



**Consumer Focus Scotland's response to the  
Scottish Government Building Standards Division  
Consultations on: Section 63: Energy Performance  
of Non-Domestic Buildings; and Energy  
Performance of Building Directive – Recast**

**January 2012**

# About Consumer Focus Scotland

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Consumer Focus Scotland is the independent consumer champion for Scotland. We are rooted in over 30 years of work promoting the interests of consumers, particularly those who experience disadvantage in society.

Part of Consumer Focus, our structure reflects the devolved nature of the UK. Consumer Focus Scotland works on issues that affect consumers in Scotland, while at the same time feeding into and drawing on work done at a GB, UK and European level.

We work to secure a fair deal for consumers in different aspects of their lives by promoting fairer markets, greater value for money, improved customer service and more responsive public services. We represent consumers of all kinds: tenants, householders, patients, parents, energy users, solicitors' clients, postal service users or shoppers.

We aim to influence change and shape policy to reflect the needs of consumers. We do this in an informed way based on the evidence we gather through research and our unique knowledge of consumer issues.

# Scottish Government Building Standards Division Consultations on: Section 63: Energy Performance of Non-Domestic Buildings; and Energy Performance of Building Directive – Recast

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## Consumer Focus Scotland Response to the consultation

### Introduction

1. Consumer Focus Scotland (CFS) welcomes this opportunity to contribute our views on the Scottish Government's Building Standards Division consultations. While the more technical aspects of the consultation questions are outwith our area of expertise, we recognise the critical importance for consumers of both:
  - Seeing energy efficiency actions being taken and promoted in private and public sector buildings, so that Scottish Government messages on energy efficiency are reinforced by common practice; and
  - Ensuring that Energy Performance Certificates (EPCs) provide robust information which enables consumers to make appropriate decisions about energy management in their homes.
2. The style and content of information presented in EPCs, in particular, will be critical to the success of the forthcoming Green Deal, as discussed in our response to the UK Government's consultation on the Green Deal and Energy Company Obligation<sup>1</sup>.
3. Accordingly, we concentrate below on the questions from both consultations which are most relevant to consumer interests.

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<sup>1</sup> Consultation response available at  
[www.consumerfocus.org.uk/scotland/publications/responses](http://www.consumerfocus.org.uk/scotland/publications/responses)

## Response to the Consultation on Section 63: Energy Performance of Non-Domestic Buildings

4. There is strong evidence that consumers' behaviours, in terms of aspects including energy efficiency, are influenced by the actions of others around them<sup>2</sup>. Positive actions will reinforce messages relating to the cost and environmental benefits of such actions, but, conversely, there is a risk that messages can be undermined, especially where public or private sector organisations giving or endorsing such messages are seen not to implement actions themselves.
5. The performance of buildings accessed by the public in particular is open to scrutiny in this respect. We therefore welcome the overall aim of the consultation proposals which will, if successful, improve the energy performance of these buildings over time by ensuring that action plans are put in place to install cost effective energy efficiency measures. This should help reinforce to consumers the benefits of taking action in their own homes, particularly if the measures being taken are publicised to users of the buildings.
6. The detailed questions raised in the consultation are, in some cases, not directly relevant to consumers. We therefore present below some limited comments linked to specific questions, rather than responding to all of those raised in the consultation.
7. The proposals (question 1) are that a more rigorous energy assessment process for non-domestic buildings is combined with the current EPC methodology. This mirrors the approach taken for domestic buildings under the UK Government's Green Deal, and we agree that this is a sensible approach.
8. We agree that buildings (question 2) in which a Green Deal package is being implemented should, in principle, be exempt from regulation for minimum standards. Our only reservation is that the Green Deal proposals must be taken up at least to the level which would otherwise be required – the proposed approach could be undermined if this were not the case.
9. We also agree that buildings built to recent standards should be exempt from the new approach (question 3), as these buildings will have been constructed to higher standards.
10. We also note with interest (question 4) that the proposed triggers for the assessment include the point of sale, rental or re-lease. This is an approach which Consumer Focus Scotland has explored recently in connection with the domestic sector<sup>3</sup>, and we agree that it appropriate to take a similar approach in the non-domestic sector. One possible reservation is that, where a building is re-let to an existing tenant, energy efficiency work could involve significant disruption; on the other hand, where buildings are re-let on a number of occasions, improvements could be delayed for long periods. A flexible approach could be beneficial in these circumstances.

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<sup>2</sup> See, for example, I will if you will, Sustainable Development Commission / National Consumer Council, 2007

<sup>3</sup> Report available at [www.consumerfocus.org.uk/scotland/publications/energy-efficiency-in-private-sector-housing-in-scotland-regulation-and-the-consumer-interest](http://www.consumerfocus.org.uk/scotland/publications/energy-efficiency-in-private-sector-housing-in-scotland-regulation-and-the-consumer-interest)

11. Question 7a explores the need for assessment in circumstances where a building already has an EPC which pre-dates the proposed new assessment process. We would suggest that, in the spirit of question 4, the point of sale or rental would be an appropriate trigger for re-assessment, since the existing EPC will not identify cost-optimal measures available under the Green Deal.
12. Linked to the above, question 7b asks about the current 10-year validity period of an EPC. We believe that 10 years is too long, given the changes in both energy prices and in the range and cost of available energy efficiency measures which have taken place over the last decade, and also taking into account that the Reduced Data Standard Assessment Procedure (RdSAP) is revised annually. Consumer Focus suggests that, as a general approach, an EPC should remain valid for 12 months to take account of such changes.
13. Question 12 looks at the possible role of local authorities in terms of enforcement of the proposed approach, and we agree that they are well placed to deliver that service, assuming that appropriate resources are available.
14. We also agree with the discussion around this question that enforcement should be a last resort; one advantage of tying the assessment and improvement process to the point of sale or rental is that these are commercial transactions, and professionals involved should have a vested interest in ensuring that their clients are compliant with all appropriate regulations. This in turn emphasises the need for Building Standards Division staff to publicise and promote new regulations when introduced, so that the professionals involved are aware of their responsibilities.

## Detailed Response to the Consultation on Energy Performance of Building Directive – Recast

15. In the context of the Green Deal, and of promoting energy efficiency measures more widely, there is a critical role for EPCs in providing clear and useful information for consumers. Our colleagues in Consumer Focus have undertaken work to explore the views of consumers on what would make EPCs most useful to them<sup>4</sup>, and our comments below draw upon those findings, together with our own experience in energy efficiency programmes.
16. As above, we concentrate on those questions which are most directly relevant to consumers.
17. Question 1 asks for views on whether, in addition to the extension of RdSAP, there should be the option to use a full Standard Assessment Procedure (SAP) to prepare EPCs. It is critical that the information provided to consumers via the EPC is as accurate as possible, as this information will be used by consumers to inform actions which, in many cases, will have substantial costs.
18. Specific concerns which have been raised in the past about the limitations of RdSAP include, among others, the lack of consideration of climate (which would tend to underestimate both energy costs and savings in Scotland) and the inability of RdSAP to properly assess different types of Scottish solid wall construction or to take account of different types of microgeneration.
19. To reduce the risks to consumers, it would seem most efficient to ensure that RdSAP is revised to address stakeholder concerns, while retaining the option of using a full SAP assessment only in exceptional circumstances. It would also be helpful for the RdSAP report to clearly indicate those areas which would be covered in more detail in a full SAP, and whether those would be relevant to the particular building in question.
20. Questions 2 and 8 consider the presentation of information on EPCs. Both Consumer Focus research, noted above, and our own experience clearly shows that consumers like and understand the A-G coloured diagram, but are much more concerned about energy costs and savings from specific measures than they are about measurements of energy or environmental impact. In addition, up-front information on the EPC should include contact details for the Scottish Government energy efficiency helpline, so consumers can easily link recommendations with steps towards installing measures.
21. Question 3 suggests that current exemptions from EPCs should be limited, as at present, to temporary or small non-domestic buildings. Following our introductory comments, we agree that exemptions should be limited, so that similar approaches apply to most buildings, and consumers can therefore see consistent approaches being implemented.
22. Question 4 explores the requirement for energy efficiency measures to be put in place at the same time as major building renovation works are undertaken. We agree with the proposed approach that 'major renovation' should be defined in financial terms as this is likely to avoid disproportionate requirements on consumers.
23. Question 6 proposes that EPCs will continue to offer cost effective energy efficiency recommendations. We understand that Green Deal proposals will

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<sup>4</sup> Available at <http://www.consumerfocus.org.uk/news/energy-performance-certificates-should-make-it-clear-that-energy-efficiency-pays-says-consumer-focus>

mean that this approach will be taken as part of the assessment process; however, we would highlight that the extent to which measures are 'cost effective' depend on the timescale over which the assessment is made, and prevailing energy prices.

24. These issues, in turn, impact on question 7, which looks at the time over which EPCs should remain valid. As stated in the Section 63 consultation, our view is that the current period of 10 years is far too long, given that prices of both energy and of energy efficiency measures can be expected to change significantly over much shorter periods, and that the RdSAP process itself is revised annually. The fall in costs of solar Photo Voltaic panels over the last two years, at the same time as energy prices for consumers have risen by 10-20% illustrate the extent to which costs are changing rapidly at present. Consumer Focus has therefore suggested that an EPC should remain valid for no more than 12 months, unless there are exceptional circumstances<sup>5</sup>.
25. The issue of representative sampling is explored in question 9. While we appreciate that such an approach might be appropriate for social housing, where measures installed are very largely controlled by the landlord, or for new housing at the point of construction, we do not consider that it would not be appropriate in any other circumstances. In addition, it would be appropriate to explore whether this approach works in practice before adopting it.
26. A further issue is that Green Deal assessments will take account of the circumstances and energy use of individual households, and clearly that would not be consistent with a representative sampling approach.
27. Question 10 considers the extent to which EPC data should be used in commercial media, such as materials advertising property for sale or rent. We welcome this approach, which is in line with recommendations made as part of our energy efficiency work. In terms of the specific information which should be included, we would suggest that the A-G energy rating, as proposed, should be accompanied by the modelled energy costs of the building concerned, so that consumers have the information they need to inform their choices at the appropriate time.
28. Questions 11 and 12 consider the production and display of EPCs in public buildings, or buildings frequently visited by the public. Following from our comments on the section 63 consultation above, we take the view that similar approaches should apply to all buildings, to act as a consistent example for consumers. We therefore welcome the approach proposed under question 12, which takes a wider view of such buildings than has been the case in the past.
29. Question 16 looks at the production of EPCs for new buildings, where these are made available for sale before construction is completed. While we appreciate that a different approach will be needed, it is critical for consumers that the EPC information is accurate and comparable with EPCs produced from surveys of existing buildings.
30. Questions 18 and 19 deal with the issue of financial penalties for non-compliance of EPC regulations. It is difficult to comment on whether these penalties are of an appropriate level without information on the extent to which breaches of the regulations do or do not occur at present.

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<sup>5</sup> Consumer Focus Consultation Response on the Green Deal,  
[www.consumerfocus.org.uk/publications-reports/consultation-responses](http://www.consumerfocus.org.uk/publications-reports/consultation-responses)

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