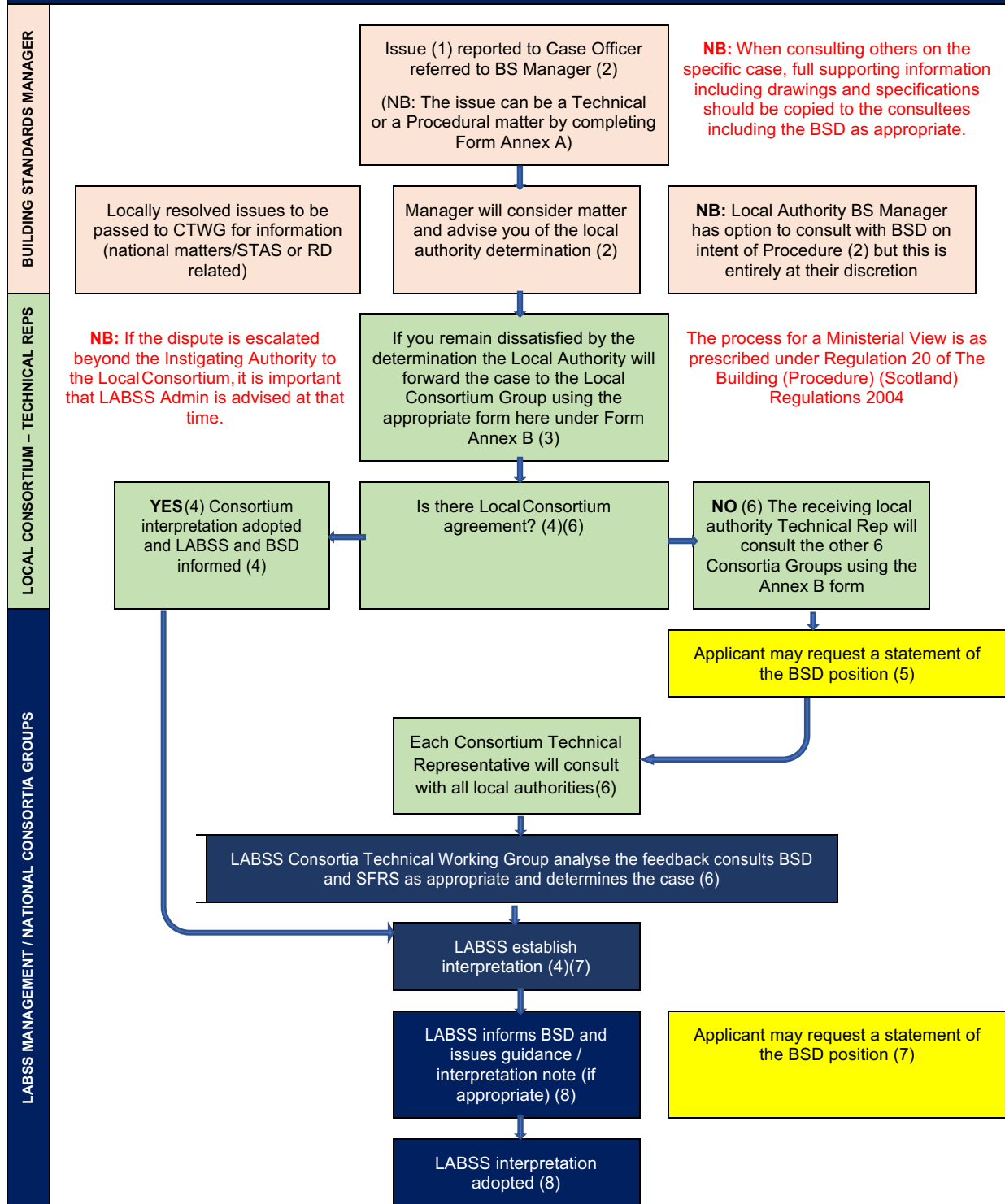


CONSULTATION / DETERMINATION PROCESS FOR DISPUTE RESOLUTION AND FOR TECHNICAL OR PROCEDURAL INTERPRETATION OR FOR ALTERNATIVE DESIGN APPROACH ENQUIRIES (including in association with STAS submissions)



Actions by Local Authority Building Standards Manager

Action by Local Authority in association with the Local Consortium

Action by LABSS Management / Consortia Groups / Consortia Technical Working Group

Action by Applicant

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 ^(b) proposal which is contrary to the Technical Handbooks.by completing Form Annex A attached hereto

- a) 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.
- b) When the issue being raised is for an alternative means of compliance, particularly where it involves Section 2 (but not exclusively this section), it is at the receiving authorities building standards managers' discretion whether to accept the enquiry through this process or to consider it to 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

2. 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).

For issues involving proposals associated with a STAS or RD application, upon receipt, 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).

3. If the applicant remains dissatisfied with the local authority determination, the dispute is then escalated by the receiving local authority 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.
4. Where the receiving local authority 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 unanimous agreement of ALL Consortium Members within the local consortium group with the receiving authority position. This can mean that the receiving authority alters their position having heard the views of their local Consortium partners (to reach a local consortium unanimous view). Where it is not possible to reach a unanimous view at this stage the case is escalated to Note 6 of this process (see below).

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.

5. At this stage the applicant may request that the local authority request a statement of the BSD position.
6. Where there is disagreement (i.e. the local 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.
 - I. NOTE: The receiving 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.
 - II. *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.
 - III. 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.
7. In either event, the LABSS determination will close the case and the applicant will be so advised. At this stage the applicant may request that LABSS request a statement of the BSD position.
8. 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.

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

FOOTNOTE B: If at any time in the process you lodge a complaint through the local authority’s formal complaints procedure, then this process takes precedence. The LABSS Dispute Resolution process is terminated.

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

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

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 through Local Authority Building Standards Scotland (LABSS) an interpretation.

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 through Local Authority Building Standards Scotland (LABSS) an interpretation.

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

**Please complete this form as appropriate

Name	
email address	
Date	

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

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 that detailed here in the CONSULTATION / DETERMINATION PROCESS FOR DISPUTE RESOLUTION AND FOR TECHNICAL OR PROCEDURAL INTERPRETATION OR FOR ALTERNATIVE DESIGN APPROACH ENQUIRIES



Consultation Form - Annex B * Complete as appropriate

CONSULTATION / DETERMINATION PROCESS FOR DISPUTE RESOLUTION AND FOR TECHNICAL OR PROCEDURAL INTERPRETATION OR FOR ALTERNATIVE DESIGN APPROACH ENQUIRIES (including in association with STAS submissions)

CONSULTATION PROCESS FOR USE WITH LABSS CONSORTIA GROUPS; LABSS CTWG; BSD TECHNICAL and PROCEDURAL GROUP AND WITH SFRS (IF APPROPRIATE)

STAGE 1: MAKING THE CASE

Regulation 9 Provisions on which a determination is sought including the relevant Guidance Clause as appropriate	Describe the applicant / developer / relevant person case	Verifiers Position *alternative compliance recommendations read with site specific conditions where appropriate
*This area to be completed by the receiving Local Authority	*This area to be completed by the Local Authority in association with the applicant / developer / relevant person having due regard to Form Annex A	*This area to be completed by the receiving Local Authority

<p>TYPICAL EXAMPLE OF A PREVIOUS CASE</p>		
<p>Regulation 9 Provisions on which a determination is sought including the relevant Guidance Clause as appropriate</p>	<p>Describe the applicant / developer / relevant person case</p>	<p>Verifiers Position *alternative compliance recommendations read with site specific conditions where appropriate</p>
<p>Technical Standard 4.2</p> <p>Access within buildings Every building must be designed and constructed in such a way that:</p> <p>a. in non-domestic buildings, safe, unassisted and convenient means of access is provided throughout the building</p> <p>4.2.10 Fixed counter installations at service points Fixed counter installations such as a reception desk or a serving counter in a bar or restaurant should be accessible to a person who is standing, regardless of stature, or seated in a wheelchair.</p> <p>To allow this, surfaces should be provided at two levels. For standing users, this should be within a range of 950mm to 1.1m in height. For seated users, this should be 750mm above floor level, with a knee recess below of at least 500mm deep and at least 700mm high and a clear manoeuvring space in front of the surface of at least 1.2m deep. The knee recess is particularly important where activities such as writing may take place, such as at a bank counter. Where depth of the surface will permit, the knee recess should be provided to both sides of the counter.</p> <p>Where only one such counter is proposed a portion of the surface, not less than 900mm wide or, where practical in larger installations, 1.5m wide, should be installed at lower height. Where a number of similar counters are proposed, at least one counter should be installed at the lower height.</p>	<p>Alternative counter design proposal based on BS 8300:2001 So as to satisfy the relevant guidance clause, 4.2.10, it is proposed to utilise a counter design, that adopts the design guidance provide by the relevant clauses of BS 8300: 2001, as follows:</p> <p>Accessible Counter height -750mm</p> <p>Reason for Decision Guidance given in BS 8300 indicates that a height of 750mm is within the reach range of both wheelchair users and standing people. Reference can be made to Annexe F, Table F.2, Table F.3, clause 4.4.4.3 and Figure 5 and Figure 20. Table F.2 indicates that a counter height of 750mm will enable a wheelchair user to access service from the side where the extended reach range does not exceed 310mm.</p>	<p>The site-specific characteristics shall be assessed by the verifier and approval granted only if the location of the till pod does not prevent access by a person in a wheelchair when using the service point side-on.</p>



STAGE 2: CONSULTATION WITH LOCAL CONSORTIUM (OR WITH 7 CONSORTIA GROUPS IF NEEDED)

(Comments sought from Other Consortium to allow the LABSS Position to be determined)

*This area to be completed by each Consortium Lead / Technical Lead (include all comments from other consortia)

Group 1: Southwest Scotland Building Standards Consortium (SWSBSC)	
Group 2: Highlands and Islands consortium (H&IC)	
Group 3: Southeast Scotland Building Standards Consortium (SESBSC)	
Group 4: Tayside consortium (TC)	
Group 5: Clyde Valley consortium (CVC)	
Group 6: Central Authorities consortium (CAC)	
Group 7: Grampian consortium (GC)	



STAGE 3: LABSS POSITION FOLOWING CONSULTATION WITH 7 CONSORTIA

*This area to be completed by LABSS Management / CTWG

LABSS Position following Feedback

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STAGE 4: CONSULTATION REVIEW WITH BSD and SFRS

Comments sought from BSD Technical/Procedural group

*This area to be completed by LABSS in association with BSD

Comments sought from SFRS or other relevant consultees (if appropriate)

This area to be completed by LABSS in association with SFRS

STAGE 5: CONSULTATION REVIEW FINAL DECISION

Final Decision

This area to be completed by LABSS in association with BSD

This will be confirmed:

- by LABSS and added to the LABSS Website, and
- by BSD Standard Decision Letter (if appropriate)