

**BUILDING REGULATIONS ADVISORY COMMITTEE (BRAC)**

**MINUTES OF THE FIRST MAIN MEETING IN 2011 HELD ON THURSDAY 17 FEBRUARY, 10AM AT DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT (DCLG), MEETING ROOMS 1/ABC, FIRST FLOOR, ELAND HOUSE, BRESSENDEN PLACE, LONDON SW1E 5DU**

**PRESENT**

A list of those present is at **Annex A**.

**ITEM 1: WELCOME AND INTRODUCTION**

1.1 Members, officials and observers were welcomed to the first main BRAC meeting of 2011. The Chair thanked Alastair Soane and Peter Warburton who had completed 10 and 9 years of membership and had now stood down. CLG updated the Committee on staffing issues – Jon Bright had replaced John Fiennes as Director heading up a new Directorate: *Homelessness and Support, Building Standards and Climate Change*. He would attend today's meeting for the first item only. Gerald McInerney and Nina Robinson had departed from CLG on early retirement and Emma Dickman had joined SBD and was new to the Civil Service.

1.2 The Chair congratulated Lynne Sullivan on her OBE award for services to Architecture. The Minister was unable to attend today's meeting. *Action: CLG to seek to arrange a meeting for some BRAC members to meet the Minister this spring.*

1.3 Jon Bright was introduced to the meeting. He informed BRAC that deregulation was high on the Government's agenda; the big driver was growth and barriers to growth. He appreciated the importance of BRAC's views on today's agenda items.

**ITEM 2: APOLOGIES FOR ABSENCE**

2.1 Apologies were received from one Member - John Tebbit and two observers - Bill Dodds (Scotland) and Francois Samuels (Wales). Gavin Peart (Scotland) and Colin Blick (Wales) attended on their behalf.

**ITEM 3: MINUTES OF THE THIRD 2010 MEETING HELD ON 30 SEPTEMBER AND MATTERS ARISING**

3.1 The minutes of the last main Committee meeting were agreed with the following corrections:

- *Item 7.5, 1<sup>st</sup> bullet* – the term should be "Building Information Modelling"
- *Item 11.2* – 'Chris Hulme' should read 'Chris Huhne'

3.2 There were no actions outstanding.

**ITEM 4: COMPLIANCE WITH THE BUILDING REGULATIONS: BRAC TO PROVIDE VIEWS ON COMPLIANCE CHALLENGES AND HOW TO ADDRESS THEM BRAC(11)P1**

4.1 DCLG introduced paper P1 seeking BRAC's views on Building Regulations compliance challenges and how to address them, including identifying sources of evidence/data that can be used to build evidence database to enable a better understanding of compliance issues.

4.2 In discussion with DCLG, BRAC had the following comments:

- A Member viewed the design and procurement of buildings as essential elements for compliance. There was a lack of understanding about compliance from clients. Designers had to grapple with a large amount of data and often did not know whether something was compliant or not. Procurement was devolved and many people were involved in delivery.
- There was a question about whether any work had been commissioned to analyse the system as a whole. Where there was good procurement there were no issues with compliance. It was about who was involved. The average home owner will want to keep costs as low as possible, perhaps leading to non-compliance. It was suggested that builders be registered and not allowed to operate otherwise.
- There was no requirement to monitor the use of buildings with all efforts towards compliance concentrated at the front end. There was another gap in compliance - the small projects that do not come to the attention of building control carried out by the "rogue trader" sector. Where there was a problem with, for example, Parts P, L, M or N, it was about bringing resources to bear to make a real difference. Builders and designers should be registered; there were problems with individuals purporting to be designers who were not architects.
- Building Regulations should be more involved in how buildings were operated, including having a code for the sustainable use of buildings. There could be compliance at the point of practical completion, passive non-compliance (no intention wilfully not to comply but with issues not picked up in the process of construction) or active (deliberate) non-compliance perhaps to save money. There was a need for adequate policing.
- There were problems related to domestic work and varying levels of skills with builders and designers. Building control officials regularly spot non-compliance issues and dealt with them at the time. This activity was not recorded and thus was missing from the statistics.
- There must be a way to hold people to account. There should be a base level of competency including for building control bodies and inspectors; the whole process should be strictly quality assured. Testing and verification of compliance did not have to be a burden on inspectors. There should be more disclosure; a log book should be created at the start of the construction process.
- BRAC agreed an evidence base was essential. Feedback in use can reveal non-compliance. Carbon Buzz was good for feedback on buildings in use relating to energy consumption and how people maintain and make modifications to buildings.
- Part E achieved 98 per cent compliance; compliance was not a major issue for some Parts of the Building Regulations. Part L was considered to be an area of potentially high non-compliance. Was SAP as good as it could be? We need to know exactly where non-compliance occurs. We should measure, validate and refine – MVR. There was a need to educate individuals as to why Building Regulations were important. The test of compliance was whether buildings were getting safer, healthier and more energy efficient. There was a TSB programme available. Modelling tools represented what buildings may do. We need to deal with under-engineered design.



- A Member was involved in an EU funded project on inclusive design looking at enforcement and compliance amongst other things. Even though guidance existed, there were no checks. This was an international problem. The EU was looking at this area including competent persons who will be responsible for compliance. Enforcement was also a problem; there was little enforcement, and there were few penalties or sanctions.

#### ITEM 5: COMPETENT PERSONS SCHEMES: BRAC'S VIEWS SOUGHT ON REVISED CONDITIONS OF AUTHORISATION AND CURRENT APPLICATIONS (BRAC (11)P2)

5.1 DCLG introduced paper P2 seeking BRAC's views on proposed new conditions of authorisation for Competent Persons Schemes (CPS) and also on current applications received to extend the scope of some existing CPS to cover further types of work.

5.2 In discussion with DCLG, the following points were raised:

- The proposal to extend Competent Person Schemes to include replacement windows in buildings other than dwellings where there was an issue of capacity in existing control bodies was noted.
- It would be useful to extend CPS to include registered access consultants for a mechanism to drive up compliance.
- There were concerns that it imposes requirements that were too expensive to be viable. CPS members already had regular costs to pay to remain competent. They had to be qualified to use software, read regulations and quantify costs of schemes to ensure they were reasonable and enable continued existence.
- It was important that installers who were qualified should not have to register with a number of bodies covering their range of competences.
- Schemes needed to have robust quality management systems in line with relevant standards.
- BRAC questioned the value of UKAS accreditation; there was a cost and this could be a barrier to new CPS schemes but accreditation would solve a number of problems. Applications to run new schemes should be rejected at the outset if DCLG felt that gaining UKAS accreditation would not be possible.
- DCLG had asked at an earlier meeting for CPD to be included in the proposed conditions of authorisation. This was also a requirement of the EU Renewables Directive. How this will be monitored will be a job for UKAS when schemes achieved accreditation to standard EN 45011.
- In response to a BRAC concern that Part P registered installers did not have competences in the non-electrical aspects of their work DCLG said that competence in all relevant requirements was needed for scheme members and the competency templates for various types of work reflected this. The basis of such templates was the competences required for NVQ level 3.
- DCLG advised the application fee for accreditation was £1,200; UKAS assessment costs were then £937 per person per day. For new CPS scheme operators the assessment would take on average 10-12 days of UKAS work; for those who were adding to an existing accreditation, 4-5 days of work. UKAS would likely wish to see

documented systems. DCLG was adjusting the Impact Assessment to reflect better the costs of accreditation and also talking with UKAS on the arrangements for accreditation.

- Finally, BRAC asked about the separate issue of progress in setting up Accredited Construction Details Schemes and suggested that building users, house builders and product manufacturers should be on the steering group.

*Action: BRAC to email CLG with any further comments on the proposed conditions of authorisation by 7 March at the latest.*

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## ITEM 6: SEEKING BRAC'S VIEWS AND INVOLVEMENT IN THE 2013 WORK PROGRAMME – NEXT STEPS ON CHANGES TO THE TECHNICAL PROVISIONS – BRAC (11)P3

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6.1 DCLG introduced paper P3, setting out the scope of work to be taken forward in 2011 to establish detailed proposals for consultation in December and to seek Members' views on the proposed approach to this work including the working parties/groups to support it. It sits alongside BRAC Paper 1 on Building Regulations compliance and Paper 7 on future changes to the building control system and follows on from BRAC(10)P38 on the responses to the consultation (around 250) and the Ministerial Statement. Alongside the review of the technical provisions, DCLG will be conducting research into indoor air quality and overheating. *Action CLG will forward new style of AD to BRAC members.*

6.2 Members who volunteered to participate in (or, if leaving, to be seconded to) new BRAC Technical Working Parties or more informal groups were:

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- **Part L (Conservation of fuel and power) Technical Working Party:**  
John Tebbit (in his absence), Nick Cullen, Trevor Haynes, David Mitchell, Lynne Sullivan, Peter Warburton
- **Part P (Electrical safety – dwellings) Technical Working Party:**  
Michael Finn, Nick Cullen, Peter Warburton, Tracy Aarons.
- **Parts K (Protection from falling, collision and impact), M (Access to and use of buildings) and N (Glazing) Group:**  
David Mitchell, Peter Caplehorn, Andrew Shipley, Keith Bright, Neil Cooper and Tracy Aarons (re Security in Homes)
- **Parts A (Structure) and C (Site preparation and resistance to contaminants) Group:**  
Thiru Moolan, Steve Wielebski, Alastair Soane.

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6.2 CLG will write to express thanks to participants of the Parts A&C Technical Working Party which will be replaced by the new Group. BRAC members were asked to consider how they might play an active role in engagement with external partners.

## ITEM 7: UK IMPLEMENTATION OF THE EU CONSTRUCTION PRODUCTS REGULATION: SEEKING BRAC'S VIEWS ON PLANS AND TIMING – BRAC(11)P4

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7.1 DCLG introduced paper P4, which updated BRAC on initial thinking relating to implementation of the EU Construction Products Regulation. It was expected that new legislation will be adopted and published this spring. Some aspects will come into force in 2011 and the rest in 2013.

7.2 In the ensuing discussion with DCLG, BRAC raised the following:



- Would CE markings provide information about emissions from products relevant to indoor air quality considerations? DCLG replied that EU standards were being developed to allow products to be marked to show emissions of dangerous substances to air/water etc. This work was not likely to finish for some years, but there was pressure to speed up the process because of increasing attention being paid to indoor air quality in Europe.
- BRAC asked the same question in relation to declaration of embodied energy and environmental performance. This too was the subject of standardisation work in Europe, but again, this was not yet complete. DCLG agreed to provide further information on this work to BRAC. *Action: DCLG*
- A BRAC member raised the issue of forged certificates. DCLG said that extending obligations through the supply chain was one way in which the new legislation tried to tackle forgeries, but often industry self-policing was the most effective mechanism. BRAC suggested that it would be useful to have guidance showing what different sectors needed to do or look out for once the new Regulation was in place.

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## 20 ITEM 8: FUTURE OF THE PLANNING PORTAL – BRAC(11)P5

8.1 DCLG introduced paper P5 seeking BRAC's views on how the Planning Portal website could be improved and made self-financing following the Spending Review.

8.2 In discussion with DCLG, Members made the following comments:

- It was not obvious from its name that the Planning Portal contained information about Building Regulations. Its name should perhaps be changed to 'Planning and Building Control', or the building control element should be separated out to give it a clearer identity.
- The links between planning and building control were not clear. A fully integrated electronic process for obtaining planning permission and Building Regulations approval would be very useful.
- The website was not easy to navigate, yet the quality of the user interface was critical for compliance. The Interactive House gave some guidance on Building Regulations, but it soon became necessary to step out of it and refer to the Approved Documents for more detail. The building process for domestic clients needed to be clearly signposted.
- The search engine should be improved (although material can always be found via Google); and the website should be usable on smart phones.
- It would be helpful if there were links to worked examples showing how to comply with Building Regulations, to accredited guidance, and to information about products (eg to confirm they had CE marking). The website could help with the whole construction process by providing information ranging from environmental health matters to how to get a skip licence.
- Other links could be to related subject areas, cost-effective measures for improving energy efficiency through the Green Deal, information about householder responsibilities for health and safety, and information targeted at small firms on the use of safety equipment.

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- It was suggested the website could be made commercially viable by having sponsored links and advertising. However, there should be no charge for viewing or downloading information as it would not encourage compliance. One option might be to charge for making planning applications. Another might be to get a large organisation to sponsor the website. It will be important to add value to the website if charging was to be acceptable to users.

8.3 In response, DCLG's comments were:

- Local authorities said they found it useful to have planning and building control on one website, but DCLG thought that there may be potential to integrate the two processes further.
- DCLG agreed it could be worth looking at how best to brand the site and whether the name should be changed.
- Charging for downloads would act as a barrier to compliance and add to industry costs, so was not attractive at a time when the Government was committed to reducing burdens on industry.
- We had to be cautious about allowing advertising on a website containing statutory guidance – for example, we must not appear to be recommending products. Any advertising would have to be appropriate and balanced. Income would be expected to increase as the economy recovers and site traffic increased. Charging for online applications could be a larger and more stable source of income.
- Electronic Building Regulations approval would need to accommodate the different mechanisms for certifying compliance – through local authorities, Approved Inspectors and Competent Person Schemes.
- Planning charges are currently fixed, but the Localism Bill will give local authorities the freedom to set their own fees.

## ITEM 9: PLANNING IN A LOCAL CONTEXT (INCLUDING PROPOSED CHANGES TO THE PLANNING SYSTEM) PRESENTATION

9.1 CLG gave a presentation on planning. The Localism Bill includes a series of measures that will bring planning decisions closer to local people. The presentation described the package of planning measures and identified the areas that were likely to be of greatest relevance to Building Control.

9.2 BRAC raised a number of questions in discussion with DCLG which were answered as follows:

- What was the definition of sustainable development? In practice this could mean development that is in conformity with the National Planning Policy Framework and local plans. Development plans and proposals will still also have to comply with European requirements for Environmental Impact Assessment or Strategic Environmental Assessment (where applicable).
- What would the National Planning Policy Framework include? DCLG said an advisory group was advising ministers on what should be included. The intention was to prepare a draft policy document which will go out for consultation. Timing was not set



as yet but there would be opportunities for BRAC to comment. Details on the Framework are on the DCLG website.

- A Member raised a number of questions relating to community challenge, enforcement powers against gypsies and travellers, the national planning system, community right to build orders and whether planning fees would be modelled on building regulation fees.

*Secretary's Note: CLG consulted colleagues and emailed the member concerned.*

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## **ITEM 10: UPDATES FROM NORTHERN IRELAND, SCOTLAND AND WALES ADMINISTRATION – BRAC (11)P6**

10.1 The Northern Ireland and Wales' observers presented their oral updates arising from paper P6 on regulations and standards in their administrations.

10.2 The Scottish observer advised that the new Minister for Transport and Infrastructure responsible for Scottish building standards was Keith Brown.

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## **ITEM 11: ANY OTHER BUSINESS**

11.1 DCLG updated the meeting on the Local Standards Framework project. The cost of national regulations was being managed through the "One In One Out" policy, but regulatory costs were also imposed at the local level in planning decisions. Building Regulations provided a robust set of national standards on, for example, accessibility. Local authorities also needed to know the costs and outcomes of applying additional local standards if an appropriate balance between cost and regulation was to be achieved. DCLG officials were therefore looking into establishing a menu of robust, costed standards from which local authorities would be able to choose if they wanted to set additional standards.

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11.2 DCLG advised that issues relating to the building control system were covered in the Sustainable Buildings Division update paper BRAC(11)P7.

11.3 BRAC mentioned the report of the Innovation and Growth team into low-carbon construction, which included a number of recommendations for Building Regulations. DCLG advised that BIS was leading on the Government response; there would be an opportunity for the Committee to comment.

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11.4 The next main BRAC meeting will be held on Thursday 16 June.

**BRAC Secretariat**  
**Sustainable Buildings Division, DCLG**

**PRESENT (for all or part of the meeting)**

***BRAC Members***

Michael Finn	Chair
Neil Cooper	Deputy Chair
Tracy Aarons	Member
Keith Bright	"
Peter Caplehorn	"
Neil Cooper	"
Trevor Haynes	"
Adrian Levett	"
David Mitchell	"
Andrew Shipley	"
Alastair Soane	"
Lynne Sullivan	"
Thiru Moolan	"
Peter Warburton	"
Stephen Wielebski	"

***DCLG Officials***

Jon Bright	Director, Homelessness & Support, Building Standards and Climate Change (HSBSCC)
Sarah Sturrock	Deputy Director, Sustainable Buildings Division (SBD)
Anthony Burd	Head of Technical Policy, SBD
Guy Bampton	SBD
Shayne Coulson	"
Ian Drummond	"
Clover Summers	"
Tracey Cull	"
Sandra Simoni	"
Clare Farmer	"
Emma Dickman	"
Georgina Fuller	"
Prof Jeremy Watson	Chief Scientific Adviser, DCLG
Andrew Morrison	DCLG
Jillian Hastings	DCLG
Ken Bromley	BRAC technical support, SBD
Evonne Hopwood	BRAC Secretary, SBD
Robbie Allen	Assistant BRAC Secretary, SBD

***Observers***

Gavin Peart	Building Standards Division (BSD), Scottish Government (SG)
Seamus McCrystal	Department of Finance and Personnel (DFP), Northern Ireland (NI)
Colin Blick	Welsh Assembly Government (WAG)