisaged that these costs will increase beyond what is mentioned here.

- Fixed fees for activities such as conversion or demolition are being considered to be increased in line with the Building Cost Index. For example, this would result in an increase in fee of £150 (set in 2017) to £184 (in 2022), and for an extension to warrant 2017 set fee of £100 would increase to £123 in 2022.
- An additional fee is being considered for building warrants for High Risk Building (HRB) where additional work will be undertaken by the verifier through the introduction of the Compliance Plan Approach. HRBs represent a small portion of total projects and a small fee increase compared with the value of project.
- A percentage increase in building warrant fees across all 'value of work' bands to fund the future projected cost of the verification service taking into account

the additional demand placed on verifiers by the changes being supported by the Futures Board work.

## **5. Regulatory and EU Alignments Impacts**

This policy is not likely to impact on intra-UK trade.

## **6. International Trade**

This policy is not likely to impact on international trade and investment.

## **7. EU Alignment**

This policy is not likely to impact on the Scottish government's policy to maintain alignment with the EU.

## **8. Scottish Firms Impact Test**

Engagement with Scottish Government Officials and stakeholders such as COSLA, LABSS, Homes for Scotland, Construction Scotland, Chartered Institute of Building (CIOB), SOLACE and RICS has taken place through various Working Groups and Futures Board meetings. Discussions on a potential increase in building warrant fees were covered at these meetings, any feedback has fed back into the development of this proposal.

## **9. Competition Assessment**

As the proposals will form part of the national building standards system, they will be implemented uniformly throughout the country. It is not envisaged that this proposal will impact on competition between companies.

Having reviewed the four competition filter questions provided within the Competition & Markets Authority (CMA) guidelines for policy makers on competition assessment we are satisfied that the proposed changes to the building standards and guidance will not impact on competition within the marketplace.

## **10. Consumer Assessment**

The proposals may have an adverse impact on consumers as it will result in increased cost of applying for a building warrant within their local authority. The fee is proportional to the 'value of works' of any resulting construction work and is used to fund the local authority verifier delivering the building warrant service.

It will have a positive impact by providing the additional staff and funds needed to strengthen the service provided by local authority verifiers through the introduction of a more robust compliance process with increased checks and inspections on site and with pre-application discussions for high risk building warrant applications. Funding will

also be used to fund the proposed Building Standards Hub, a support Hub for local authorities and construction sector bodies to access for advice, specialist support and assistance.

Costs incurred during the construction of buildings as a result of rework will be reduced by these strengthened compliance measures that include the introduction of a Compliance Plan Manager (CPM) for high risk projects; a role being developed through the work of the Futures Board Compliance Plan Approach workstream. Direct rework costs are estimated to be in the range 1.71% to 9.3% of the contract value. This is quite a large range and a figure of 5% is often quoted as a “widely accepted figure”. Studies suggest that the cost of rework is reduced to below 1% when quality systems controls are introduced.

## **11. Test Run of Business Forms**

It is unlikely that additional business forms will need to be completed however local authorities may take it upon themselves to introduce additional forms as part of this development. If additional forms are created nationally, we will test run these forms with those who will be using them.

## **12. Digital Impact Test**

To apply for a building warrant in the respective local authority, customers can access the eBuilding standards Portal from the local authority website or through a Google search. Customers are then directed to a national building standards portal where they will be able to submit their building warrant application.

This is a digital process, accessible to all users of the building standards system. This online process will not inherently change however it may be updated in areas to reflect the increased fees. Where users cannot access the online platform, local authorities can be contacted for further assistance. Downloadable versions of building standards forms are also available from the Scottish Government website. They can be downloaded, completed and submitted in paper format to local authorities if required.

## **13. Legal Aid Impact Test**

It is not expected that there will be any greater demands placed on the legal system by this proposal. Accordingly, it is not considered that there will be any effect on individuals’ right of access to justice through availability of legal aid or possible expenditure from the legal aid fund.

## **14. Enforcement, Sanctions and Monitoring**

The Building (Fees)(Scotland) Regulations 2004 stipulates a fee shall be payable by the applicant to the verifier for a building warrant application and the submission of a completion certificate. Exemptions apply for applications to alter or extend the dwelling

for a disabled person. The Schedule of Fees, shown in Part 1 of the Regulation, provides a complete breakdown of the chargeable fees for the application of a warrant. The Building (Miscellaneous Amendments) (Scotland) Regulations 2017 amended the Schedule of Fees to reflect increased fees.

Building warrant application fees are set nationally and will be the same in whatever local authority you submit an application. Unless exempt, a fee is payable for applications for the construction of a building, or the provision of services, fittings or equipment in connection with a building.

Local authority verifiers are responsible for monitoring and verifying an applicant's submission of a warrant application to ensure it is compliant with current building regulations and that the correct fee has been paid. Local authorities can also carry out reasonable inquiry to ensure work has not started before the issue of a building warrant to an applicant. It is the responsibility of the local authority to carry out any enforcement actions in relation to non-compliance of buildings and where work has started before a building warrant application is submitted, a fee 200% of the fee calculated is payable by the applicant.

Consideration will also be given where work starts before a building warrant has been issued, but after it has been submitted, this option proposes to introduce a payable fee by the applicant to the verifier. Local authorities also have the power to stop all construction work if deemed applicable or where work is non-compliant and/or dangerous.

Verifiers are required to submit quarterly data on the Key Performance Outcomes (KPO), as set out in the building standards Performance Framework, to the Scottish Governments Building Standards Division. KPO 5 reports on income and expenditure by verifiers. Scottish Ministers can reappoint local authorities as verifiers for a number of years depending on their performance informed by these KPOs.

As part of this option, it is proposed to introduce additional monitoring and reporting of income and expenditure by verifiers. The allocation of income generated by building warrant fees is not ring fenced within local authority verifiers and local authorities can allocate any income as they see best. To ensure income generated by increased fees is allocated to the services they are intended for, additional monitoring and reporting is being considered.

## **15. Implementation and Delivery Plan**

### **15.1 Implementation**

The proposal will be implemented by a change in legislation to the Building (Fees)(Scotland) Regulations 2004 in a similar manner to that which occurred in 2017 with the Building (Miscellaneous Amendments) (Scotland) Regulations 2017.

The proposal will be subject to a public consultation and the new fee table will be signed off by Scottish Ministers. As fees are payable through a national portal, this portal will need to be updated to reflect the proposed changes.

The Scottish Government will publicise the changes on the Building Standards section of the Scottish Government website by issuing a building standards eNewsletter/alert to stakeholders. Changes will also be advertised through building standards social media accounts. The Scottish Government will notify all local authorities and relevant parties of the changes. Local authorities should inform customers of changes through their websites and the e-Development portal.

## **15.2 Implementation Period**

It is intended to increase fees for the financial year 2024/25. This allows approximately 9 months to carry out a public consultation and changing of the necessary legislation.

Changes to the national eBuilding standards portal to reflect the increase in fees will be carried out alongside this to ensure the portal is updated.

## **15.3 Post-Implementation Review**

There will be continuous monitoring of the implementation of the proposals through feedback from the local authority verifiers, designers, manufacturers and building owners. These stakeholders are in regular contact with Building Standards Division, and any issues identified will offer a broad view of how proposals are being implemented, if the objective is being achieved and how it is working in practice. Issues raised in this manner become a matter of record and are used to inform any future review.

As part of the delivery plan a formal post-implementation review will take place within 3 years of these provisions being applied. It is envisaged a yearly review will take place with reports to Ministers.

## **16. Summary**

### **16.1 Summary Costs and Benefits Table**

Following the completion of research on fees and the public consultation, a more detailed cost/benefit analysis will be carried out.

<b>Option</b>	<b>Total benefit per annum: - economic, environmental, societal</b>	<b>Total cost per annum: - economic, environmental, societal - policy and administrative</b>
Option 1 – Do nothing	No additional benefits accrue	No cost associated with action
Option 2 – Increase building warrant and associated fees to facilitate the identified necessary strengthening and improvement of the service delivery within the building standards system in Scotland.	<p>Users will benefit from a strengthened building standards service with funding available to support the improvements in services being introduced through the work of the Futures Board.</p> <p>An increase in fees will strengthen the building standards system by providing local authority building standards services the capacity to take on additional verification staff and increase the robustness of the verifications service.</p> <p>Costs for users of the building standards system who apply for a building warrant will increase. However, they will benefit from a more robust verification service.</p> <ul style="list-style-type: none"> <li>➤ Introduction of Building Standards Hub to serve all 32 local authority building standards departments and verifiers and support the construction industry.</li> <li>➤ Strengthened compliance process for High Risk Buildings</li> <li>➤ Digital transformation of the building standards service</li> </ul>	<p>Economic: Fixed fees for activities such as conversion or demolition are being considered to be increased in line with inflation.</p> <p>Environmental: Increase in investment from local authorities in Remote Verification Inspection will reduce unnecessary travel, lowering costs and lowering authorities carbon footprint. Introduction of new technical standards to support the Passivhaus standard equivalent.</p> <p>Societal: Increased funding will allow local authorities to invest in a better verification service increasing compliance with building regulations, creating safer buildings for citizens.</p> <p>Policy: With increased funding, a revision to the KPO framework will be needed to ensure money is reinvested appropriately increasing the cost to change this monitoring and reporting framework within each local authority.</p> <p>Administrative:</p>

		Increase in funding to improve and strengthen and building standards system will inherently increase the administration costs.
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## 17. Declaration and Publication

I have read the partial Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

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