

# Proposed Domestic Building Environmental Standards (Scotland) Bill

## Introduction

A proposal for a Bill to introduce new minimum environmental design standards for all new-build housing to meet the Passivhaus standard or a Scottish equivalent in order to improve energy efficiency and thermal performance.

The consultation runs from 4 May 2022 to 27 July 2022

All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document.

Questions marked with an asterisk (\*) require an answer.

All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response.

Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded.

Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here:

[Consultation Document](#)

[Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice which explains how my personal data will be used.

## About you

Please choose whether you are responding as an individual or on behalf of an organisation.

Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Professional with experience in a relevant subject

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

**Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation**

Chartered architect

Please select the category which best describes your organisation

*No Response*

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your Full Name or the name of your organisation. (Only give the name of your organisation if you are submitting a response on its behalf).

(Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Peter Drummond

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number.

We will not publish these details.

**Aim and approach - Note: All answers to the questions in this section may be published (unless your response is "not for publication").**

Q1. Which of the following best expresses your view of the proposed Bill? Please note that this question is compulsory.

Fully opposed

**Please explain the reasons for your response.**

The incorporation of a proprietary standard or system in legislation or associated regulatory instruments is inappropriate: the Scottish Government has no control over how that standard is prepared and implemented, nor do Passivehaus standards go through the same degree of public sector scrutiny as - for example - changes to the Building Regulations or Technical Handbooks. If the Scottish Government wishes to improve thermal performance and energy efficiency strategies in new dwellings then there exist sufficient mechanisms within the current Handbooks to permit this to be done in a recognised, transparent way under the direction of Ministers rather than an external third party.

Q2. 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.

The aims could be achieved through revision to the thermal insulation and energy efficiency mechanisms already set out in the Building Regulations and Technical Handbooks.

Q3. 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?

Neutral (neither support nor oppose)

**Please explain the reasons for your response.**

The term "Scottish equivalent" prejudices an outcome: it may be that there are aspects of Passivhaus that are not suitable for Scotland and would therefore not translate into the existing regulatory framework. A more detailed expert assessment is required (as happened, for example, in respect of the recent ban on the most flammable forms of cladding) before such terminology can be used with any confidence. A more appropriate wording to this question would have been "improved Scottish performance criteria" or similar. Setting that to one side, however, the paper does not present any substantive evidence that this would have such an impact when many of those living in fuel poverty live in existing properties. A more expedient approach to retrofit, including grant support, would have a greater impact.

Q4. 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?

Neutral (neither support nor oppose)

**Please explain the reasons for your response.**

The term "Scottish equivalent" prejudices an outcome: it may be that there are aspects of Passivhaus that are not suitable for Scotland and would therefore not translate into the existing regulatory framework. A more detailed expert assessment is required (as happened, for example, in respect of the recent ban on the most flammable forms of cladding) before such terminology can be used with any confidence. A more appropriate wording to this question would have been "improved Scottish performance criteria" or similar. Setting that to one side, however, the paper does not present any substantive evidence that this would have such an impact given that the majority of such emissions arise from existing building stock with poor standards of insulation. Better value for money would be achieved by targeting retrofit of 20th Century properties which form the bulk of our domestic housing stock.

Q5. 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 in the consultation document)

Fully opposed

**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.**

The proposal as currently set out does not adequately address the implications of adoption of a third party standard within the Scottish regulatory framework: it is simplistic and fails to take account of capacity at local authority level or likely cost impact across the sector.

Q6. What could be the market effects of the introduction of this proposal?

The adoption of a proprietary third party standard - or the direct translation of that into the Technical Handbooks - will, in my view, act to discourage or restrict other solutions within the marketplace. It will drive up costs at a time of tender inflation. It will also require very significant investment by designers and contractors to upskill to the required level in a way which would, in all fairness, require a significant lead-in period together with training support.

## Financial Implications

Q7. Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

a significant increase in costs

**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.**

Passivehaus requires a significant change in both design approach and construction techniques on site, which in turn carry a cost implication. These are not reflected in the claims set out in the paper presented in support of the Bill. In contrast evolution and improvement of the current requirements is likely to be more cost effective as it builds on systems already in place.

## Equalities

Q8. 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.

*No Response*

## Sustainability

Q9. 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?

I think this is one of a number of ways to achieve these aims however this question does not merit a binary response: the same outcomes could be achieved in other, more suitable ways.

## General

Q10. 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)?

*No Response*