Local Government and Communities Committee

Building Regulations in Scotland

Submission from the Scottish Property Federation

Introduction

1. The Scottish Property Federation (SPF) is the voice for the property industry in Scotland and speaks for over 185 corporate members with interests in Scottish real estate. We include within our membership major institutional investors and funds, developers, real estate lenders, landlords of commercial and residential property, and professional property consultants and advisers.

2. The SPF welcomes the Scottish Parliament’s Local Government and Communities Committee’s scrutiny of the building standards system in Scotland. Many of our members work within the system in varying capacities and are keen to see improvements that will benefit all building regulation stakeholders. The SPF’s response to the questions in the ‘call for evidence’ are set out below. We are happy for our comments to be published and shared within the public sector, and would be pleased to discuss our views further with the committee at a mutually convenient time.

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

3. The SPF strongly believes that an efficient and cost effective building standards system is an important part of making Scotland an attractive place for investment and development. Building standards are just one part of an array of complex decision making and regulatory requirements that new developments encounter throughout the building process. When delays are created within the building standards system it can easily cause knock-on effects elsewhere in the development process. This has the potential to increase costs, extend build times and damage Scotland’s reputation as a desirable place to invest and build.

4. We believe that the expansion of verification to organisations other than local authorities - independent verification - could play an important role in ensuring that the verification process is as flexible as possible to respond to the demand placed on it. This is important as our members have become increasingly concerned that the time taking to issue building warrants and process reassessments is too long. After years of budget cuts, local authorities simply do not have the capacity to respond to the demand placed on their building standards departments, an issue that has been exacerbated by the loss of experienced staff members for various reasons.

5. For example, a number of our industry members have noted that under the current system it takes 2 weeks to register a relatively straightforward application and 10 weeks to assess it. Local authorities will often request amendments and the assessment of the resubmission can add a further 10 weeks. This means that it would not be unusual for the process to obtain a warrant to be well in excess of 20 weeks. When other factors such as planning...
permission and infrastructure provision are taken account of, delays to developments rapidly increase with cost implications. This is not desirable and risks Scotland's competitiveness as a solid place to invest and build.

6. Another important benefit of using independent verifiers is that they usually work with a development team from the start of the building process, ensuring that building standards are factored in and taken account of throughout. This is in contrast to the current system which is often overly bureaucratic with little, if any, synergy between developers and local authority verifiers. The current system often leads to breakdowns in communication between warrant applicants and local authorities leading to inefficiency and cost.

7. Independent verification also has the potential to remove local government politics from the building standards system. This means that if budgets are cut in building standards departments, developments will not have to bear the brunt of the consequences. Flexibility and choice are critical.

8. We are strongly of the opinion that verification conducted by organisations external to local authorities or by councils themselves should enforce with the same rigorous regulations and make decisions based on the same criteria. To this extent, we would welcome the introduction of a regulatory body to oversee the verification process. We also believe that this would help to improve the consistency of decision making across local authorities and independent verifiers if implemented.

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

9. The SPF does not believe that this is necessary for all ongoing building work. The initial assessment and approval and final inspection process, if carried out timeously, works well and between the design team and contractor any non-compliances should be picked up.

10. Smaller residential projects, however, may benefit from specific inspection regulations given the architect may not be appointed to inspect during the course of the works. It would perhaps be better to focus on such small scale developments if new procedural regulations were proposed.

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

11. The SPF would welcome moves to provide redress within the building standards system for new home buyers. Given that designs have been approved and the works inspected by the verifier for issue of the completion certification, then legal remedy should be made available.
Are the current building warrant and associated fees set at the correct level?

12. As the committee will be aware, the Scottish Government consulted on building warrant fees early in 2017. Their proposals were to substantially raise building warrant fees and associated fees with the aim of making the system achieve full cost recovery.

13. In general, the SPF is not opposed to the increased fees or full cost recovery for local authorities, but this must be on the understanding that the building standards system will see substantial improvements after the higher fees are implemented. Our members feel that the proposed fees would not be value for money if the system maintained a ‘business as usual’ approach and did not use the extra injection of capital to improve response times and customer service.

14. While fee money that local authorities receive is collected centrally and not necessarily earmarked for their building standards departments, the SPF believes that there should be more accountability within the system. There is widespread concern in the property industry that the extra revenue generated by fee increases would be diverted for other local authority uses and leave building standards departments, which are in desperate need of more resources, little changed.

15. The SPF would welcome the introduction key performance indicators (KPIs) for some of the fundamental competencies of the building standards system such as assessment times and prompt responses for information to requests from building warrant applicants.

16. Our members would like to see a portion of the fees returned to the warrant applicant if local authorities fail to meet reasonable targets when dealing with building warrant applications. Importantly, this will ensure that local authorities maintain control of their own budget but that there will be a financial incentive to ensure that the level of service is maintained at a reasonable level.

17. We believe that the use of KPIs would stop the uncertainty and regional inconsistency that our members report are currently significant issues within the system. We have reports of some local authorities improving the service they offer to warrant applicants while others, particularly in the major cities, are perceived to be performing poorly. A set of national KPIs would give those local authorities that need to improve the service given to applicants the motivation to make changes and ensure that higher fees are put to effective use. It would be a huge asset to attracting investment into Scotland if developers were able to guarantee that there would be an effective and timeous service, regardless of the local authority being dealt with.

18. Our members would welcome the expansion of discounts for using a certifier of design or construction. External support for the Building Standards System should be viewed favourably as it saves Local Authorities’ resources and time; this in turn ensures that the application process is more streamlined and efficient. As using a certifier of design or construction often comes at a premium to applicants we would welcome an increase in the discount applied to ensure that this key policy is both mutually beneficial to councils and applicants. Indeed, the
SPF would like to see the 10% discount increased to reflect better the costs incurred by applicants for using a certifier.

19. In order to become fully effective, the SPF believes that the rules for accessing the discounts should be made less restrictive. We have a number of members who are frustrated that despite using certifiers they have not received the stated discount. This is often because applicants do not know the name of the individual contractors at stage one of the warrant application process (a common and standard business practice). We have received feedback from our members that giving the discount retrospectively, at the completion stage, should ensure that both applicants and verifiers will benefit from the use of certifiers.

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

Fire Engineering

20. Our members have expressed concern that Fire Engineering alternatives, which are submitted as an alternative means of compliance, do not seem to be given the same level of consideration as technical standard compliant submissions. It would appear that the correct level of staffing to facilitate/assess these submissions is lacking. It would be helpful if approved fire engineered strategies could become a solution for other councils or even projects to avoid the delays in getting similar approvals.

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