

Consultation on funding of The Scottish Energy Performance Certificate Register

Consultation Report

27 June 2017

Contents

1. Summary	1
Introduction	1
The Consultation proposals	1
Statistical Analysis of Consultation Responses	1
2. Detailed analysis	4
Background.....	4
Question 1 – breakdown of responses by respondent.....	5
Question 1 – summary of responses and comments	6
Question 1 – clarifications in response to comments from respondents.	7
Question 1 – Scottish Government response	7
Question 2 – breakdown of responses by respondent.....	8
Question 2 – summary of responses and comments	9
Question 2 – clarifications in response to comments from respondents.	10
Question 2 – Scottish Government response	10
Question 3 – breakdown of responses by respondent.....	10
Question 3 – Summary of comments	11
Question 3 – clarifications in response to comments from respondents.	13
Question 3 – Scottish Government response	13
3. Next Steps	14
Acknowledgement	14
Summary.....	14
Initial action	14
Future review	15

1. Summary

Introduction

1. The purpose of this consultation was to set out the current status of the Scottish Energy Performance Certificate Register (SEPCR)¹, to advise on pending action to amend the statutory fees payable on lodgement of energy performance data and to seek views on the manner in which the register is funded.

The Consultation proposals

2. The consultation proposed two changes:
 - **Annual review of lodgement fee** – Register operations will continue to be monitored on a monthly basis to identify the efficacy of the current statutory fee in meeting operational costs. Any decision to make further amendment to the statutory fee, together with supporting evidence, would be agreed by Ministers at least three months before any planned implementation.
 - **Amendment of current statutory fee** – The premise that it remains appropriate and equitable for the register to be funded by a statutory lodgement fee, resulting in the cost of maintaining the service being borne only by those individuals who use the service. Fees will be increased to £2.60 for lodgement of domestic EPC data and £12.10 for lodgement of non-domestic EPC data.
3. The aims of proposed amendment to statutory lodgement fee are: to provide resources adequate to support effective operation and maintenance of register systems from lodgement fee revenue; and to support a limited annual programme of core register development (to provide further enhancements to the register systems to improve access and use of data held on the register).
4. The Scottish Government (SG) sought comments from stakeholders and users of the Scottish Energy Performance Certificate Register on these proposals. The consultation was published on the SG Consultation Citizen Space portal and ran from 8 May 2017 to 19 June 2017. It was notified to around 600 identified organisations and individuals as well as being highlighted in the Building Standards e-newsletter which is issued to over 8,000 registered e-news recipients.

Statistical Analysis of Consultation Responses

5. Responses were received from 62 individuals and organisations, which are categorised as follows:

¹ <https://www.scottishepcregister.org.uk/>

Respondent Category	Number	Percentage of total
Individual	27	43.5%
Local Authority	5	8.1%
Commercial Organisation	8	12.9%
Designer/Consultant	6	9.7%
NDPB/Agency	0	0%
Professional Body	1	1.6%
Voluntary Organisation	0	0%
Academic Body	0	0%
Advisory Body/ Committee	0	0%
Contractor/ Developer	1	1.6%
Housing Provider/ Registered Social Landlord	0	0%
Industry Association / Manufacturer	1	1.6%
Other (Please Specify)	8	12.9%
Not specified	5	8.1%
Total	62	100%

6. There were 8 responses from organisations who identified themselves as 'other' as noted below:
 - Approved Organisation for energy assessors
 - Small independent business
 - Certification Body
 - Domestic energy assessor (2)
 - Energy Assessor
 - Business consultant and landlord
 - Not-for-profit organisation
7. Five direct responses were received by email and were not able to report the category of their organisation due to the omission of this section on the published Respondent Information Form.
8. The consultation set out two specific questions and also asked for any additional comments on proposals.

Question 1:

Do you support the continuation of the register funding approach introduced in 2012 - that the operation of the SEPCR be self-financing, supported primarily by the statutory lodgement fee levied on each lodgement of energy performance data?



Option	Total	Percentage
Yes	43	69.4%
No	17	27.4%
Not answered	2	3.2%

Q1 Comments:

48 responses also offered comments in response to this question. Comments are analysed in the next section.

Question 2:

Do you support the intent to review the lodgement fee on an annual basis to ensure that charges are set at the minimum level needed to cover operational costs?



Option	Total	Percentage
Yes	41	66.1%
No	20	32.3%
Not answered	1	1.6%

Q3 Comments:

47 responses also offered comments in response to this question. Comments are analysed in the next section.

Question 3:

Please use this section to provide any other commentary or observations you have on the current funding of the Scottish Energy Performance Certificate Register. Where practical, please provide examples or evidence to support the issues you raise.

Q3 Comments:

28 responses also offered comments in response to this question. Comments are analysed in the next section.

2. Detailed analysis

Background

9. In response to Article 7 of Directive 2002/91/EC on the Energy Performance of buildings, the production of energy performance certificates was introduced for construction of new buildings (from 1 May 2007) and sale or rental of existing buildings and display in larger public buildings (from 4 January 2009).
10. Unlike the rest of the UK, between December 2008 and September 2012, only EPCs produced for existing dwellings were lodged to a central register, with lodgement being free of charge.
11. A public consultation² was undertaken in November 2011 asking for views on the introduction of a fee for the lodgement of each energy performance certificate (EPC) to a new, expanded central electronic registry – the SEPCR. The Scottish Government response to the consultation exercise (April 2012) remains available online³. The introduction of a fee was proposed, in line with the practice of other UK administrations, to provide an income stream to support the operation and maintenance of register functions.

“Fees would only be paid by those lodging EPCs onto the database. The introduction of a lodgement fee means that only these users will contribute towards the future development and maintenance costs. It is considered that this approach is equitable. If funding were to be provided centrally by Government, the result would be that the public purse (and in effect everyone) would bear the burden”.

12. Responses to the consultation were supportive of the proposal and fees of £1.15 and £5.36 (for dwellings and non-dwellings respectively) introduced on 1 October 2012 via regulation 12 of The Energy Performance of Buildings (Scotland) Amendment (No. 2) Regulations 2012⁴. This formed part of broader work to implement the regulations and processes needed to transpose Directive 2010/31/EU on the Energy Performance of Buildings.
13. On introduction, the level of fee was set to match that already in place elsewhere in the UK since April 2008. Following review of lodgement fees in the rest of the UK in April 2013, fees in Scotland have remained lower and unchanged until now.
14. The estimated operational costs of the register predicted in the 2011 consultation proved to be relatively accurate for the initial operation of the proposed register facility – covering receipt of data for domestic and non-domestic EPCs. However, with the introduction of additional facilities and functions, it became evident that lodgement income alone was not sufficient to cover operating costs. For the past

² <http://www.gov.scot/Publications/2011/11/16154018/0>

³ <http://www.gov.scot/Resource/0039/00391756.pdf>

⁴ <http://www.legislation.gov.uk/ssi/2012/208/regulation/12/made>

three years, the shortfall between lodgement revenue and operating costs has been funded directly by the Scottish Government.

15. In responding to the original 2011 consultation, the Scottish Government provided a commitment that a review of the fee rate would be undertaken after a period of at least three years and would be notified via public consultation. This consultation addresses that commitment.

Question 1 – breakdown of responses by respondent

16. Responses to question 1 were received from 60 of the 62 respondents. These are categorised as follows.

Question 1:

Do you support the continuation of the register funding approach introduced in 2012 - that the operation of the SEPCR be self-financing, supported primarily by the statutory lodgement fee levied on each lodgement of energy performance data?

Respondent Category	Yes	%	No	%
Individual	17	28.3%	11	18.3%
Local Authority	4	6.7%	1	1.7%
Commercial Organisation	5	8.3%	3	5.0%
Designer/Consultant	6	10.0%	0	0%
NDPB/Agency	0	0%	0	0%
Professional Body	0	0%	0	0%
Voluntary Organisation	0	0%	0	0%
Academic Body	0	0%	0	0%
Advisory Body/ Committee	0	0%	0	0%
Contractor/ Developer	1	1.7%	0	0%
Housing Provider/ Registered Social Landlord	0	0%	0	0%
Industry Association / Manufacturer	1	1.7%	0	0%
Other (Please Specify)	5	8.3%	1	1.7%
Not specified	4	6.7%	1	1.7%
Total	43	71.7%	17	28.3%

Question 1 – summary of responses and comments

17. A total of **48** responses offered comments in response to this question. A significantly greater proportion of that not in favour of maintaining the current funding method provided substantive comment (13 of 17 responses) compared to those in favour (nine of 43 responses).
18. The majority of respondents (43 out of 60) were supportive of maintaining the current method of funding the register. 15 respondents who supported the proposal offered no comment whilst a further 19 respondents offered comment that reflected the rationale set out in the consultation.
19. Nine of those in favour also commented on positive action that should accompany improved resourcing of the SEPCR:
 - Two respondents asked that the change should lead to improved service from register (one cited the EPC addressing function).
 - Two respondents considered that increased fee should increase quality of output from assessors.
 - One respondent was in favour but comments indicated a clear preference for the register costs to be funded by government, citing the risk the level of increase and the capacity for assessors to recover this from clients may potentially have on the energy assessment industry.
 - One respondent emphasised that fees should cover costs and not generate a surplus; a further two consider a ‘not for profit’ approach to be important.
 - One respondent favouring the increase but noted that the Scottish Government should contribute to costs to limit the fee if disproportionate to overall assessment costs or to cover development of functions not directly related to EPC production.
 - One respondent recommended that change be set out well in advance to give as much notice as possible to minimise impact on assessors.
20. 17 respondents did not agree that the register should continue to be funded via the lodgement fee. 13 of the respondents that disagreed offered comments in support of their view beyond simple statements favouring government funding. Responses being generally more detailed than from those in favour of the current funding method. These are summarised as follows:
 - Within the majority of these responses as well as addressing the principle of funding via lodgement fee, there was also a focus on the level of change proposed and the party most impacted by this. Concern was also expressed over the lack of choice, service and accountability to deliver ‘best value’ under the current register arrangement.
 - Five respondents provided comment that supported a view that increased cost will have an adverse impact on assessors, noting in a commercial environment, it is the assessor rather than the building owner that pays the lodgement fee. This

is cited both in the context of assessors having to compete for work on price and also where existing contracts for EPC delivery mean any increase in cost cannot be passed on to the client.

- Five respondents commented that the cost should be borne by Government as the principle beneficiary of the data collected. One respondent suggested that all users of data, rather than providers of data be charged.
- Three respondents specifically highlighted the level of fee change as too high.
- Two respondents expressed a view that there was little value in EPCs; one respondent suggested the need for EPCs be reviewed given exit from the EU.
- One respondent noted that those affected have no control over this fee
- One respondent suggested that charges do not have to rise, costs should be passed on to other areas other than by a lodgement fee

Question 1 – clarifications in response to comments from respondents.

21. We would take the opportunity to respond and clarify of some comments made:

- One respondent cited a potentially 'unrecoverable cost' increase for the four largest providers of EPCs of £500,000. We would note this is not correct as it significantly exceeds the total annual increase in lodgement fee proposed.
- Several responses discussed the Scottish Government as the main 'beneficiary' of the energy performance data recorded. We would note that the primary function of central registration is to support building owners, providing access to current certificates and enabling owners to check the validity of any certificate they receive from a third party.
- Two respondents considered that increased fee should increase quality of output from assessors. This is separate from the register function. Quality assurance of assessors is funded via registration charges by Approved Organisations, not by lodgement fee, though register systems are available to support QA functions.

Question 1 – Scottish Government response

22. We note there continues to be strong support for the SEPCR to remain self-financing, supported primarily by the statutory lodgement fee levied on each lodgement of energy performance data.

23. Accordingly, we will maintain a statutory fee within the Energy Performance of Buildings (Scotland) regulations 2008 and seek to amend the current level of fee to reflect consultation proposals.

24. In amending the statutory fee we will provide a minimum of three months' notice to the users of the register.

25. However it is clear, even from respondents who favour maintaining the current funding method, that there is support for broader review and a desire for

improved service or facilities and closer management of costs to deliver best value.

26. We will therefore closely examine the range of issues highlighted in responses and explore by what means these concerns can be addressed, through review of the current register arrangement and the role and appointment of the keeper of the register. Options arising from this exercise will be discussed within the Scottish Government prior to any further change of the statutory lodgement fee.

Question 2 – breakdown of responses by respondent

27. Responses to question 2 were received from 61 of the 62 respondents. These are categorised as follows.

Question 2:

Do you support the intent to review the lodgement fee on an annual basis to ensure that charges are set at the minimum level needed to cover operational costs?

Respondent Category	Yes	%	No	%
Individual	18	29.5%	10	16.4%
Local Authority	3	4.9%	2	3.3%
Commercial Organisation	4	6.6%	4	6.6%
Designer/Consultant	5	8.2%	0	0%
NDPB/Agency	0	0%	0	0%
Professional Body	0	0%	1	1.6%
Voluntary Organisation	0	0%	0	0%
Academic Body	0	0%	0	0%
Advisory Body/ Committee	0	0%	0	0%
Contractor/ Developer	1	1.6%	0	0%
Housing Provider/ Registered Social Landlord	0	0%	0	0%
Industry Association / Manufacturer	1	1.6%	0	0%
Other (Please Specify)	5	8.2%	1	1.6%
Not specified	4	6.6%	2	3.3%
Total	41	67.2%	20	32.8%

Question 2 – summary of responses and comments

28. A total of **47** responses offered comments in response to this question. Again, a significantly greater proportion of that not in favour of annual review of fees provided substantive comment (14 of 20 responses) compared to those in favour (19 of 41 responses).
29. The majority of respondents (43 out of 60) were supportive of maintaining the current method of funding the register. 15 respondents who supported the proposal offered no comment whilst a further 19 respondents offered comment that reflected the rationale set out in the consultation.
30. 11 of those in favour also commented on positive action that should accompany any review of the statutory fee:
- Three respondents suggested that level of change should be capped – both inflation and RPI (Retail Price Index) were cited. Justification should be provided for any greater rise.
 - Two respondents asked for more transparency on costs and the functions of the SEPCR.
 - Two respondents recommended that any change be signalled as far in advance as practical; incidence of change should be kept to a minimum except where reduction in charges is identified.
 - One respondent noted that more frequent review should also reduce the level of change in fee needed.
 - One respondent recommended that regular review should support more regular maintenance and improved service.
 - One respondent suggested that review of the register business model would be more beneficial than review of fees. One respondents recommended competition/retendering to deliver best cost and quality.
31. 20 respondents did not agree with the intent to review the lodgement fee on an annual basis. 14 of the respondents that disagreed offered substantive comments in support of their view that did not relate to their position in respect of question 1 (funding model). Again, responses were generally more detailed than from those in favour of the current funding method, raising common themes. These are summarised as follows:
- Three respondents considered that annual review will impact adversely on assessor in the pricing of services and those who have long term service contracts.
 - Three respondents considered that review every three to five years should be a practical alternative within a typical business model.

- Three respondents noted that annual review does not encourage control of operating costs.
- Three respondents requested more information on the function and cost of the register on an ongoing basis.
- Two respondents noted that a yearly review is too often for building owners who have to set annual budgets in advance.
- One respondent considered that charges are already high considering the service provided by the register.
- One respondent expressed the concern that the consultation estimate of costs and income may already be underestimated.
- One respondent recommended competition/retendering to deliver best cost and quality.
- One respondent suggested that review of the fee be linked to periodic review of building warrant fees.

Question 2 – clarifications in response to comments from respondents.

32. No clarification in response to comments is identified.

Question 2 – Scottish Government response

33. In line with the commitment given in response to Question 1, we will review the operations of the register, taking the issues identified by respondents into consideration prior to any further change of the statutory fee.

34. This review will include the assertion that annual change of lodgement fee should be avoided where practical, excepting where change identifies that statutory fees should be reduced.

35. As proposed in the consultation, any future change in statutory fee will be published at least three months prior to implementation.

Question 3 – breakdown of responses by respondent

36. Further comments were received from 28 of the 62 respondents. These are categorised as follows.

Question 3:

Please use this section to provide any other commentary or observations you have on the current funding of the Scottish Energy Performance Certificate Register. Where practical, please provide examples or evidence to support the issues you raise.

Respondent Category	Number	Percentage of total
Individual	10	35.7%
Local Authority	1	3.6%
Commercial Organisation	4	14.3%
Designer/Consultant	3	10.7%
NDPB/Agency	0	0%
Professional Body	0	0%
Voluntary Organisation	0	0%
Academic Body	0	0%
Advisory Body/ Committee	0	0%
Contractor/ Developer	0	0%
Housing Provider/ Registered Social Landlord	0	0%
Industry Association / Manufacturer	1	3.6%
Other (Please Specify)	4	14.3%
Not specified	5	17.8%
Total	28	100%

Question 3 – Summary of comments

37. A total of **28** responses offered further comments in relation to the issues raised by the consultation and the SEPCR. We have sought to summarise those that can be categorised as relevant to the overall activity of energy certification as follows:

- Seven respondents asked for improved service from the register, citing the ‘missing address’ process as the main focus as well as periods of register ‘downtime’.
- Four respondents reinforced the adverse impact they consider an increase in fee will have on assessors who are either working to tight margins or tied into long term service contracts. One respondent suggested that the impact of any cost change is more significant given the majority of the public sector tenders have a 70-80% weighting on price. One respondent suggested that some experienced assessors are leaving the industry due to a lack of work. One respondent illustrated the small profit margins that some domestic assessors work to at present.

- Three respondents suggested that the validity period of an EPC be reduced to less than five years to make information more relevant. One respondent suggested a shorter period would also smooth out variation in lodgement levels.
- Two respondents noted the importance of EPC information being accurate, requiring those undertaking assessment to have technical proficiency which is not usually reflected in the cost of assessment due to lack of interest from building owners, with low costs having an adverse impact on quality of assessment.
- Two correspondents expressed the views that current assessments are of little value as they do not represent actual energy usage and that work should not be funded by public money.
- Two respondents commented that the current system of lodgement fees was understood and worked and remains a small component in the overall cost of an EPC assessment.
- Two respondents called for wider access and publication of data citing recent action in England & Wales and in Ireland.
- Two respondents considered the Scottish Government as the main user of EPC data and suggested the service should therefore be centrally funded. One respondent suggested that, given the value of this data, government should pay, rather than charge, assessors for its production.
- One respondent suggested that focus should be on review of the register function and role of keeper to deliver best value rather than on further review of fees.
- One respondent called for action to make the process of compliance as simple and affordable as possible, noting the implications of cost increases.
- One responded reinforced that fees should cover costs only and not generate surplus income.
- One respondent suggested change must be signalled much further (at least a year) in advance to assist in forward planning.
- One responded requested that any fee change be signalled at least three months in advance and aligned with month start (citing operational difficulties that arise from change within a month) and avoid change close to the end of the financial year as future budget are already set.
- One respondent was critical of the shorter period of consultation and of what they consider a growing trend to pass costs from government to industry
- One respondent suggested that lodgement fees should be levied on other 'higher value' products such as the Home Report.
- One respondent expressed the view that any further changes in cost should be small if reviewed annually.

- One respondent expressed the view that the service provided is better value than elsewhere in the UK.

Question 3 – clarifications in response to comments from respondents.

38. We would take the opportunity to respond and clarify of some comments made:

- Two respondents suggested that quality assurance processes need to be more rigorous to improve overall quality, supported by increased charges. We would clarify that QA processes implemented by Approved Organisations are funded by membership charges, not by the statutory lodgement fee.
- One respondent noted that the current EPC lodgement fees are subject to VAT but the equivalent England & Wales EPC fee is not. We would confirm that statutory fees throughout the UK are not subject to VAT. In Scotland, only lodgement charges for Section 63 Assessments (Action Plans, Display Energy certificates and Advisory Reports) are subject to VAT at the standard rate, as this charge is not a statutory fee set in regulation.
- One correspondent inferred that increased costs are used to support functions other than they are intended. We can confirm that EPC lodgement revenue is used only of the operation, maintenance and core development of the SEPCR.
- On comments suggesting users of data should be charged for access to it. The Scottish Government intends to make energy performance data available free of charge as part of our Open Data Strategy.

Question 3 – Scottish Government response

39. In line with the commitment given in response to Questions 1 & 2, we will review the operations of the register, taking the issues identified by respondents into consideration prior to any further change of the statutory fee.

3. Next Steps

Acknowledgement

40. We wish to express our appreciation to all those who responded to this consultation. We are particularly grateful for the level of commentary provided in support of your views and would note a higher than usual level of substantive input, both from those supporting and opposing proposals.

Summary

41. The level of increase in fee, albeit a small sum, was highlighted as a concern to assessors operating in a competitive and commercial market. Whilst the avoidance of any previous increase in fees makes this change more pronounced, we consider it relevant to also recognise that, in deferring introduction of fees for lodgement of EPC data until October 2012 and proposing no change in those fees until this point, a saving of approximately £1.27 M in lodgement fees⁵ has accrued to building owners in Scotland over the period December 2008 to present.

42. It is clear from responses that there remains majority support for operation of the SEPCR remain self-financing, supported primarily by the statutory lodgement fee levied on lodgement of energy performance data.

43. However, this support is qualified with a desire for review of the current register facility, its functions and procurement. This could be summarised as a wish both to limit further incidence of change and cost and to review the operation of the register before further review of fees.

Initial action

44. Immediate action following this consultation will therefore be:

- **Amend statutory fee for lodgement of energy performance data**

To amend regulation 10A of The Energy Performance of Buildings (Scotland) Regulations to increase the fee for lodgement of data to the Scottish Energy Performance Certificate register to £2.60 for domestic assessments and £12.10 for non-domestic assessments.

As amendment of fee is by statutory instrument and subject to a minimum laying period of 28 days in Parliament, excluding recess periods, a coming into force date of 1 October 2017 will be set.

⁵ Based upon the alternative of the application of lodgement fees applicable in England, Wales or Northern Ireland for the same period.

Future review

45. We recognise a range of views and concerns expressed by consultees which do not relate specifically to the consultation questions but to the broader operation of the SEPCR and the facilities which it offers. In response to these, we will undertake the following:

- **Review of the current register provision** – Within the next two years, as part of broader work in support of Scotland's Energy Efficiency Programme (SEEP), we will review the functions and operation of the SEPCR and the remit of the Keeper of the Register.
- **Future review of fees** – in reviewing the current provision of the register, we will seek a model that, as far as is practical, does not rely upon annual change of lodgement fees. We will seek to keep incidents of further change to a minimum. Excepting that where cost reporting indicates a reduction in fee is viable within the recommended review cycle, this will be actioned.
- **Publication of EPC data** – in relation to comments offered on access to energy performance data in response to question 3, we will continue to work towards publication of EPC data under the Scottish Government's Open Data Strategy as early as practical.

Building Standards Division
Scottish Government
27 June 2017