



BUILDING STANDARDS COMPLIANCE & ENFORCEMENT

CONSULTATION RESPONSE

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COMPLIANCE & ENFORCEMENT

The Scottish Government is seeking views on the development of a new Compliance Plan Manager role within the building standards system (which will apply to specific High Risk Building (HRB) types), the definition of these HRBs and the level of fines where work is not carried out in accordance with the regulations.

ABOUT THE SPF

The Scottish Property Federation (SPF) is the voice for the real estate industry in Scotland. We include among our members: property investors, including major institutional pension and life funds; developers; landlords of commercial and residential property; and professional property consultants and advisers. Our members build Scotland's workplaces, homes, shops, schools and other facilities and the infrastructure that serves them.

Response to Consultation Questions

QUESTION 1.1 DO YOU AGREE WITH THE CPM ROLE AS DETAILED IN ANNEX B ON PROJECTS FOR ALL HRBS?

SPF Response

Agree

We welcome the move to create the CPM role within building standards system. We agree that this could help to improve compliance in the proposed HRBs and should help to ensure that any issues are found and rectified early.

There are several important factors to consider ahead of the implementation. The first is that it is important that there are enough suitably qualified and experienced professionals to fulfil the role of the CPM as set out in the consultation.

Second, our members have also noted problems in the professional indemnity insurance market following the Grenfell Tower fire and it is important that this is considered during the implementation of any new regulations. High premiums and exclusions are making it difficult for some to obtain the level of insurance needed and this could impact on the role of the CPM should it be a mandatory requirement.

Third, we understand that the proposals are likely to increase the workload of verifiers with more inspection activity taking place. As noted in our response to the 2018 consultation, we welcome more planned inspections onsite. However, there is considerable concern that a lack of resourcing within local authority building control departments could mean delays to projects, which could result in a negative commercial or financial impact. This could be particularly true in areas that would see more HRB being built or altered, such as in our larger cities. It is imperative that additional resource to support verifiers is provided ahead of the implementation of the new CPM role, and that increased assurance onsite does not equate to more delays.

While the criteria set out in consultation does highlight buildings at heightened risk if compliance with building standards is not assured, the term 'Higher Risk Building' maybe more appropriate than 'High Risk Building'.

QUESTION 1.2 DO YOU AGREE THE CPM SHOULD BE INDEPENDENT OF THE CONTRACTOR?

SPF Response

Agree.

QUESTION 1.3 DO YOU AGREE THAT THE CPM ROLE NEEDS TO BE APPOINTED NO LATER THAN PRE-APPLICATION STAGE FOR ALL HRB PROJECTS?

SPF Response

Agree.

Our members have noted the value of pre-application discussions with local authority verifiers, and it would therefore be beneficial to appoint a CPM at this stage. It is important, however, that additional resources are allocated to verifiers to support discussions at this stage to avoid further delays to the building warrant process.

QUESTION 1.4 DO YOU AGREE THAT A STANDARDISED COMPETENCY FRAMEWORK FOR THE CPM ROLE SHOULD BE DEVELOPED BY PROFESSIONAL BODIES/INDUSTRY?

SPF Response

Agree.

We agree that the CPM role and responsibilities should be clearly defined and recorded. In addition, we welcome steps to engage with the industry to establish this standardised approach. Our members have highlighted required skill sets for CPMs will differ depending on the scale and complexity of each project, and the competency framework should account for this variation.

QUESTION 2.1 DO YOU AGREE DOMESTIC BUILDING OR RESIDENTIAL BUILDING WITH ANY STOREY AT A HEIGHT OF MORE THAN 11 METRES ABOVE THE GROUND SHOULD BE DEFINED AS AN HRB?

SPF Response

Agree

We agree with this proposal but would like to see greater clarification on what is defined as a domestic or residential building. For example, would a hotel or PBSA development be characterised as a HRB and be required to have a CPM? We note that there is scope for the role to apply to further building types at a later stage and believe that this approach is sensible.

QUESTION 2.2 DO YOU AGREE THAT EDUCATIONAL ESTABLISHMENTS (SCHOOLS, COLLEGES AND UNIVERSITIES), COMMUNITY/SPORT CENTRES AND NON-DOMESTIC PUBLIC BUILDINGS UNDER LOCAL AUTHORITY CONTROL/WHERE THEY HAVE AN INTEREST IN A BUILDING SHOULD BE DEFINED AS A HRB?

SPF Response

Neither Agree nor Disagree.

We agree in principle with educational establishments, community centres and non-domestic buildings, however, in relation to the last example we seek greater clarification on the words 'control' and 'interest'. For example, if a public body was to lease an office in a building that would otherwise not be classed as an HRB, then we would disagree that it should become a HRB because of the tenant.

QUESTION 2.3 DO YOU AGREE THAT HOSPITALS SHOULD BE DEFINED AS A HRB?

SPF Response

Agree.

QUESTION 2.4 DO YOU AGREE THAT RESIDENTIAL CARE BUILDINGS SHOULD BE DEFINED AS A HRB?

SPF Response

Agree.

QUESTION 2.5 DO YOU AGREE LOW-RISE VOLUME HOUSE BUILDING SITES SHOULD BE DEFINED AS A HRB?

SPF Response

Neither Agree nor Disagree

Our members generally acknowledge the benefit that CPM could bring to low-rise volume house building in terms of compliance with safety and energy regulations. This could be particularly important as we transition to net-zero buildings. However, we question the suitability of the term 'high risk' for such buildings.

QUESTION 2.6 DO YOU AGREE THAT WHERE A BUILDING THAT FALLS INTO ONE OF THE DEFINED HRB CATEGORIES EITHER BY CONVERSION OR WHERE AN EXISTING HRB IS BEING ALTERED OR EXTENDED THAT THESE BUILDING TYPES SHOULD NEED TO FOLLOW THE STRENGTHENED COMPLIANCE PLAN REGIME AND REQUIRE A COMPLIANCE PLAN MANAGER TO BE APPOINTED?

SPF Response

Neither Agree nor Disagree.

We agree with this measure for when a building would be defined as a HRB by either conversion or other alteration. With an increasing emphasis on retrofit to increase sustainability this would help to capture buildings that are being repurposed. On the alteration proposal, we would seek greater clarification on the level of work that would trigger the need for a CPM and Compliance Plan. Minor changes are commonplace, and many are unlikely to need the actions prescribed to the CPM.

QUESTION 3.1 DO YOU HAVE A VIEW ON THE INTRODUCTION OF A NEW ENFORCEMENT POWER FOR LOCAL AUTHORITIES TO TAKE ACTION ON NON-COMPLAINT WORK AFTER THE ACCEPTANCE OF THE COMPLETION CERTIFICATE?

SPF Response

First and foremost, the building standards system in Scotland should be built on a good working relationship between the development team and the local authority enforcing the building standards. The measures suggested in the consultation should help to strengthen this relationship by making the CPM the single point of contact between the wider project and verifiers. The increased rigour of site supervision should also help to mitigate against the risk of non-compliant work after acceptance of the completion certificate.

However, where there are serious failures in compliance there could be a case for fines to be increased. Not only would this act as a deterrent but this could also help to ensure that those who comply with the regulations are not disadvantaged.

QUESTION 3.2 DO YOU HAVE A VIEW ON WHAT THE LEVEL OF FINES SHOULD BE FOR NON-COMPLIANCE WITH THE BUILDING REGULATIONS?

SPF Response

The SPF is not best placed to respond to this question.

QUESTION 3.3 DO YOU HAVE A VIEW ON WHAT THE LEVEL OF FINES SHOULD BE FOR NON-COMPLIANCE IN HIGH RISK BUILDINGS?

SPF Response

The SPF is not best placed to respond to this question.

QUESTION 4.1 **EQUALITY IMPACT ASSESSMENT: ARE THERE ANY PROPOSALS IN THIS CONSULTATION WHICH YOU CONSIDER TO IMPACT OR HAVE IMPLICATIONS ON EQUALITY GROUPS?**

SPF Response

No comment.

QUESTION 4.2 **BUSINESS AND REGULATORY IMPACT ASSESSMENT (BRIA): 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)?**

SPF Response

There will inevitably be a cost associated with these changes, however, this is generally accepted in light of the greater assurance that the CPM could bring to the building standards system. The main impact on the industry is likely to be if the new regulations result in delays to the construction programme though increase inspections or check points. Building safety and customer service are not mutually exclusive and it is important that the latter does not slip in response to the increased responsibilities on verifiers. To this extent it is vital that verifiers are given additional resources and that the impact of any new regulations is monitored, and problems addressed when they occur.

Consideration should also be given to establishing a more meaningful mediation process. Currently the complaint procedure (when a building standards submission is disagreed by both parties) is too formal and slow. The proposals could potentially create more opportunities for disagreements between parties and it is important that this is considered ahead of implementation.