



Subject:	DoF Consultation on Proposed Building (Prescribed Fees) (Amendment) Regulations (Northern Ireland) 2022
Date:	7 December 2021
Reporting Officer:	Ian Harper, Building Control Manager
Contact Officer:	Laura Hillis, Principal Building Control Surveyor

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of Main Issues
1.1	To consider a draft response to a Department of Finance consultation on proposed amendments to Schedules 1 and 2 of the Building (Prescribed Fees) Regulations (Northern Ireland) 1997 and general comments on the Regulations which are also being invited to inform a wider review of the fees regulations.
2.0	Decision(s) required and recommendations
2.1	The Committee is asked to: <ul style="list-style-type: none">Consider the draft response to the Department of Finance consultation and agree, subject to any amendments, a response on behalf of the Council. Subject to Council ratification.

- The closing date for responses to this consultation is 23:59 on Sunday 19 December 2021, with responses to be made online.

3.0 Main report

Key issues

3.1 The Buildings Standards Branch of the Department of Finance (DoF) is seeking the views of the Council on their proposals to amend Building (Prescribed Fees) Regulations (Northern Ireland) 1997 and general comments on the Fees Regulations are also being invited to inform a wider review.

Background

3.2 The Building Regulations (Northern Ireland) Order 1979 (as amended) places a duty on a district council to enforce building regulations in its district, and also authorises district councils to charge prescribed fees for or in connection with the performance of prescribed functions of theirs relating to building regulations.

3.3 Prescribed fees for building regulation applications were introduced in Northern Ireland in 1982, prior to which the cost of processing applications and inspecting the associated building works on site was borne fully by ratepayers, rather than by those making the applications.

3.4 The Building (Prescribed Fees) Regulations (Northern Ireland) 1997 (as amended) sets out the prescribed functions for which a district council may charge a fee for and the level of fee that may be charged. The prescribed functions are:

- approval or rejection of plans or building notices;
- inspection of works;
- regularisation of unapproved works; and
- approval or rejection of type approval certificates.

3.5 In the current Fees Regulations, the fees are set out in three schedules to the regulations:

- Schedule 1 for one or more small domestic buildings (new build dwellings);
- Schedule 2 for certain small domestic buildings, extension and alterations; and
- Schedule 3 for all other work, with fees based on estimated costs of the work.

3.6	<p>The Fees Regulations have not been amended since 2013, when Schedule 1 and 2 fees were raised as part of a proposed two stage uplift. The second uplift did not happen and this has resulted in major shortfalls in the fees income covering the work set out in Schedule 1 and Schedule 2. As a result the ratepayer is subsidising these activities.</p>
<p><u>Consultation proposals</u></p>	
3.7	<p>The Department has identified a full review as being needed to ensure that the level of fees charged by district councils for undertaking prescribed functions in respect of the building regulations follows the ‘user pays principle’ and moves towards 100% cost recovery. This would mean that the person making a building regulation application meets the full cost of processing an application for that type of work.</p>
3.8	<p>However, to achieve this and to bring the fees charged in line with those charged in other administrations in the UK, significant uplifts would be required, in some cases more than doubling the current fee level. The Department has recognised that a move to a 100% cost recovery model would therefore need to be achieved in a phased approach.</p>
3.9	<p>The department proposes a two-stage uplift of the fees as set out in Schedules 1 and 2 of the Fees Regulations. The first increase, of 17.5%, is proposed in April 2022, with a further increase proposed in April 2023 resulting in a total overall increase of around 35% for most of the fees included in these schedules. It must be stressed that this level of increase will in no way provide fees that would enable Building Regulations cost recovery for Belfast.</p>
3.10	<p>The consultation is also asking for views on the move to 100% cost recovery for the prescribed functions, and for general comments to inform a future wider review of the Fees Regulations.</p>
<p><u>Draft Consultation Response</u></p>	
3.11	<p>Full details of our comments on the proposals are contained within the draft consultation response which is attached as appendix 1.</p>
3.12	<p>In summary, the proposals for a two-stage uplift of the Schedule 1 and Schedule 2 fees is welcomed. However, there is a concern that both uplifts may not occur, and that a full review of the Fees Regulations to provide near cost recovery may not take place. Therefore, it is suggested that the Department consider providing a mechanism by which the fees could increase annually in line with inflation in addition to any proposed increases.</p>
3.13	<p>The move to 100% cost recovery and the ‘user-pays’ principle is also welcomed, although it has been highlighted that the prescribed functions do not cover all activities required for the</p>

enforcement of the building regulations, and therefore will never equate to 100% cost recovery for the building regulations. For example, matters that are not covered include formal enforcement and court action, inspections to identify unauthorised works, giving general advice to the public, other council departments, etc., and carrying out prescribed functions on fee exempt works.

3.14 We also noted that the fee to give near 100% cost recovery in the processing of applications depends on the level of investigation into compliance with the building regulations that is undertaken. Guidance on what is expected of the Council's in this regard would be beneficial in demonstrating what the set fee was calculated as covering and would ensure greater consistency of approach across Councils.

3.15 Some issues that have been long recognised as anomalies have been highlighted including instances of disparity between Schedule 2 and Schedule 3 fees.

3.16 It has also been suggested that the prescribed functions should be reviewed to include additional items such as a charge for pre-application advice and an additional fee for more than one resubmission of plans that have been rejected. By way of illustration over the last 5 years the first-time approval rate for full plans applications is on average just 18%. This brings significant extra workload and an additional charge may well encourage greater diligence in submission preparation.

3.17 The fee exempt status of the installation of cavity wall insulation requires review as does the definition of a disabled person along with greater clarity on which works for a disabled person are fee exempt.

3.18 The package of consultation documents can be found on the Department's website: - <https://www.finance-ni.gov.uk/consultations> and includes the following: –

- Consultation document outlining the proposals;
 - Draft Regulatory Impact Assessment;
 - Rural Needs Impact Assessment
- and
- Draft Equality Screening, for the proposed changes.

	<p><u>Financial & Resource Implications</u></p> <p>3.19 Some additional training of staff on the new fee scales will be required, along with guidance for customers on council website, etc. These will be carried out as normal course of business by existing staff.</p> <p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>3.20 The proposed amendments have been screened out of equality impact assessment requirements by DoF. The draft equality impact screening assessment is on the Departmental Website.</p>
4.0	Appendices – Document Attached
	Appendix 1 Proposed Consultation Response