GUIDELINES ON FEES TO BE CHARGED FOR FUNCTIONS UNDERTAKEN BY BUILDING STANDARDS DIVISION ON BEHALF OF SCOTTISH MINISTERS (V 3.0)

Background

1. These guidelines have been issued to explain the principles on which the Scottish Government Building Standards Division (BSD) will charge fees for certain services and activities undertaken on behalf of Scottish Ministers.

2. Most of the activities of BSD are funded directly out of public money and are concerned with:
   (a) securing the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings,
   (b) furthering the conservation of fuel and power, and
   (c) furthering the achievement of sustainable development.

   This includes:
   - the production of guidance on how to comply with requirements of the Building Regulations,
   - the provision of informal advice by telephone,
   - the appointment and monitoring of verifiers who operate the system at a local level.

   There will be no fees charged for any of these functions.

3. However there are a number of activities undertaken by BSD which are more specifically done for the benefit of organisations, businesses or individuals and which should therefore be paid for by those who are directly involved. These include the reference of particular issues to Scottish Ministers for a view, and the appointment and auditing of certifiers.

4. The power to charge comes from section 38 of the Building (Scotland) Act 2003. Regulation 7 of the Building (Fees) (Scotland) Regulations 2004 requires Scottish Ministers in determining any fee to be paid to have regard to any guidance issued by them. This is the guidance on which such determinations will be made.

Basis of Fees

5. In calculating the fees which should be charged BSD is not attempting to make a profit or to gain any financial advantage. The principle behind each fee is simply the recovery of the cost of that activity. Therefore most fees are calculated on a daily rate based on an estimate of the amount of staff time which will need to be expended in the activity. For this purpose the daily rate of an BSD staff member of sufficient seniority to be able to undertake such chargeable activity is set at £450.

Views

6. A fee will be charged when referral to Scottish Ministers is made for a view (as set out in section 12(2) of the 2003 Act). The fee should come from the warrant fee to reflect the reduction in work done by the verifier. **Charging of this fee has been deferred – see paragraph 10.**

7. Where Ministers agree to give a view, a fee should be paid to cover the cost of the work undertaken by BSD. Both the warrant applicant and the verifier will be provided with a statement of the fee before work begins.
8. The fee is based on the daily rate. It is expected that the average query will take half a day to deal with and will therefore be charged at £225. There will be special rates where the warrant fee is particularly low, as the fee for a view cannot use up most (or even all) of the warrant fee. There will also need to be free “views” where the warrant fee is so low that processing payment for views would not be cost effective. Where there a number of linked views on the same project then these will be considered as one for the purposes of considering a fee and not charged for separately. Therefore the scale of fees is as set out in the table below:

<table>
<thead>
<tr>
<th>Value of works</th>
<th>Warrant fee</th>
<th>Cost of view</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to £100,000</td>
<td>Up to £880</td>
<td>Free</td>
</tr>
<tr>
<td>£100,001 - £400,000</td>
<td>£980 - £2380</td>
<td>10% of warrant fee (i.e. £98 - £238)</td>
</tr>
<tr>
<td>Over £400,000</td>
<td>£2480 and over</td>
<td>£225 per half day</td>
</tr>
</tbody>
</table>

9. The fee will become due once the view has been provided.

10. As stated in paragraph 6, no fee will be charged in connection with the production of a view on compliance with building regulations from 1 January 2010 with a review by the end of 2013.

Certification

11. Certification is the statement by a qualified and competent person that what they are proposing to do, or have done, satisfies the expanded functional standards. People may be appointed as certifiers of either Design or Construction and their appointments may be direct under section 7(1) of the Building (Scotland) Act 2003, or because of their membership of a scheme approved under section 7(2). The competence of individuals to be directly appointed and of organisations to run certification schemes, to become Certification Scheme Providers (SP), will be assessed by BSD. Once appointed then audits are required to ensure that standards are maintained.

12. In all cases of appointments and audits, a fee should be paid to cover the cost of the work undertaken by BSD. The direct applicant or the SP will be provided with a statement of the fee before work begins. The fee is based on the daily rate. These fees have currently been deferred – see paragraph 17.

13. It is recognised that many organisations and individuals need to explore with BSD the possibility of their becoming certifiers or certification scheme providers and that in many cases such exploratory discussions do not lead to a formal application. Even where an application is made there is normally a process of revision and amendment which is conducted with the assistance of BSD staff. In some instances this leads to the initial application being dropped or significantly postponed. There is no intention to charge any fee for such discussions. Therefore the fees for considering an application for appointment will only become payable when a formal application is made after the initial discussions and this application is referred to the internal review panel for assessment.

14. The fee for formally evaluating an appointment will depend on the complexity of the application and will be based both on the work already done in the initial discussions and the work which will be needed to be done by the review panel. Therefore the fee will vary with each application. However it is possible on the basis of applications made over the two years to estimate that in the case of a direct appointment the time taken might be approximately 8 days (therefore a fee of £3,600) and in the case of certification scheme providers the time might be 16 days (therefore a fee of £7,200).
15. Most certification schemes will require modification and amendment over time and it is not intended to make any charges for assisting in this necessary work, unless it amounts to an entirely new scheme.

16. In the interests of ensuring that each directly appointed certifier and SP continues to exercise their functions properly their appointment will be for a limited period and subject to regular audit. It is also possible that emergency audits may have to be conducted if there is reason to believe there are significant failings. On the basis of the first two audits conducted of SPs it is estimated that this might amount to twelve days work by BSD staff and a further three days by the outside assessor (therefore a fee of £6,750).

17. As stated in paragraph 12, no fees in connection with certification activities undertaken by BSD will be charged from 1 January 2010 with a review by the end of 2013.

Relaxations

18. There will be no fees by BSD for considering applications for a direction to relax the Regulations under section 3 of the Building (Scotland) Act 2003. It is accepted that relaxations are a necessary part of the building standards system and that it is not reasonable to impose a charge where the relaxation serves to confirm that a Building Regulation should not apply.

Other Activities

19. Where requests are made of BSD that they should undertake other work which is to the benefit of an individual or organisation rather than to the general public good. Then fees may also be charged. Where this happens they will be calculated at the normal daily rate.

Building Standards Division
December 2011

VERSION CONTROL

This document is version 3.0 – December 2011
This document replaces version 2.0 – January 2010 and version 1.0 – May 2006

Changes in version 3.0:
- Revised guidance recognises the deferring of fees for views and certification activities until at least the end of 2013.

Changes in version 2.0:
- References to SBSA updated to Building Standards Division (BSD)
- Revised guidance recognises the deferring of fees for views and certification activities until at least the end of 2011.