At the end of the meeting you highlighted strengthening legislation to give greater enforcement powers to building standards and building standards verification process. The Committee would welcome further information on what enforcement powers you would propose and what kind of sanctions you consider would be appropriate for any breaches.

1. The current framework in Scotland does include enforcement powers in building standards and the verification process; historically, these have been more robust than elsewhere in the UK.

2. Enforcement of building standards, however, is more complex when compared to other council functions, such as Environmental Health. One stand-out example being that enforcement of building standards is focused on the building owner, rather than builder.

3. Indeed, at present, the building owner (or in some cases, the tenant) is responsible for ensuring that building works meet the building regulations. Building owners may not know of their obligation(s), nor have adequate construction knowledge.

4. It may be argued that contractors, who are on site and will know when the construction is ready for inspection, may be better placed to take responsibility.

5. It should be noted, however, that the current framework does not focus on minimising the risk of fires starting; the primary function is to prevent the growth and spread of fire. Where fire has started, the Building Standards provide for adequate means of escape.

6. The process involves a period of notice, and then an Order is issued which can only be pursued through the Procurator Fiscal's office. Building failures are, at times, well down the list of priorities. The fire service can put a 'stop use' order on a property at the time of a visit, as can the Environmental Health Department.

7. We would advise that the system is reviewed, with an aim to produce a much quicker action process.

**Construction Compliance and Notification Plan (CCNP)**

8. At present, the Construction Compliance and Notification Plan (CCNP) is voluntary or unenforceable. Furthermore, the system of issuing a CCNP – which relies on the owner/developer giving notice of when to visit - allows
verifiers limited opportunities to undertake inspections at key periods during the construction process.

9. Therefore, the inspection and verification of safety critical elements could be improved by making the current system (CCNP) inspection mandatory, as is practiced in some states in the USA.

10. This would, however, require legislative change and a significant increase in departmental resource to provide this service – an issue which RICS has covered in previous submissions to this Committee.

11. As mentioned above, the responsibility for ensuring their adequacy of installation and arranging inspections, by Building Standards, may be best served with the contractor and not the owner (or other relevant person) as is currently the case.

12. RICS understands that the Scottish Government is considering whether procedural regulations should specify a minimum requirement for the inspection of ongoing building works, to ensure compliance with building standards. The inspection of buildings being paramount to alleviating risk and promoting safety.

13. Whilst the introduction of procedural regulations could help advance these two notions, more detail and scrutiny on the application of procedural regulations will be required in advance of its introduction. This should include consideration of measures against developers who commence work without the verifier being informed.

14. Any future amends to the system should ensure consistency within each Building Standards office, and ensure sufficient inspection protocol.

15. Finally, this committee may wish to consider punitive measures for non-compliance with the system; for example, not providing notification, or even if only to give the power to force construction to be opened up retrospectively.

At the meeting you also highlighted –

“However, many products that are deemed to be non-combustible that have been used in Scotland have recently been retested, and the manufacturers are now finding that these materials have been moved from class 0—the non-combustibility class—to class 1.”

The Committee would welcome further information you have on this issue such as when and where it was identified as well as who undertook the retesting.

16. There has been ongoing testing of some products that were previously rated as Class 0, that have now been “downgraded” to Class 1 following further testing. This could have implications on some buildings across the UK, but it may be some time before a clear and comprehensive understanding of the current situation can be drawn.
17. The reason being that whilst some manufacturers have recently recalled or withdrawn some of their products (following retesting which indicated they failed to achieve the ‘Class 0’ fire rating, which covers resistance to surface spread of fire), other product manufacturers have yet to report the results of such retesting and analysis.

18. Indeed, RICS understands that the Department for Communities and Local Government (DCLG) recently published updated guidance and requested BRE Global contact all their customers who had tested and achieved BR 135 classifications for their external cladding systems.

19. The table\(^1\) produced by BRE, which will continue to be upgraded, summarises the generic components included within cladding systems, but only “where permission to publish details of a cladding system has been granted by the customer”.

\(^{1}\) [https://www.bre.co.uk/regulatory-testing](https://www.bre.co.uk/regulatory-testing)