



Law Society
of Scotland

Consultation Response

Proposed Domestic Building Environmental Standards (Scotland) Bill

July 2022



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Property and Land Law sub-committee welcomes the opportunity to consider and respond to Alex Rowley MSP's consultation on a *Proposed Domestic Building Environmental Standards (Scotland) Bill*¹. We have the following comments to put forward for consideration.

Consultation response

Aim and approach

1. Which of the following best expresses your view of the proposed Bill? (please note that this question is compulsory)

- Do not wish to express a view

Please explain the reasons for your response.

We have no comments.

2. Do you think legislation is required, or are there other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.

We have no comments.

¹ <https://www.parliament.scot/-/media/files/legislation/proposed-members-bills/28042022-consultation-passivhaus-bill-final.pdf>

3. Which of the following best expresses your view on setting the Passivhaus standard or a Scottish equivalent as the most appropriate new build housing standards to contribute to eradicating fuel poverty?

- **Unsure**

Please explain the reasons for your response.

We have no comments.

4. Which of the following best expresses your view on setting the Passivhaus standard or a Scottish equivalent as the most appropriate new build housing standards to contribute to a reduction in emissions?

- **Unsure**

Please explain the reasons for your response.

We have no comments.

5. Which of the following best expresses your view of the process set out to ensure that the new standards are met in all new build housing? (see pages 14 to 16 above)

- **Neutral (neither support nor oppose)**

Please explain the reasons for your response, including your views on how effective the process would be in removing the ‘performance gap’ and on how the proposed verification process might work in practice.

In relation to the proposed verification process, we note the importance of ensuring consistency in the approach taken to verification. This may be more challenging to achieve if verifiers independent of the Building Control Department are undertaking the process than if the process is carried out by those connected to a Building Control Department. We therefore consider that it is most appropriate for verification to be undertaken by the relevant Building Control Department either directly and/or via contracting qualified verifiers to ensure consistency and reliability. We highlight the resource implications that this may have, both in terms of costs and also availability of suitably qualified independent verifiers.

While we consider that there are a range of different approaches which could be used by Building Control Departments to check building standards, for example as demonstrated during Covid-19 lockdowns, we recognise the benefits of carrying out on-site reviews of properties to ensure a robust verification process.

6. What could be the market effects of the introduction of this proposal?

We highlight the need for certainty and clarity in the law. In particular, there is a need for certainty and clarity for the housing development sector given that plans are made some time in advance to enable projects to be costed, planning permission obtained and other preparatory work for developments undertaken. Uncertainty or a lack of clarity as to the law in the future has the potential to have impacts on the market.

Financial implications

7. Any new law can have a financial impact that would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

- **Skip to next question**

Please explain the reasons for your answer, including whom you would expect to feel the financial impact of the proposal, and if there are any ways you think the proposal could be delivered more cost-effectively.

We have no comments.

Equalities

8. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation. What impact could this proposal have on particular people if it became law? If you do not have a view skip to next question.

Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people.

We have no comments.

Sustainability

9. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for

future generations. Do you think the proposal could impact in any of these areas? If you do not have a view then skip to next question.

Please explain the reasons for your answer, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?

We have no comments.

General

10. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

We have no further comments.

For further information, please contact:

Alison McNab

Policy Team

Law Society of Scotland

DD: 0131 476 8109

alisonmcnab@lawscot.org.uk