

BUILDING REGULATIONS ADVISORY COMMITTEE (BRAC)

MINUTES OF THE THIRD MAIN MEETING IN 2011 HELD ON THURSDAY 6 OCTOBER, 10AM AT DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT (DCLG), MEETING ROOMS 5/ABC, FIFTH FLOOR, ELAND HOUSE, BRESSENDEN PLACE, LONDON SW1E 5DU

10 **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 third main BRAC meeting of 2011.

20 **ITEM 2: APOLOGIES FOR ABSENCE**

2.1 Apologies were received from two members, Andrew Shipley and Alan Crane and from the Northern Ireland observer, Seamus McCrystal.

ITEM 3: MINUTES OF THE SECOND 2011 MEETING HELD ON THURSDAY 6 JUNE AND MATTERS ARISING

30 3.1 The minutes of the last main Committee meeting were agreed with the following corrections/matters arising:

- *Item 4, page 3, 'Building notices' para 20* – "Building Notices were used to avoid doing the work properly" was incorrect and should be changed to "building notices are often used by incompetent builders due to insufficient project planning". (this needed to be changed in the June minutes)
- *Item 4, page 5, 'Compliance', 4th bullet, Action point* – this had been sent to CLG. [Action: DCLG to circulate].

40 *****Agenda items were moved around on the day*****

ITEM 4: BRAC MEMBERSHIP

[Oral update]

4.1 DCLG gave an update on the appointment of a new BRAC Chair, Neil Cooper, who will take up his post in January 2012. The present Chair, Michael Finn's appointment will come to an end on 31 December 2011, with BRAC members Lynne Sullivan and Thiru Moolan also leaving. The Committee were updated on the recruitment of prospective new BRAC members as well as the reappointment of existing members (Stephen Wielebski, Alan Crane and Peter Caplehorn). It was hoped new BRAC appointments would be made by the end of October.

50 4.2 The Chair congratulated Neil Cooper on his appointment and also the three current Members who the Minister had recently re-appointed for a further three-year term.

ITEM 5: BRAC STRATEGIC DAY

[Discussion]

5.1 The BRAC Deputy Chair reminded the Committee of the forthcoming BRAC Strategy Day in November, suggestions were made by BRAC members for discussion topics. These included:

- 'Accelerating change' – looking past 2013, to 2019. What does the world in 2019 need to look like?
- 10 • how can compliance [or what is required to achieve targets] be an actual burden?
- the focus should be on realistic issues we can take forward with the Minister.
- It was important to define what compliance actually means; design versus 'as built' should be included or building performance.
- civil sanctions should guarantee performance of buildings and would provide building owners a mechanism for redressing issues; re feedback – should we be more
- 20 • proactive and say the three year cycles were not working in getting feedback.
- Professor Malcolm Bell should be invited to present to BRAC on the issues around design versus 'as built' and compliance. However, the absence of data was raised as an issue.
- there was probably a mechanism, e.g. smart metering, providing a conduit to gather information – if that happened it could link into performance and data collection.
- Part E of the Building Regulations has a mechanism for testing and data collection through schemes such as Robust Details Ltd. However, testing was more difficult
- 30 • under Part L of the Building Regulations – the challenge was to bring a similar level of control and awareness into Part L.
- Re balustrading, fire doors, and stairs – there were concerns; HSE were doing a survey of stairs - findings demonstrated that variations in tread, goings and rising was vast; the physical appearance of buildings should be considered.
- Benchmarking good practice was important - what does good look like? Verification in Scotland was mentioned.
- 40 • It is not all just about 'testing', we can learn a lot more from 'walk through site inspections' and actually having discussions with those on site – feedback is key and therefore a quick/tight loop for feedback is necessary.
- How much more could we take from Government and bring into the private sector, e.g. SAP – were there any others?
- Contaminated land regime was mentioned as well as the role of the industry, consolidation of regulation.
- 50 • Is there more industry can do for Government?

[Action: Neil Cooper, Deputy Chair, will draw up a draft agenda for BRAC Secretariat to circulate to members for comments. BRAC to put 4 November date in diaries – the venue is BRE Watford]

5.2 It was requested that the papers on the 'away day' on compliance be circulated to all members.

[Action]

ITEM 6: BRIEFING MEETING WITH THE MINISTER

[Oral update]

6.1 The Deputy Chair reported on BRAC's meeting with the Minister held on Tuesday 5 July. The Minister had a strong interest in sustainability and compliance which he mentioned was at the top of his agenda. The meeting lasted for around 1.5 hours. The following areas were raised by BRAC to the Minister:

- Part L - the Minister was supportive of recommendations in relation to Part L and was positive about compliance. It was mentioned that less scrupulous builders mis-use building notices. He was strong on using incentives but not keen to change building notices.
- Accelerating the pace of change – keen to get to zero carbon, but issue with construction costs and the ability to bring land forward for development – could we get to full fees (Fabric Energy Efficiency Standard's)? The problems with SAP remained and there was no appetite to change this.
- 2013 was a step to 2016 and the best way to get there – the focus should be on doing one or two things well rather than everything not so well. Get the basic fabric right then revise services. This was more logical for 2016. SAP was high on the agenda plus the Green Deal.
- Regarding registration of builders, the Minister did not feel able to pursue this right now, nor the issue of conservatories. With the 3-year cycle it was important for evidence based thinking that we received feedback so we know how things are working. This should also include user feedback.
- There is a growing body of evidence that suggests that an unintended consequence of greater air-tightness in buildings is a potential problem with indoor air quality. The issue of the decision not to review Part F to include additional information on this was raised. The Minister recognised the issue. The passive house (ventilation system) model was given as of how a correct balance could be achieved whilst ensuring full compliance.
- DCLG commented that the Minister was a big advocate of very good regulation and appreciates the detail. The Government were committed to zero carbon homes. BRAC were advised to be proactive in putting things to the Minister. DCLG said the SAP Part L working group had been given a paper about broader issues of SAP. If BRAC members would like this they should contact the BRAC Secretariat.
- Confusion around reference of to 'compliance working groups' within the Ministers recent speech was clarified, in that, all current work on compliance will be dealt with through existing compliance work streams and no additional compliance groups are due to be formed.

ITEM 7: RED TAPE CHALLENGE

[Presentation]

7.1 DCLG gave a presentation on the Red Tape Challenge whose aim is to tackle the stock of existing regulations to remove barriers to growth, help free-up businesses,

encourage greater personal responsibility, and create jobs. The Prime Minister has committed Government to being the “first to reduce rather than increase the stock of regulations during its lifetime.”

7.2 BRAC had the following comments and questions in consultation with DCLG:

- A question was raised about Statutory Instruments implementing European legislation?
- The Prime Minister’s commitment - remove and reduce was not the same thing. Does the approach recognise the ability to ‘add to reduce’ i.e. if certification of builders was introduced, this is a new requirement but potentially reduces burden?
- Does the website detail the Statutory Instruments in context e.g. the Building Regulations are in relation to health and safety?
- Who were those making decisions?
- Is this just for England – how will this effect devolved administrations?

DCLG responded:

- Re European legislation and SIs, DCLG said “they are in there for the purposes of transparency, although we do not have the ability to change these”.
- The aim was to reduce the stock of regulations, but the question was could it be done in a different way? The ultimate aim is to reduce burden. Adding a burden would be extremely difficult through this process.
- The website does not put the Statutory Instrument in context – there is a one line description to provide some context. They were looking at areas for deregulation/reduce burdens.
- The Cabinet Office was in the lead but decisions were made by Ministers in this Department in consultation with officials responsible for the specific areas in question.
- This is only for England – where there is a crossover we will work with the relevant devolved administration.

ITEM 8: BUILDING CONTROL SYSTEM: UPDATE ON PROPOSED CHANGES

[BRAC(11)P24]

8.1 DCLG introduced P24 which updated BRAC on proposed changes to the Building Control System for consultation in December 2011, as part of the wider 2013 Building Regulations Review.

8.2 BRAC noted the proposals and made the following comments:

- DCLG was consulting on extending CPS to include aspects of work under Parts A ,B and H – There were concerns and this was viewed as a possible a risk. What would be covered under AB&H and where would the demand coming from?
- why extensions? The fire protection industry wanted third party protection so if there was CPS it must have robust third party certificates.

- BRAC advised that building notices should be sorted and re item 4 *"we will consult on amending the wording on the completion certificate but not on their withdrawal"* - does "wording" mean "scope"?
- BRAC said it was disappointing that insurance companies were not involved as mentioned on page 2, 2nd bullet, as well as verification. Regarding paragraph 5 – what were the "other Government policies"?

10 In response to comments, DCLG responded:

- Certificates were viewed as conclusive evidence by the courts. It was important that the wording showed that it did not imply 100% compliance.
- In the "The Future of Building Control" consultation it was suggested to expand CPS's but not to Parts A,B or H of the Building Regulations (structure, fire safety and underground drainage). It is proposed that the 2013 Building Regulations consultation will be used to fully understand industries opinions of CPS in these areas. For example, The Institute of Structural Engineers have put forward a CPS proposal for structural design. DCLG explained that the 2013 consultation acknowledges the ability to expand the CPS further, but It does not mean there will definitely be a CPS in those areas. BRAC were free to provide their views and comments.
- The Scottish observer mentioned a certification scheme for Part A in Scotland which had worked quite well and driven out rogue builders.
- DCLG had done a huge amount of work on building notices. Seven reasons why we were not going ahead included:

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- (i) significant extra costs – up to £2.5k for loft conversion. Anything that will cost more money would be a regulatory "in" under the "one in/one out" rule. So in terms of costs and benefits, arguments will not be sufficiently robust at this time to change building notices as this would be a regulatory change
 - (ii) a lot of work was done by small micro business who would not know how to prepare full plans and so disadvantage them.
 - (iii) full plans applications require a longer 'lead-in' period and additional time for approval, therefore can impact on client relations
 - (iv) LAs asked if building notice charges should be the same. LAs now charge for the amount of time to do something so under full plans more time would be required resulting in more costs.
 - (v) Regulation 13(3) means that even if a building notice is submitted LAs can demand additional information.
 - (vi) We can change the law regarding LAs but not Approved Inspectors so this would tilt the competition in favour of Approved Inspectors.
 - (vii) Also, re compliance – there was no statistical evidence that work carried out under building notices were less compliant the under full plans. Under both processes the work is 'signed off'.

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- DCLG summarised that under the micro business moratorium and the 'OIOO' policy this places limitations on particular proposals covered by such policies. However, this does not prevent BRAC from developing an additional evidence base to demonstrate effects of building notices. Some BRAC members did not accept a number of DCLG's seven points.

ITEM 9: PART P WORKING PARTY REPORT

[BRAC(11)P26]

9.1 The Chair of the Part P Working Party introduced P26 which gave a brief update on progress with the Part P (Electrical safety in dwellings) review.

9.2 A meeting had been held in mid-July with another one fixed for mid-October. The aim was to go to consultation in December and to enforce in April 2012. The aim of the review is to improve electrical works and reduce death and electrocution. Why review? This was a response to cost, bureaucracy, inspection and complexity.

9.3 There was evidence that there had been a considerable increased in sales of testing equipment - year on year 35%, 55%, and 15% thereafter. Evidence showed there were over 17,000 electricians with qualifications between January 2008 and June 2011. Deaths per year had reduced by 3/4 [although this was expected to be around 8]. Research also shows that around 15% of adults receive electrical shocks each year. 85% of CPS members believed that Part P should be retained. However, there was a cost.

9.4 Comments from BRAC included:

- There was a general awareness of Part P for users including the fact that a certificate was required. BRAC were convinced Part P had raised standards; it was a great example of consolidation of the process – for example, each home owner had a range of certificates which can only raise standards.
- DCLG advised that large kitchen and bathroom installers had joined CPS schemes. Officials were working with LABC who were planning to carry out a building regulations survey in November in order to gather further evidence.

ITEM 10: PART L WORKING PARTY REPORT

[BRAC(11)P27]

10.1 The Chair of the Part L Working Party introduced P27 which updated members on the activities of the Part L BRAC Technical Working Party and on progress in the 2013 Part L review including the timetable to consultation in December.

BRAC comments:

- There was a question about extensions and fees. This did not automatically dictate a new set of values. There will be clarity for the small market.
- A loft guide had been produced and a Member was working on an extensions compliance guide. It was reiterated by a number of Members that the guidance for extensions should be simple and straightforward to understand – a good example of this was given as the planning and permitted development guide.
- Members would welcome a prescriptive high standard approach, tough on 'u' values as the cost of putting in higher quality windows was negligible.
- We needed results of SAP before Part L comes out. In Part L could there be flagging in terms of an overlap.

DCLG commented:

- Fees for extensions will be descriptive.
- Officials were working closely with DECC in relation to timetable and timescales as DECC also has a consultation coming out in October. DCLG said there will be clear signposting between the consultations.
- The impact assessment was with the chief economist and will then be passed on to the Regulatory Policy Committee for 6 weeks. Consultation will probably be in December.

10 **ITEM 11: 2013 TECHNICAL REVIEW UPDATE**

[BRAC(11)P28]

1. DCLG presented P28 which updated BRAC on general progress on the remaining elements of the 2013 Review not dealt with in the separate, earlier papers on Parts P, L and the Building Control System. It also sought agreement on further engagement with BRAC prior to consultation in December; BRAC members were requested to register their interest for particular consultation packages in order to be sent the relevant package to comment on. The Ministers agreed to all five main packages.

BRAC had the following comments:

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- There would be better feedback from industry if they had more time to comment. It was suggested by a Member that in going forward to October 2013 the consultation packages could be staggered.
- Part A – in response to a BRAC query, DCLG would like views on assumptions on costs of Eurocodes.
- Part C – Was there any feedback on what industry was doing already? DCLG advised that they had received various evidence; potentially up to 80% of new homes are already covered by radon protection through the NHBC standards.

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ITEM 12: ZERO CARBON BUILDINGS – UPDATE

[BRAC(11)P29]

12.1 DCLG introduced P29 which provided an update on the development of policy on zero carbon buildings.

- BRAC asked about allowable solutions – how did the national planning policy framework tie in?
- DCLG advised that the timings did not work so they were not able to make connections within the draft but this was something to look at and more can be said in the NPPF. A definitive view had not been reached on how we are going to make this work.

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ITEM 13: UPDATES FROM NORTHERN IRELAND, SCOTLAND AND WALES ADMINISTRATION

[BRAC (11)P30]

13.1 The Wales and Scottish observers presented their oral updates arising from P30 on regulations and standards in their administrations.

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13.2 In his update, the Scottish observer commented on points in his paper.

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- Advised that Scotland do not have a competent person scheme but they do have certification.
- Research has been developed on fee's, reasonable enquiries and performance indicators.
- As of the date of this meeting they have received around 200 comments on third party accreditation proposal; it appears local authorities are sceptical, but house builders are in favour.

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- The feedback to date on the Sustainability Bill indicates a 'Silver standard'.
 - A pilot was being developed in schools relating to sustainability. In terms of feedback on administrative costs, there was not a lot of feedback, not a lot of buildings were being built in Scotland. They were designed to be easily verified in Scotland by local authorities.
- 13.4 In his update, the Wales observer commented on points in his paper.
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- They are currently waiting for the findings of the CEFOA commissioned BRE research project into domestic sprinklers. There has been a significant delay and they may have to commission a separate research project through BRE if the report is not released soon.
 - DCLG mentioned that a legal requirement in the UK and European Union was coming into force as of 17th November 2011 for the introduction of Reduced Ignition Propensity (RIP) Cigarettes. As of this date all cigarettes sold throughout the EU must conform to the new standard. It is possible that this may have a significant effect on the current fire statistics over time.
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- DCLG mentioned that we have defined zero carbon – had this happened in Wales? The observer advised it will be addressed in their Ministerial statement.

ITEM 14: ANY OTHER BUSINESS

14.1 The House of Commons Climate Change Committee report on Greenhouse combustion (embodied carbon) – BRAC advised that manufacturers favoured looking at emissions.

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- 14.2 The forthcoming BRAC meetings will be held as follows:

- 4 November: Strategy Day at BRE, Watford
- 8 December: BRAC Think Tank meeting (and lunch)
- 23 Feb 2012: First main BRAC meeting in 2012

BRAC Secretariat

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- Building Regulations and Standards Division, DCLG
25 October 2011**

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

Michael Finn	Chair
Neil Cooper	Deputy Chair
Tracy Aarons	Member
Keith Bright	"
Peter Caplehorn	"
Nick Cullen	"
John Tebbit	"
Trevor Haynes	"
David Mitchell	"
Lynne Sullivan	"
Thiru Moolan	"
Stephen Wielebski	"

DCLG Officials

Bob Ledsome	Deputy Director, Building Regulations and Standards Division, DCLG
Anthony Burd	Head of Technical Policy, BRSD
Clover Summers	BRSD, DCLG
Shayne Coulson	"
Ian Drummond	"
Clare Farmer	"
Ken Bromley	"
Kavian Thompson	Strategic Analysis Team, DCLG
Prof Jeremy Watson	Chief Scientific Adviser, DCLG
Steven Kelly	BRAC technical support, BRSD
Evonne Hopwood	BRAC Secretary, BRSD

Observers

Bill Dodds	Building Standards Division (BSD), Scottish Government (SG)
Francois Samuels	Wales