Local Government and Communities Directorate
Building Standards Division

Scottish Government
Riaghaltas na h-Alba
gov.scot

T: 0131-244 6535
E: clyde.ashby@gov.scot

Chief Executive – Scottish Local Authorities

Copy to: Local Authority Building Standards Managers

Our ref: A21209638
27 July 2018

Dear Chief Executive

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

I refer to the letter that the Building Standards Division (BSD) issued to all local authorities on 22 May 2017 extending the type of applications for building warrant that a verifier was required to notify the BSD of under Section 34 of the Building (Scotland) Act 2003 (the Act).

This letter updates and effectively supercedes our letter of 22 May 2017. For ease of reference the unaltered sections of the earlier letter have been replicated herein and the original letter should be no longer be referred to.

As well as extending the categories of buildings that verifiers are required to notify the BSD of, Annex A of our previous letter included information under the heading “verifier qualifications”. This related to the competency criteria of individual staff members that Building Standards Managers should consider when distributing building warrant applications that involved designs that differed from the Technical Handbook guidance contained within Section 2 (Fire).

Since issuing the letter, several local authorities have advised BSD that the qualification levels for surveyors related to the type of work, as set out in the table within Annex A (identified as table 6.1), does not allow them sufficient flexibility in determining how a building warrant should be verified. Part of the problem seems to have come from the terminology used in the research report, which was subsequently repeated in the letter. Although the qualifications of the surveyor will come into the equation, no less critical is the knowledge and experience that the surveyor has in the type of work being considered. Such decisions have to be taken by the Building Standards Manager as they are best placed to assess the complexity of the project and the ability, skills and (where appropriate) qualifications of their surveyors.

In the short term at least, there may be some authorities that do not have staff that are competent to consider anything that is removed from compliance with Section 2 guidance. However, the remainder will have varying numbers of staff with varying levels of competence to verify deviations from Section 2 guidance. This will obviously be fluid as people move across authorities, retire, etc.

As indicated in our letter of 22 May 2017, the types of applications for building warrant that a verifier must notify the Building Standards Divison of under Section 34 of the Building (Scotland) Act 2003 are –

From 2005
a) Developments with any storey at a height of more than 60 metres

From 22 May 2017, verifiers must also notify BSD of applications for building warrant for developments with –
b) A dwelling having a floor area of more than 200 square metres
c) A non-domestic building where the design is not in accordance with the guidance issued by Scottish Ministers
d) A domestic building with a storey height over 7.5 metres where the design is not in accordance with the guidance issued by Scottish Ministers

Application categories a) and b) relate to buildings where the Building Standards Technical Handbooks do not provide guidance in Section 2: Fire.

Application categories c) and d) relate to buildings set out in paragraphs 11(1)(a)(ii) and (iv) of the Building (Procedure) Regulations 2004 that require the verifier to consult the relevant fire authority.

Background information is provided in **Annex A.** The information that should be included with the 'Notification of Application for Building Warrant' is provided in **Annex B**. This includes application details and verification details.

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

I would remind local authorities of the importance of early discussions on these types of applications with the applicant and their design team, and also with the Scottish Fire and Rescue Service in their role as a statutory consultee.

Therefore I also request to have advance notice of these applications when pre-application discussions have begun.

I trust this letter now removes any ambiguity regarding individual surveyor's competence to assess compliance with any or all of building standards 2.1 to 2.15, however, should you wish to discuss any aspect please do not hesitate to contact me.

Yours sincerely

Clyde Ashby

Background

In 2005, under Section 34 of the Building (Scotland) Act 2003, LAs were requested to notify SBSA (now BSD) on behalf of Scottish Ministers of applications for building warrant being received in relation to developments with any storey at a height of more than 60 metres.

> ***"34 Reports and information***
>
> *(1) Every local authority, verifier and certifier must provide the Scottish Ministers with such reports and information as the Scottish Ministers may require in relation to the functions of the authority, verifier or certifier under this Act."*

The Scottish Government has been investigating the role of fire engineered solutions in the design and verification of new buildings. The report "Research to Support the Improvement of the Design Verification of Fire Engineered Solutions as Part of the Scottish Building Regulatory System" was published in November 2016. The research set out the findings from consultation with stakeholders and made suggested improvement actions on the design verification of fire engineered solutions as part of a Scottish building regulatory system.

Following this, the Scottish Government commissioned further research. The report "Competency Criteria for Local Authority Verifiers When Checking Fire Engineered Solutions for Compliance with Building Standards" was published in May 2017 and identifies 3 levels for assessing the fire strategy of a building. It also identifies, against each of the levels, the minimum qualifications and competence criteria (training, knowledge, skills and experience) for verifying fire engineered proposals for compliance with building regulations.

Under the terms of the re-appointment of verifiers 2017, local authorities are required to meet the Operating Framework 2017 and the Performance Framework 2017. Function 1.2 Resourcing of the Operating Framework requires that "Verifiers must have staff with appropriate building standards related qualifications and experience, and have contingencies for when resourcing is not available in-house."

In view of the above, the type of applications for building warrant to be notified to BSD has been extended and notification must include how the LA proposes to carry out verification of Section 2 of Schedule 5 of the Building (Scotland) Regulations 2004.

Role of Scottish Fire and Rescue Service

The above report 'Research to Support the Improvement of the Design Verification of Fire Engineered Solutions as Part of the Scottish Building Regulatory System' identified that there are inconsistencies with verifiers as to the role of the Scottish Fire and Rescue Service (SFRS). A number of verifiers have been engaging the SFRS as a third party reviewer for fire engineered strategies. This is not the intent of Regulation 11 of the Building (Procedure) (Scotland) Regulations 2004.

Regulation 11 provides the Fire Authority with the right to make representations on specified building warrant applications and on matters that may impact on their statutory duties under the Fire (Scotland) Act 2005. The verifier must take account of any comments in the determination of the application.

Verifier Qualifications

The above report "Competency Criteria for Local Authority Verifiers When Checking Fire Engineered Solutions for Compliance with Building Standards" provided recommendations for the level of qualifications and the complexity of designs. Building standard managers and team leaders should consider these recommendations when allocating building warrants to staff or deciding to use third party reviewers when appropriate resourcing is not available in-house.

The report concluded that a range of professional qualifications and competencies for verification of fire engineered designs is needed, as appropriate to the level of complexity of the design, complexity of analytical and computational methods applied, and the variation from the guidance in Section 2: Fire of the Technical Handbooks.

The research report also identified three qualification levels for verifiers based on the level of complexity of the fire engineering and building risk. The table below is based on table 6.1 from the report and is followed by further information on the qualifications and competencies for each complexity level taking into account the findings of the research.

Verifier Qualifications based on Fire Engineering Design Level

Verifier / 3rd Party IFE EC Qualification	**Level 1** Technical Handbook Compliance	**Level 2** 'Limited' Fire Engineered Design, C/VM2 Verification	**Level 3** 'Complex' / BS7974 / IFEG Fire Engineered Design
As Operating Framework for Verifiers[1]			
IEng			
CEng			

It should be noted that the delineation between levels 1 and 2 and levels 2 and 3 have a degree of fluidity. For example, a minor deviation from the technical handbook guidance will not necessarily move the project from level 1 to level 2. To assist in determining the competency of surveyors, the table should be read in conjunction with the following notes.

Level 1 Technical Handbook Compliance

No formal fire engineering qualifications beyond what is currently expected of surveyors is needed. It allows for professional judgement to be made over small departures from the guidance such as small increases to maximum travel distances, dead end corridors, exit width, compartment volume and so forth. It would be unusual for these types of projects to be subject to a formal fire engineered design. For example, the case for compliance may be made by an experienced architect, even if they do not not fully appreciate that they are, in effect, fire engineered solutions. The relevant experience of the surveyor would be considered when determining his or her suitability to verify such a project.

Level 2 Limited Fire Engineered Design, C/VM2 Verification

A level 2 design covers a wide range of variations from the technical handbook guidance; from those that are more involved than level 1 type work, for example, minor variations with a technical complexity, to more complex projects with significant deviations from the guidance but still not complete fire engineered solutions covering the entire design. It would

[1] Annex A, of the Operating Framework for Verifiers, identifies chartered professional status (e.g. RICS, CABE or CIOB) should be considered at least 'desirable', supported by experience in the field where possible.

be usual for the building warrant application for such a proposal to be supported by a fire engineering report, however, as in level 1, the case for more minor variations may be made by an experienced architect.

The more complex designs may involve the use of innovative materials, strategies which reduce the 'specified' fire protection measures, or have a complexity that is outwith the scope of the Technical Handbook guidance. may not address the fire safety issues of concern in an appropriate manner (i.e., might not actually provide the intended function due to the building geometry, materials, fuel load, occupant characteristics, or related features).

It is suggested that the minimum qualifications and competency for Level 2 design and verification are much the same. For example, those dealing with projects at the lower end of the complexity scale may be expected to have relevant experience and a fire engineering degree or appropriate modules. While those involved in more complex designs may be expected to be an Incorporated Member of the Institution of Fire Engineers, or a recognised equivalent as well as appropriate experience in such projects.

Level 3 'Complex' / BS7974 / IFEG Fire Engineered Design[2]
It is suggested that the minimum qualifications and competency for Level 3 design and verification, would be a Chartered Engineering Member of the Institution of Fire Engineers or equivalent. This level provides a fire engineered approach to satisfying the standards. Detailed guidance on fire safety engineering is given in BS 7974: 2001 and in the International Fire Engineering Guidelines (see clause 2.0.7 of the Technical Handbooks).

[2] A Simplified Approach to Alternative Fire Safety Strategies provides examples on when the advice of a fire engineer should be sought.

ANNEX B

Notification to BSD of Application for Building Warrant

The Notification should include the following information and be submitted to the Building Standards Division (BSD), Denholm House, Livingston EH54 6GA. Please provide

Application Details	
Stage of application	• *Pre-application (formal project specific pre-application discussion)* • *Application*
Type of development	• *Any storey at a height of more than 60 metres* • *Dwelling having a floor area of more than 200 square metres* • *A non-domestic building* • *Domestic building with a storey height over 7.5 metres*
Use of building	• *Domestic* • *Non-Domestic* • *Mixed Use*
Height of building	• *Top most storey*
Floor area	• *Total floor area* • *Maximum storey area*
Construction of building	• *Traditional* • *Innovative*
Number of escape stairs	• *Single stair* • *Multiple stairs*
Evacuation methodology	• *Simultaneous* • *Phased* • *Progressive Horizontal* • *Defend In Place (Domestic)*
Verification Details	
Complexity	• *Level 1 – brief rationale for decision* • *Level 2 – brief rationale for decision* • *Level 3 – brief rationale for decision*
Staff competency[3]	• *Building standards staff qualifications and experience* • *External staff qualifications and experience*

[3] This would be someone with the appropriate training, knowledge and expertise to be aware of the hazards and risks involved.