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| **Enquiry Submission Form - Annex A:** \*delete as appropriate |
| **Query on a Verification Procedural Interpretation** | **\*Yes** | **\*No** |
| **Query on a Verification Technical Interpretation**  | **\*Yes** | **\*No** |
| **Submission of an Alternative Design Approach which varies from the Technical Handbooks**  | **\*Yes** | **\*No** |

If you disagree with the technical or procedural interpretation that the Building Standards Authority is adopting in the consideration of a building warrant that you have submitted or will require to submit you may request an interpretation through Local Authority Building Standards Scotland (LABSS).

**OR**

If you disagree with an interpretation that the Building Standards Authority is adopting in the consideration of a building warrant that you have submitted or will require to submit on an alternative design approach that you are proposing which varies from the Technical Handbooks you may request an interpretation through Local Authority Building Standards Scotland (LABSS).

**This request must be submitted to the Building Standards Authority that is considering your proposal**, **preferably by email**

 \*\*Please complete this form as appropriate

|  |  |
| --- | --- |
| **Name** |  |
| **email address** |  |
| **Case/Site Address** |  |
| **Date** |  |

**Please explain the interpretation that you are querying and what you consider the decision should be.**

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**Thank you.**

**You will receive an acknowledgement of receipt from your Local Building Standards Authority with contact details.**

**The procedure that will now be followed is as detailed here in the CONSULTATION / DETERMINATION PROCESS FOR DISPUTE RESOLUTION AND FOR TECHNICAL OR PROCEDURAL INTERPRETATION OR FOR ALTERNATIVE DESIGN APPROACH ENQUIRIES**

**EXPLANATORY NOTES:**

**The Scottish Government Building Standards Division (BSD) supports the adoption of the Local Authorities Building Standards Scotland (LABSS) Dispute Resolution Process and requests that all applicants use it when they consider it necessary.**

1. At any time during the verification process**(a),** the applicant / developer / relevant person may dispute the procedures adopted by the local authority, on a matter of:
* a technical or procedural interpretation, or
* a determination by the local authority on a proposal for an alternative design proposal which is contrary to the Technical Handbooks.

by completing Form Annex A attached hereto**(b)**

NOTES:

1. It is confirmed that this process is intended to address areas of interpretation and determination which arise both before a warrant has been approved and before a completion certificate has been accepted.
2. When the issue being raised is a procedural interpretation, it is **not appropriate** to submit a direct request to the BSD for a Ministerial View**.** The process for a Ministerial View is as prescribed under Regulation 20 of The Building (Procedure) (Scotland) Regulations 2004
3. When the issue being raised is for an alternative means of compliance, particularly where it involves Section 2 (but not exclusively Section 2), it is at the building standards managers’ discretion, against whom the dispute is being raised, whether to accept the enquiry through this process or to consider that it be dealt with more appropriately by a direct request to the BSD for a Ministerial View**.** The process for a Ministerial View is as prescribed under Regulation 20 of The Building (Procedure) (Scotland) Regulations 2004

**NOTE: When a Ministerial View is sought the DRP stops until such time as a decision is made on the View. Thereafter, the DRP can be determined having due regard to the View decision.**

1. For issues involving proposals other than associated with a STAS or RD application, upon receipt, the dispute is referred to the local authority’s most senior building standards practitioner for a local authority determination. Depending on the complexity or type of dispute, the local authority may consult with the Building Standards Division of the Scottish Government (BSD), generally on matters referring to a Technical, Procedural or Alternative Approach Dispute.

**NOTE: see Section 1(b) above in respect of Procedural Disputes which are NOT covered by the View Process.**

When a dispute involving proposals associated with a STAS or RD application is received, the dispute is referred to the 7 Consortia Groups for a LABSS determination – see Notes 6 – 8 below. Depending on the complexity or type of dispute, the LABSS may consult with the Building Standards Division of the Scottish Government (BSD).

1. If the applicant remains dissatisfied with the determination by the Originating Authority, the dispute is then escalated to the Local Consortium Group. For example, if the development is in Edinburgh, the views of Scottish Borders, Fife, Midlothian, East Lothian and West Lothian Councils are sought. It is expected that responses shall be provided within 10 working days.
2. Where the Originating Authority’s determination is **supported** by the Local Consortium Group the dispute resolution case will be closed.

“**Supported**” in this case means that there must be a majority agreement with the Originating Authority position of ALL Consortium Members within the local consortium group. This can mean that the Originating Authority alters their position having heard the views of their local Consortium partners. Where it is not possible to reach a majority view at this stage the case is escalated to Note 6 of this process (see below).

NOTE: **Originating Authority** means the local authority against whom the dispute was lodged.

In all cases the decision will be advised:

* to the applicant,
* to LABSS,
* to the BSD, and

all local authorities in Scotland to aid consistency in interpretation.

1. At this stage, should the applicant be dissatisfied with the local consortia decision, they may request that the Originating Authority contact the BSD to clarify the intent of the Standards when dealing with a Technical matter or the intent of guidance when dealing with a Procedural matter.
2. Where there is disagreement, i.e. the Originating Authority determination is not supported within the Local Consortium, the case is then referred to all local authorities through their Regional Consortium Groups by the Consortia Technical Rep. It is expected that responses shall be provided within 20 working days.

NOTE: The Originating Authority gathers the views from the Consortia Groups but, thereafter, passes the case to the LABSS Consortia Technical Working Group\* (CTWG) who will analyse the feedback and establish an interpretation within 10 working days. The BSD (and the Scottish Fire and Rescue Service (SFRS as well as other consultees deemed relevant to the case)) will also be consulted if thought necessary.

1. \*NOTE: Where the issue is other than a technical matter the case will be passed to the LABSS Management Board for consideration and final determination.
2. NOTE: In analysing the feedback and establishing an interpretation, the CTWG (or the LABSS Management Team in appropriate circumstances – non-technical) will have due regard to the unanimous or the majority views of the Consortia Groups who responded to the consultation. In this instance a determination can be made on the basis of a majority view rather than a unanimous view from the 7 Consortia Groups.
3. In either event, the LABSS determination will close the case and the applicant will be so advised. Should the applicant be dissatisfied with the LABSS decision, they may request that LABSS contact the BSD to clarify the intent of the Standards when dealing with a Technical matter or the intent of guidance when dealing with a Procedural matter.
4. In all cases the decision will be passed to all local authorities to aid consistency in interpretation. The BSD is informed of all LABSS interpretations. In relaying the final decision, and the reasons behind it, to all verifiers and members the LABSS Technical Director shall arrange for the full Annex B form (Stages 1 to 5 - see below) to be published on LABSS website members area with a copy also supplied to the BSD.
5. In relaying the final decision, and the reasons behind it, the Originating Authority against whom the dispute was raised shall arrange for a partial Annex B form only (Stages 3,4 and 5 - see below) to be passed to the applicant / developer / relevant person to confirm the decision.
6. The LABSS Technical Director can be contacted at any time during the process to assist in the administration of it.

**FOOTNOTE A: It should be noted that, after following this process, if a warrant is refused by a verifier, the right of appeal is to the Sheriff Court as with any “normal process”.**

**FOOTNOTE B: If at any time in the process a complaint is lodged through the local authority’s formal complaints procedure, then the local authority formal process takes precedence over the LABSS Dispute Resolution process which is terminated. However, a local authority may still seek the views of its peers to establish support for its position.**

**FOOTNOTE C: When the applicant chooses to request a statement of the BSD position, this may comprise an opinion (not necessarily in writing) or a written opinion but where a formal Ministerial View is sought, the process is as prescribed under Regulation 20 of The Building (Procedure) (Scotland) Regulations 2004 – the View process does NOT cover any dispute referring to a Procedural Interpretation.**

*PLEASE NOTE THE NEED FOR FULL SUPPORTING INFORMATION FOR USE BY CONSULTEES WHEN ANY DISCUSSION OF THE CASE SPECIFICS IS BEING UNDERTAKEN*