

<b>Agenda Item</b>	<b>8</b>
<b>Report No</b>	ECI/58/2023

# The Highland Council

**Committee:** Economy and Infrastructure

**Date:** 16 November 2023

**Report Title:** Building Warrant Fees: Consultation Response

**Report By:** Executive Chief Officer Infrastructure, Environment & Economy

## 1 Purpose/Executive Summary

- 1.1 This report is to advise elected Members of a Scottish Government consultation seeking views on proposed increases to building warrant fees regulations required to deliver change to strengthen building standards system in Scotland. It presents an overview of the responses to the consultation seeking agreement by homologation on the Council's response; prepared by the Building Standards Manager.
- 1.2 The Highland Council consultation response was prepared and submitted ahead of the closing date of the consultation of 24 October 2023. The consultation response acknowledges and supports Scottish Government's proposal to increase building warrant fees, the level yet to be determined, over a three-year period to enable work streams directed by the Building Standards Futures Board to come to fruition. The increase in fees will be used to facilitate the strengthening and improvement of service delivery within building standards.

## 2 Recommendations

- 2.1 Members are asked to:
- Note** the details of the Building Warrant Fees Consultation Responses noted in Appendix 1;
  - Agree** by homologation the Council's response to the consultation; and
  - Consider** and agree further participation by the Council if further consultation is requested for strengthening and sustaining building standards within Highland.

## 3 Implications

- 3.1 **Resource** – Engagement with Scottish Government's Building Standards Division requires Building Standards management team time to participate/respond.
- 3.2 **Legal** – No direct implications.
- 3.3 **Community (Equality, Poverty, Rural and Island)** – It is not likely that an increase in building warrant fees will have significant socio-economic impact on the more remote Islands and communities in Highland.

- 3.4 **Climate Change / Carbon Clever** – It is not likely an increase in building warrant fees has the potential to contribute toward climate change mitigation or adaptation.
- 3.5 **Risk** – There are no known risks.
- 3.6 **Health and Safety (risks arising from changes to plant, equipment, process, or people)** – There are no H & S risks.
- 3.7 **Gaelic** – No direct implications

## 4 **Background**

- 4.1 Following the Grenfell tragedy two expert Review Panels were formed: - one on Fire Safety and the other focussed on Compliance and Enforcement. One report concluded that the Scottish building standards system is not broken but that evidence clearly shows that there is a need to strengthen the system. Both Review Panels identified the potential for a 'national or central hub' that would provide expertise in specialist and safety critical areas of the design of complex buildings.
- 4.2 Several changes to the building standards system are currently being developed through the Building Standards Futures Board work streams. It is intended that these changes will strengthen and sustain the building standards system and will be implemented over the next few years. It is essential that additional funding is available to local authority building standards services (verifiers) to prepare for forthcoming work stream as the proposed changes will place an additional resource obligation on verifier staff in relation to cost and time (estimated to be 30%). The four main work streams are:-
- Compliance Plan Approach;
  - Verification Delivery Model;
  - Digital Transformation; and
  - Workforce Strategy

## 5 **Overview of Consultation**

- 5.1 **The Compliance Plan Approach** - This work stream is focussing on the development of a new, extended and strengthened 'Compliance Plan' approach and the creation of a Compliance Plan Manager (CPM) who will act on behalf of the Relevant Person (applicant/building owner) to deliver buildings in accordance with approved plans and the regulations. The introduction of the new compliance processes will increase mandatory notifications and subsequent requirements for building standards to carry out added planned inspections of work on site to ensure compliance.
- 5.2 **The Verification Delivery Model** – followed the earlier Review Panel recommendations; a Building Standards 'Hub' is now in place, via a 2-year pilot project; providing expert technical advice on structural, fire and energy issues related to the Technical Handbooks supporting the building regulations. This advice is offered to local authorities that do not have this expertise in-house (Highland). The Hub has also assumed responsibility for a number of LABSS consultant administrative work; e.g., Scottish Type Approval; Dispute Resolution and Consortia Working Group administration. The hub has recently gained support from COSLA to be made permanent.

- 5.3 **The Digital Transformation** – this work stream is investigating options for the digital transformation of building standards systems. The work stream will explore how greater increased use of digital technology can support the delivery of building standards e.g., through the use Remote Verification Inspection (RVI).
- 5.4 **Workforce Strategy** – Requires local authorities to have suitable resources in place to provide a value for money service to fee paying customers; a resource that is professional, qualified and achieves competency levels appropriate for the level of work they are processing.

## 6 Consultation Response

- 6.1 A copy of the consultation questions along with Highland Council responses is included within **Appendix 1**.
- 6.2 The response submitted confirms Highland Council's support for a phased increase in building warrant fees over a 3-year period with the expectation/understanding that a percentage of the added income will be clawed back by Scottish Government to fund work stream still being developed; including the permanency of the building standards hub.

Designation: Executive Chief Officer Infrastructure, Environment & Economy

Date: 12 October 2023

Author: Glenn Campbell, Building Standards Manager

Background Papers: Building Warrant Fees: [Consultation](#)

Appendices: Appendix 1 - Increasing Building Warrant Fees: Consultation

# **APPENDIX 1**

## **Increasing Building Warrant Fees: Consultation**

**Respondent Information Form**

**Please Note** this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
- Organisation

Group/Organisation type (please tick one)

Local Authority	✓	Commercial Organisation	
Professional Body		Voluntary Organisation	
Contractor/Developer		Housing Provider / RSL	
Designer/Consultant		NDPB/Agency	
Academic Body		Advisory Body/Committee	
Industry Association/ Manufacturer		Other (Please Specify)	

Full name or organisation's name

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The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

**Information for organisations:**

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No

## Questionnaire

### Question 1.1 - Do you agree building warrant fees should be increased to strengthen the building standards system in Scotland?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

With the number of Futures Board Work Streams currently under development requiring funding to varying levels; it appears increases to building warrant fees is the most credible means of securing income to fund this essential work going forward.

**Compliance Plan Approach** – It is estimated that local authority verifiers will need significant increases in workforce (30% to 50%) when this work stream is rolled out. A major difference with the Compliance Plan Approach; compared to the CCNP, is that Completion Certificate Submissions will be refused if failures are recorded during compliance checks; meaning site inspections will become mandatory as the building is constructed.

Only by bolstering resources to manage site inspections via increased warrant fee income will this new approach be possible.

Increasing the verifier presence on site will be hugely welcomed by industry, the customer and public interest; a strengthened compliance approach can be fulfilled.

High Risk Buildings and the increased responsibility these significantly more complex type buildings will place on verifiers requires the addition of a 'senior verifier' that is conversant in the more onerous technical standards and procedures these major building types need. The verifier needs a person of seniority to liaise with the client's Compliance Plan Manager (CPM) to enable the new compliance approach to succeed.

**Building Standards Hub** – COSLA's support in strengthening a permanent BS Hub is also backed by Highland Council. The Hub is not intended to duplicate the statutory duties conducted by verifiers or Scottish Government's Building Standards Division (BSD) but provide additional strength and stability within the building standards/verification system, improving consistency and specialist support.

The running costs of the Hub is estimated to be around £1m per annum; with the verifier being the main customer it is correct the building warrant fee income funds this workstream.

**Digital Transformation** - The 6 year development plan for the Digital Transformation workstream will require additional finance: e.g., - maintaining/purchasing modern back office systems (Uniform is now almost 30 years old; one would argue, past its sell by date); procurement of remote operating systems e.g., tablet devices/laptops/smart phones that communicate directly with the back office systems; reducing the need for duplicating/updating records when staff return to the office.

**Workforce Strategy** – This work stream will demand sufficient and suitable resources are made available to every verifier; where essential training and mentoring will produce competent, qualified and experienced people to do the job.

Nationally building standards/verification has an ageing workforce and needs young people joining the profession, if The Building Standards Operating and Performance Frameworks are to be met.

Increases in fee income will secure funding to local authority verifiers to employ young Modern/Graduate Apprentices into the profession.

**Question 1.2 - Do you agree that a proportion of the building warrant fee should be used to support a central Building Standards Hub?**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please select only one answer and provide your reasoning in the box below.

If the BS Hub is to develop to its full potential, then a permanent source of funding is critical. Funding by means of warrant fee income will ensure the Hub is independent, impartial and free of political pressure/influence.

Highland council feels it is important that the Hub is recognised as an enhancement of the verification system; and not another research group of Scottish Government's Building Standards Division.

The Hub is already proving to be a fundamental tool in the arsenal of local authority building standards where consistency in approach to technical and procedural issues is evident. Securing permanent funding to allow the development of the Hub will improve speed of responses to complex building applications where expertise for fire; structure and energy will be available to assist the LA verifier. This expertise is not available nationally in-house at present.

Dispute Resolution and STAS are another two examples where the Hub will administer on behalf of LABSS, which as a voluntary organisation is becoming more and more unable to sustain resources due to local authority work pressures.

**Question 1.3 - Do you support the introduction of enhanced verification and certification auditing, monitoring and reporting of fee investment to support the implementation of the strengthened building standards system over the next 3 years?**

- Yes
- Not sure
- No
- Disagree
- Strongly disagree

Please select only one answer and provide your reasoning in the box below.



It is likely the warrant fee increase will need to be significant to meet the operating/development costs the various work streams being proposed by the Building Standards Division (BSD) and Local Authority Building Standards Scotland (LABSS). It is therefore essential that the building warrant fee paying customer and Ministers will see clearly where the money is being used.

The various workstream being put into place will take at least three years to establish/settle; allowing BSD the opportunity to report to Ministers and the public the values stated in the Operating and Performance Frameworks for Verifiers in Scotland are being delivered.

**Question 1.4 - Do you agree that, before any planned increases or adjustments to building warrant fees in the second and third year, progress should be reviewed against suitable criteria towards the planned outcomes?**

Yes

Not sure

No

Disagree

Strongly disagree

Please select only one answer and provide your reasoning in the box below.

The planned increases in fee income over a defined monitored period will allow the Ministers to observe where the funding is being allocated by local authorities as the different phases roll out.

A phased increase of fees will also allow the verifier to put in place three-year workforce strategy plans that are meaningful to meet targets the Futures Board's work streams expect to see delivered. The previous fee increase in 2017 provided local authorities with a significant increase in fees; that was not fully reinvested.

A phased increase in fees over three years is suspected will be more palatable to industry instead of a single huge increase; provided there is evidence of verification services improvement.

**Question 2.1 - Do you support the introduction of an enhanced fee for High Risk Building warrant applications?**

- Strongly support
- Support
- Neither
- Do not support
- Strongly do not support

Please select only one answer and provide your reasoning in the box below.

The current fee system is unable to add charges for specific additional services for more complex or major types of projects that require a more focussed assessment and inspection regime by the verifier. With the new Compliance Plan requiring a Compliance Plan Manager (CPM) being appointed for High Risk Buildings (HRBs) will undoubtedly place a bigger burden/responsibility on the verifier to resource and set aside time for pre-application assessment meetings and on-site inspections agreed with the CPM. But it is HRB failures that tend to have the most devastating impact; so it is only right that a more honed focus is given to these building at assessment stage; but also just as critical – during construction. The new Compliance Plan will also require the current Construction Compliance Notification Plans (CCNP) to be enhanced requiring defined inspection processes being adhered to otherwise enforcement procedures being implemented to ensure compliance and/or possibly completion certificates being rejected. The above will require an additional resource over and above the existing staffing complement.

**Question 3.1 - Should a portion of building warrant fees be used to fund the local authority compliance enforcement role but only as it relates to the building warrant process?**

- Yes
- No
- Unsure

Please select only one answer and provide your reasoning in the box below.

Local authority finances currently cannot afford the additional resource that is required to enforce non-compliance issued related to verification services properly. Legislation supporting enforcement also currently cumbersome and overly complicated to administer; often resulting in non-compliant issues being ignored/overlooked due to the time and effort required for not a huge or satisfying outcome.

**Question 3.2 - Should a portion of building warrant fees be used to fund the local authority building standards wider statutory role covering both building warrant compliance enforcement and dangerous and defective buildings?**

- Yes  
 No  
 Unsure

Please select only one answer and provide your reasoning in the box below.

The building warrant fee should remain a fee for obtaining a building warrant and completion certificate (verification); along with the necessary compliance assessments/inspection necessary to ensure the avoidance of complying with the regulations. However, where enforcement under Sections 25, 26 and 27 of the Act is required to provide and enhanced and consistent enforcement; Highland would support a portion of the warrant fee being used for these sections of the Act.

Enforcement under Sections 28, 29 and 30 (Defective and Dangerous Buildings), are not related to the building warrant process, and so should remain a separate funding under the Grant Aided Expenditure (GAE) procedures.

The consultation report confirms most local authority building standards/verification services are expected to fund both verification and enforcement functions from the BW fee income. Is this because the Minister is aware that GAE is not widely reinvested to Building Standards for enforcement work under Section 28, 29 and 30 of the Act?

**Question 4.1 – Should building warrant fees be set at national or local level?**

- National level  
 Local level  
 Unsure

Please select only one answer and provide your reasoning in the box below.

The biggest criticism levelled at local authorities and the verification processes in Scotland appears to be around 'inconsistencies' in interpretation of legislation. Would not opening the fee system whereby 32 local authorities would be setting their own fee structures be a nightmare for Architects or other building professionals that work in differing local authority areas; trying to remember what fee scale each LA applies when preparing to submit for building warrants?

A single national fee scale, set by the Ministers, is the preferable option. Currently fees are calculated and checked using the RICS Building Cost Information Service indices which allow for geographical variances therefore negating the need for fees to be set locally.

**Question 5.1 - Are there any proposals in this consultation which you consider impact or have implications on people with protected characteristics? Choose from the following options:**

- Yes
- No
- Unsure

Please select only one answer and provide any comments in the box below. If selecting yes, please specify which of the proposals you refer to and why you believe specific groups will be impacted.

Highland is of the view the proposed fee increases will not adversely impact people with protected characteristics.  
The current Fees and Procedure regulations permit exemptions for certain works where a disability is evident; this is fair.

**Question 5.2 - Do you think that any of the proposals in this consultation have any financial, regulatory or resource implications for you and/or your business (if applicable)? Choose from the following options:**

- Yes
- No
- Unsure

Please select only one answer and provide any comments in the boxes below. If selecting yes, please specify which of the proposals you refer to and why you believe financial, regulatory or resource implications will be impacted.

**Finance and resource implications.** The following 4 Future's Board workstream will have the biggest impact: -

The outcome of the Grenfell Inquiry and Edinburgh Schools and Borders Council building failures resulted in the the need for a new **Compliance Plan Approach**. The new compliance processes will increase notifications and the subsequent requirement for the LA verifiers to carry out more planned inspections and checks at the relevant notification stages; placing an increased responsibility on local authority verifiers to meet the new obligations.

Verifiers do not have the resource to meet the current CCNP requirements. With reports indicating that increases on resources, on average of 30%, will be needed to meet the new approach; **Workforce Strategy** planning will be accelerated to the forefront of every council's building standards service. In Highland this equates to 8 additional new posts needed to meet the expectations the new Compliance Plan Approach will demand.

The Verification Delivery Model research reported that financing the new **Building Standards Hub** will require approx. £1m per annum to administer; and that funding will be taken from local authority BW fees. How this will be proportioned between the 32 councils is still to be determined.

The **Digital Transformation** workstream will require local authorities to fund the development and change of the existing eDevelopment system; as well as investing in new/modern IT technology to fulfil with the new Compliance Plan Approach.

The private sector is already working with innovative design packages e.g., building information modelling BIM to assist with the design and construction processes that at present are only aspirational for local authority verification services.

**Question 5.3 - Do you think that any of the proposals in this consultation have any impact or implications on island communities? Choose from the following options:**

Yes

No

Unsure

Please select only one answer and provide any comments in the boxes below. If selecting yes, please specify which of the proposals you refer to and why.

The island authorities have the same resource and financial pressures mainland authorities have; but amplified due to their remoteness. Attracting and retaining qualified and experienced staff is more difficult the more remote a local authority is from more populated areas in Scotland. Highland has the same rural/remote issues.

**Question 5.4 - Do you think that any of the proposals in this consultation have any impact on the inequalities of outcome caused by socio-economic disadvantage? Choose from the following options:**

- Yes
- No
- Unsure

Please select only one answer and provide any comments in the boxes below. If selecting yes, please specify which of the proposals you refer to and why.

There are communities within Highland that are probably disadvantaged due to their remoteness from the main hubs of population e.g., Dingwall; Inverness; Fort William. However, increases in warrant fees are unlikely to impact those already disadvantaged as the increases are not likely to be disproportionate to their economic circumstances.

Please provide any further comments on the proposals set out in this consultation in the box below.

Highland Council welcomes the opportunity to respond to the building warrant fees consultation and in general is fully supportive of the proposals.

Highland is the largest geographical area in Scotland; 26,484 square kilometres, making it larger than Wales and has a population of almost 250,000. We process approx. 3000 building warrants per year, issuing 3500 to 4000 completion acceptances.

The opportunity to increase building warrant fee income is welcomed; if this results in sustaining and strengthening resources within the verification team/service to meet the Futures Board's planned new work streams e.g., Compliance Plan; Verification Delivery Model; Digital Transformation and Workforce Strategy workstreams.

The improvements the Futures Board have put into place and work streams being developed e.g., the new Compliance Plan and Verification Delivery Model will result in more efficiently constructed and compliant building processes that the customer and public will value. The Compliance Plan will deliver buildings in accordance with approved plans and building regulations with accurate site inspection recordings verifying compliance. Hopefully removing the likelihood of another Grenfell or building failures experienced in Edinburgh and the Scottish Borders.

The consolidation/permanency of the Building Standards Hub is also welcome providing a much needed professional and administrative support to verifiers by way of clearer more consistent interpretation of legislation; providing/offering professional expertise in specialisms in e.g., Fire Engineering; Energy and, Structural issues.

It is accepted and understood paying for these added value services requires additional funding.

Highland Council agrees these should be funded from the building warrant fees.