
MODEL CONSORTIUM AGREEMENT

FOR VERIFIER PEER GROUP REVIEWS

An Agreement concerning the formation of a Consortium of Local Authorities for carrying out Peer Group Reviews of the verification process within the terms of this Consortium Agreement.

THIS AGREEMENT is made on theday of.....2008
BETWEEN the following Parties:-

- (1) XXXXXXXXX Council
- (2) XXXXXXXXX Council
- (3) XXXXXXXXX Council
- (4) XXXXXXXXX Council

This Consortium Agreement sets out the details of the relationship between the above Parties and the Parties are hereinafter collectively referred to as the Consortium. Any other Scottish Council can join the Consortium by the unanimous agreement of all the Parties and subsequent amendment of this Agreement in terms of clause 7.

1. INTRODUCTION:

On 1 May 2005 the Building (Scotland) Act 2003 introduced a reformed building standards system in Scotland with the 32 local authorities as the sole verifiers for their geographical areas and to assist in the transition to the new system a Direction, in terms of the Act, was issued to allow all Scottish Local Authorities to act as verifiers in respect of buildings where they have an interest. In March 2007, Scottish Ministers confirmed the Direction would not be extended when it expired.

To assist in the response to this situation this Consortium Agreement has been developed following discussion between the above Councils, the Scottish Minister responsible for Building Standards, the Scottish Association of Building Standards Managers and the Scottish Building Standards Agency.

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2. PURPOSE OF THE CONSORTIUM AGREEMENT

- 2.1 The purpose of the Consortium Agreement is to provide Scottish Ministers with an assurance of transparency and third party checking to enable them to extend the permission for self-verification of the above Local Authorities. This will be achieved by bringing together a number of verifiers to carry out Peer Group Reviews.
- 2.2 Such Peer Review Groups shall be constituted by this Agreement and each such Group shall comprise not less than 3 members in the interests of accountability, openness and transparency. In the event of the withdrawal of a member or members resulting in less than 3 members there will be a period of 3 months to increase the membership to the minimum, in terms of the notice period referred to in clause 6.2.

3. OBLIGATIONS

- 3.1 All Parties shall, subject to the terms of this Consortium Agreement providing for its termination, be bound by the terms of this Agreement for as long as the Agreement remains in force, or such other time as may be agreed subject to or provided by the terms of this Agreement.
- 3.2 All Parties shall perform their obligations regularly and diligently in such manner as specified in the Consortium Agreement and stated in the Peer Group Review Procedures documented in the attached annex.
- 3.3 In the event that the obligations on the Parties under the Peer Group Review Procedures are varied then the variation shall not affect the validity of this Consortium Agreement.
- 3.4 All Parties shall enter into discussions and obtain the agreement of the Consortium for future developments or changes to the methodology, which may have a significant impact on the operation of the Peer Group Review Procedures.
- 3.5 The Consortium shall commit to carrying out the Peer Group Review Procedures and provide an annual report to each member of the Consortium for discussion at an annual meeting convened for such purpose.
- 3.6 The Consortium shall extend an invitation to the Scottish Building Standards Agency to attend each annual meeting.
- 3.7 All Parties shall ensure adequate budgetary provision to cover the Peer Group Review Procedures.

4. NATURE OF THIS AGREEMENT

- 4.1 This Consortium Agreement relates only to the single joint venture to carry out Peer Group Reviews as set out in the Peer Group Review Procedures in relation to Building Warrants for buildings that are fully owned and occupied by the Local Authority.
- 4.2 Nothing in this Consortium Agreement shall constitute a partnership between the Consortium Parties.
- 4.3 This Consortium Agreement is constrained by its terms and conditions and by the statutory processes and procedures of the Building (Scotland) Act 2003 and, in particular, places no duty on any member of the Consortium to carry out any follow up monitoring and reviewing of outcomes arising from any report of a verification process carried out by a member of the Consortium.

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5. DURATION

- 5.1 This Consortium Agreement comes into force on the date that it is signed by the entire Consortium.
- 5.2 This Agreement will commence on 1 May 2008 and shall terminate on 30 April 2011.

6. WITHDRAWAL/TERMINATION

- 6.1 In the event of a Party withdrawing from the Consortium this shall not prevent remaining Parties from continuing with the Consortium by entering into a further agreement in respect of the requirements of the Consortium Agreement.

Any Party may withdraw from the Consortium

- 6.2 on giving three months' notice and
- 6.3 by informing the Scottish Building Standards Agency.

This Agreement may be terminated,

- 6.4 at any time by the unanimous agreement of the entire Consortium.
- 6.5 in the event of any substantive change in the control, management or constitution of any Party which prevents it from fulfilling its obligations under this Agreement.
- 6.6 by either Party after 90 days written notice; or by mutual consent of all Parties after 30 days written notice.

7. AMENDMENTS TO THE CONSORTIUM AGREEMENT OR THE PEER GROUP REVIEW PROCEDURES

- 7.1 No Party shall, without the consent of all the other Parties,
- a) Agree to any amendment of the Consortium Agreement or the Peer Group Review Procedures; or
 - b) Terminate or repudiate any obligation on any person under the Consortium Agreement or the Peer Group Review Procedures.
- 7.2 Consent of a Party for the purposes of this clause shall be evidenced by written confirmation from the Management Board Member for that Local Authority.

8. THE MANAGEMENT BOARD

- 8.1 The Parties shall form a Management Board for the purpose of coordinating and managing the performance of the entire Agreement.
- 8.2 The Management Board shall comprise at least one person from each Party, appointed by each Party, that person, for the purposes of this will be known as a Member and must be actively involved at a senior level in a Local Authority Building Standards service.
- 8.3 The Management Board shall not have power to amend or vary this Consortium Agreement without formal approval in accordance with Para 7. above.
- 8.4 Members can nominate substitutes to take their place on the Management Board.

9. PERFORMANCE

Each Member of the Management Board shall nominate a Review Officer for their Local Authority, whose details shall be known to the other Members. The role of the Review Officer is to be the primary point of contact for ensuring that their Local Authority adheres to the commitments detailed in both the Peer Group Review Procedures and this Agreement.

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10. PUBLICATION AND PRESS RELEASES

Procedures for publications and press releases relating to this Agreement shall be agreed between the Parties through the Management Board. This Consortium Agreement will be published on the website of each Member's Local Authority.

11. DATA PROTECTION

- 11.1 Each Party confirms to the other that in respect of any personal data each has in place appropriate technical and organisational measures against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure of or access to personal data and adequate security measures to ensure that unauthorised persons will not have access to personal data. The Consortium shall ensure that any persons they authorise to have access to personal data (including but not limited to their employees) will be required to respect and maintain the confidentiality and security of that data within the scope of all relevant legislation.
- 11.2 The Consortium shall ensure that all processing of personal data shall be carried out in accordance with the Data Protection Act 1998 (the Act). For the purposes of this clause 'personal data' shall be interpreted in accordance with the Act.

AGREED BY THE PARTIES THROUGH THEIR AUTHORISED SIGNATORIES

1. For and on behalf of XXXXXXXX Council:

Signed.....

Dated

Name:

2. For and on behalf of XXXXXXXX Council:

Signed.....

Dated

Name:

3. For and on behalf of XXXXXXXX Council:

Signed.....

Dated

Name:

4. For and on behalf of XXXXXXXX Council:

Signed.....

Dated

Name:

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MODEL PROCEDURES

FOR VERIFIER PEER GROUP REVIEWS

Issues to be covered:

Aims & objectives – to carry out open, transparent third party Peer Group Reviews of projects where the verifier’s Local Authority has an interest.

Third Party Review

Each verifier will produce an annual list of Building Warrant files where the verifier’s Local Authority has an interest and a completion certificate has been accepted. The Peer Group reviewer will review 20% or 10 whichever is more of “high risk buildings”, chosen from the list by the peer reviewers and if there are less than 10 such projects then the number of projects to be reviewed would be made up by “other projects” which are fully owned and occupied by the Local Authority. See Model Form 1.

“High risk buildings” are defined as major works that have been completed to buildings which are fully owned and occupied by the Local Authority and may fall into the following categories:

- schools,
- entertainment buildings,
- swimming pools,
- leisure and sports centres, and
- residential centres.

Review to cover the following activities:

- the system for the collection of warrant fees for processing,
- the existence of risk assessment protocols to ensure that verification work is undertaken by competent staff,
- the implementation of the risk assessment protocols in the processing of warrant applications,
- any system of prioritising work,
- the implementation of the risk assessment protocols in the checking of certificates of design,
- the verification methods used for uncertified structural and energy design work,
- the verification methods used for alternative fire engineering solutions,
- the assessment process used for alternative solutions to the Technical Handbooks,
- the degree and extent of checks undertaken during the construction process,
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- the implementation of the risk assessment protocols in the checking of certificates of construction,
- the implementation of the risk assessment protocols in the acceptance or rejection of completion certificates.

See Model Form 2.

Procedures to cover:

1. A system of standard format/templates for the above activities;
2. A definition of the type and level of evidence and documentation for reviewing the above activities;
3. An agreement and understanding of working relationships;
4. A system of standard format/templates for recommendations for a system of follow up monitoring and review by the verifier who is the subject of the peer review; [NOTE: The “peer reviewer” has no third party monitoring or review role – this is entirely vested in the Scottish Building Standards Agency]
5. Reporting (frequency, format and distribution)

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