

BUILDING REGULATIONS ADVISORY COMMITTEE FOR ENGLAND (BRAC)

MINUTES OF THE SECOND MAIN MEETING IN 2012 HELD ON THURSDAY 14 JUNE,
10AM AT DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT (DCLG), THE
MINISTERIAL BOARDROOM, SIXTH 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 second main BRAC meeting of 2012. The Chair reported that Kevin Flanagan, a former BRAC Secretary, will be leaving Building Regulations and Standards Division after nearly 13 years to join the Department's Planning Directorate.

ITEM 2: APOLOGIES FOR ABSENCE

- 2.1 Apologies were received from two members, Andrew Eastwell and Trevor Haynes, and from Francois Samuel, observer from the Welsh Government. Alan Crane and David Mitchell gave their apologies that they would be unable to stay for the afternoon session.

ITEM 3: MINUTES OF THE FIRST 2012 MEETING HELD ON THURSDAY 23 FEBRUARY AND MATTERS ARISING

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

- *Page 2, line 44/45 - "The BRAC member representing the HBF..." to be replaced with "A BRAC member..."* **Action DCLG**
- *Page 6, line 27 - "rouge contractor" to be replaced with "rogue contractor"* **Action DCLG**

- 3.2 Matters arising:

- *Cabinet Office Behaviour Change Unit to be invited to next main BRAC meeting on 11 October 2012.* **Action DCLG**
- *BRAC short term group on Behaviour Change to be set up after next main BRAC meeting.* **Action BRAC**
- *DECC and /or Energy Efficiency Deployment Office to be invited to present to next main BRAC meeting on 11 October 2012.* **Action DCLG**

ITEM 4: UPDATE ON PROGRESS ON THE RED TAPE CHALLENGE [BRAC(12)P10]

4.1 DCLG presented paper 10 which provided BRAC with an update on the Cabinet Office's Red Tape Challenge of the Building Regulations, including propositions from its Star Chamber and next steps.

4.2 The main points raised by BRAC were:

- The Business Panel established as part of the Red Tape Challenge, which included a BRAC member, was broadly supportive of the Building Regulations. The Panel agreed that it would be helpful for guidance for self builders to be prepared. DCLG were recommending this, but it would be unlikely that the guidance would be produced until quarter 2 of 2013.
- In terms of the Star Chamber proposition for improving the scope for electronic processes BRAC noted the growing importance of Building Information Modelling (BIM). The difficulty for local authority building control in handling 3D BIM plans / designs due to lack of appropriate software or compatibility issues was discussed. It was noted work on BIM inter-operability was underway, including a Government ambition for a BIM standard, and BIM had the potential to allow designers to work in the same way. It was suggested that BIM could be a topic for the BRAC strategy day.
- BRAC noted that the Red Tape Challenge seemed to focus solely on the domestic sector and has not considered the commercial sector. DCLG agreed that the focus has been on dwellings particularly in terms of the propositions for simplified guidance but if BRAC considered there should be other project specific guides that it would like to see in the market then it should suggest these to DCLG. DCLG also noted that further Red Tape Challenge exercise on Planning is due later in the year.

ITEM 5: SECTION ONE – INTRODUCTION TO THE CONSULTATION PACKAGE AND PROPOSALS ON PARTS A, B, C, K, M AND N, ACCESS STATEMENTS, SECURITY, CHANGING PLACES TOILETS AND REGULATION 7 [BRAC(12)P11 (Rev 1)]

5.1 DCLG presented paper 11(Rev 1) which provided the initial analysis of responses to Section 1 of the consultation on the technical aspects of Building Regulations. It also covered the next steps and the timetable for implementing changes which were recognised as being very tight with the deregulatory measures to be implemented first.

5.2 BRAC made the following comments:

- The masonry industry had an issue with some design aspects of Eurocode 6 which were for discussion within the BSI and CEN technical committees.
- In regard to the rationalisation AD for Parts K, M and N BRAC expressed concern that old and/or withdrawn standards are being referenced and asked DCLG to reference those standards that are currently being used rather than those in the archive. DCLG suggested that this should be discussed at the informal working group meeting on Parts K/M/N on 13 July.
- BRAC suggested that an expert / representative from the glazing industry should be invited to the Parts K/M/N working group meeting. **Action DCLG**

- BRAC asked for the percentage of respondents who agreed with the rationalisation of Parts K/L/M. DCLG agreed this would be made available at the informal working group meeting on 13 July. **Action DCLG**
- BRAC asked why no percentages were provided in the paper for responses on proposals for Changing Places. DCLG agreed to provide numbers / percentages to specific consultation question responses to BRAC members if requested. **Action DCLG.**
- It was noted that Advisory Groups on Part A and Part C are already in existence and are open for BRAC members who wish to be invited. Cliff Fudge asked to be included in the Part A Advisory Group, and Alan Crane and Keith Bright asked to be included in the Part C Advisory Group.

Note: the next meeting of the Part A Advisory Group is on 16 August and the Part C Advisory Group on 7 August

- BRAC considered that there can be a reluctance to fit level entry showers on the ground floors of buildings due to perceived difficulty / workmanship issues with the installation and radon protection barriers. BRAC considered this should be considered by the Part C Advisory Group. **Action DCLG**
- BRAC expressed concern about the proposal to remove the contaminated land guidance from Annex A to Part C.
- BRAC noted that Paper 12 on Research included a project on Security and asked whether there was likely to be an Approved Document on Security. DCLG said that research would only be required should it transpire there was a lack of data to provide an evidence base for a proposed non-regulatory targeted approach to security.

ITEM 6: SECTION TWO – PART L (CONSERVATION OF FUEL AND POWER) [BRAC(12)P12]

- 6.1 DCLG presented paper 12 which updated BRAC on the consultation responses and the post-consultation timetable for proposed changes to Part L of the Building Regulations. DCLG said it is aiming to get a summary of responses to the consultation published by the summer and the BRAC Part L Technical Working Party would be reconvened to advise on the development of final proposals shortly.
- 6.2 BRAC made the following comments:
- BRAC questioned whether it was correct to exclude the campaign responses from the consultation analysis. DCLG responded that the campaign's views had been fully taken account of in the qualitative analysis, but where the responses were identical they had been excluded from the quantitative analysis, in line with the consultation code of practice. BRAC asked about weighting of responses, especially in relation to trade associations / bodies with large numbers of members. DCLG said that the consultation was not a voting exercise, and while the quantitative analysis was not weighted by number of members, in analysing the responses DCLG of course took it into consideration where a body spoke for a large number of members.

- BRAC considered there were strong views on both sides for the proposal on consequential improvements for extensions, but stressed that consequential improvements for boilers and replacement windows were very different and a far less popular proposal, and should not be confused with consequential improvements for extensions.
- BRAC expressed concern over the role of DCLG's technical contractors and the feasibility of the proposed fabric standards for industrial warehouses. DCLG responded that they were fully aware of these concerns, and that there would be further discussion with industry over this.
- BRAC felt that there should be two separate meetings of the Part L Technical Working Party, to consider domestic and non-domestic buildings. The following members declared expressions of interest to be part of the Technical Working Party: David Mitchell, Nick Cullen, Clifford Fudge, Paul Timmins, Stephen Wielebski, Neil Cooper and John Tebbit.

ITEM 7: SECTION THREE – PART P (ELECTRICAL SAFETY – DWELLINGS) [BRAC (12) P13]

7.1 Nick Cullen presented paper 13 which updated BRAC on the report by the technical working party on proposed changes to Part P of the Building Regulations. This covered the analysis of consultation responses, recommendations of the CLG Select Committee, interventions by building control bodies inspecting electrical work, electrical accident statistics, and progress in preparing the final Impact Assessment.

7.2 BRAC had the following comments:

- A BRAC member who gave evidence at the Select Committee reported back that the Committee were broadly very supportive of Part P of the Building Regulations. It was also noted that the Committee had questioned whether there consideration should be given to a version of 'gas safe' for electrical installations.
- BRAC was supportive of the recommendations of the Technical Working Party and acknowledged that Part P has done a great deal to protect users of buildings and along with the Competent Persons Scheme has helped to drive up standards. BRAC noted that a small minority of home owners who would like to see Part P revoked but considered that this would not be in the interest of consumers.
- BRAC questioned whether a third party inspection process could undermine competent persons schemes.
- BRAC noted that the Part P Approved Document (AD) felt different to other ADs and queried whether the document needed changing. DCLG agreed that the Part P AD was unlike other ADs in that there was little technical guidance and it mainly covered procedural matters. DCLG also said that it was considering what changes and/or rationalisation could be made to the AD and this would be a subject at the next Technical Working Party.
- BRAC noted that regulations allow individuals to do work on gas installations in their own homes. However, it was also noted that this kind of work would only be undertaken by a very small minority and that individual occupiers are more likely to undertake electrical than gas work.

- BRAC commented that solar photovoltaic (PV) panels are potentially very dangerous if incorrectly installed. BRAC also expressed concern that the Microgeneration Certification Scheme (MCS) Installation Standard for PV refers to a DTI document, "Photovoltaics in Buildings – Guide to the installation of PV systems" but the link on the website does not work and the guide appears to be out of print.

Note: DCLG has subsequently checked MCS website and although the link to the Guide (2nd Edition) does not work a third edition is being prepared and a draft for comment is available on the website.

ITEM 8: SECTION FOUR – THE BUILDING CONTROL SYSTEM

[BRAC(12)P14]

8.1 DCLG presented paper 14 which informed BRAC about the responses to section 4 of consultation on proposed changes relating to the Building Control System and an indication of next steps. DCLG said it would like BRAC's input into proposals for further work identified in the paper but this input would be required before the next main BRAC and so agreement on the best way of engaging BRAC was necessary.

8.2 BRAC had the following comments:

- BRAC considered that Competent Persons Schemes (CPS) have raised competence levels and there was scope to extend them further. However, it was also felt that there must be a quality assurance and continued testing on competency, as well as more work on the definition of competency. BRAC also considered there should be standard designation, registration and sanction processes. DCLG said that many of these points were addressed with the new conditions of authorisation and by new annual checks of CPS by the UK Accreditation Service. DCLG also pointed out that financial protection was in place for consumers.
- BRAC questioned the value of the proposal for the introduction of Appointed Persons and whether it potentially is the thin end of the wedge for smaller developers. DCLG responded that the proposition was just to provide a framework.
- In regard to the section on strengthening enforcement in the paper BRAC considered that the powers to deal with those who do not comply should be swift. DCLG said that some of the civil sanctions under the Regulatory Enforcement and Sanctions Act 2008, such as Improvement Notices, can be readily used and served at any time. However, Stop Notices might be less likely to be used due potential financial sanctions on the Local Authority serving them. BRAC responded that it can be very difficult for local authority building control to enforce as they, and their lawyers, need to consider whether the action and/or its potential cost are in the public interest. BRAC commented that enforcement needs to be simple and should not be lost in legal mire.
- BRAC asked whether there was any case law on Stop Notices. DCLG was not aware of case law on Stop Notices but commented that the Environment Agency had made use civil sanctions under the Regulatory Enforcement and Sanctions Act 2008 and it so it may be possible to see how effective Environment Agency Stop Notices have been with improving compliance.

- BRAC noted that the CLG Select Committee inquiry into electrical and gas installations had also mentioned sanctions including possible removal of installers from competent persons schemes.
- Support for the proposal for 'service plans' was expressed by some BRAC members.

10 8.3 BRAC agreed that DCLG should set up an ad hoc working group to consider the proposed changes to the Building Control System, including proposals for compulsory completion certificates.
Action DCLG

ITEM 9: AMENDMENTS TO BUILDING REGULATIONS 2012 – ENERGY PERFORMANCE OF BUILDING DIRECTIVE IMPLEMENTATION [BRAC (12) P20]

20 9.1 DCLG presented paper 20 which asked BRAC to note the intention to amend the Building Regulations 2010 to transpose as necessary the requirements in the recast of the Energy Performance of Buildings Directive (EPBD) and to make a number of minor changes to facilitate the introduction of the Green Deal. DCLG emphasised that Government does not allow any 'gold plating' when transposing of European legislation but it is exempt from 'one in one out' requirements.

9.2 BRAC made the following comments:

- BRAC did not agree with the statement in paragraph 8 of the paper that there would be no new financial burden on local authorities by requiring the storage information on Green Deal financial arrangements on a retrievable form.
- BRAC expressed concern with the requirement in the EPBD that where 25% of the surface of the building undergoes renovation the building or the renovated part of it must be brought up to current energy efficiency standards.

ITEM 10: BUILDING CONTROL ALLIANCE CUSTOMER AND COMPLIANCE RESEARCH - PRESENTATION

40 10.1 Philip Hammond (PH) from LABC presented to BRAC on the key findings of research commissioned by LABC and ACAI to determine the value of Building Control to customers and customer opinion research on compliance.

10.2 DCLG agreed to circulate the presentation slides and the two research reports to BRAC members.
Action DCLG

10.3 BRAC made the following comments:

- BRAC considered it to be a very useful presentation and noted that the research has been used to inform the Building Control Performance Service Advisory Group (BCPSAG) with the development of new indicators.
- BRAC asked whether it was possible to find out which specific provisions of the Building Regulations the inventions related to. PH said that this was the first time LABC has undertaken research of this size and it has learned lessons from it for

future research, including making better use of sampling and what questions to ask.

- BRAC asked whether there was a correlation between user satisfaction and frequency of use, and what about the work that goes unreported. PH considered there were two main issues in regard to unreported work, 1. local authorities can experience difficulty in reaching out to some communities which can lead to an increase in unreported work, and 2. it depends on how well informed the general public are on building regulations and building control.
- BRAC considered that future research should focus on outcomes of the completed building rather than process. PH agreed there was a need to link the work to other projects looking at the as built performance gap and there was a taskforce at LABC looking at total systems / performance gap. BRAC offered to provide LABC with links to those with a particular interest in access to feed into future research as BRAC is aware of examples of buildings which supposedly satisfied Part M yet in reality are not accessible to wheelchairs.
- BRAC discussed issues around the performance gap between as designed and as built, including how procurement issues can mean buildings are not built to the original specification and therefore the end product may not be what was expected. It was also noted that values put into tools such as SAP and SBEM are often taken from the design stage and not from what was actually built and so SAP/SBEM is not necessarily at fault for inaccurate performance. An audit of a building when it is complete including a chain of information flow recording values and changes would mitigate the performance gap and it was felt that BIM could facilitate this.

30 ITEM 11: OVERHEATING – THE CASE FOR ACTION

[BRAC (12)P15]

11.1 DCLG presented a discussion paper on 'Overheating – the case for action'. This presented an outline of some recent research findings and modelling on the overheating of homes, what homes and people are vulnerable and possible mitigating measures and actions that could be taken. DCLG stressed that this was a review of evidence for discussion and should not be taken as an indication of any policy intention or a departmental position on overheating.

11.2 BRAC had the following comments:

- BRAC was aware of workshops with the Health Protection Agency, housebuilders and housing associations to gather experiences of overheating to contribute to BRE research. These found that there are problems associated with communal heating systems, in particular in highly insulated homes, and that in high temperatures hard paving outside homes can heat ventilation air. Some BRAC members felt thought needs to be given to ventilation and cross flow ventilation and how mechanical ventilation and heat recovery systems (MVHR) contributes, although other members considered that MHVR systems should not be demonised as problems with them can often be a result of poor installation. There were also differing views from BRAC members about the importance of thermal mass in limiting overheating
- BRAC considered that care needs to be taken to ensure research on domestic and non-domestic overheating is kept separate; the key issue for overheating and the workplace is likely to be linked to productivity, whereas the key issue for domestic

circumstances is likely to be the vulnerability / heat tolerance of the occupant. Concern was expressed the ability of designers to analyse potential problems due to the lack of commercially available weather data.

- It was acknowledged that behavioural adaptation was a very important issue to consider and also that humidity makes a significant impact on how individuals are able to deal with heat.
- BRAC considered it to be a very complex issue that could not be resolved simply through regulation. A long term, whole system view is necessary, considering how the houses that are being built now will perform in 50 years time; how areas are planned; and how occupants behave. The greening of urban areas through the planning system (including more green spaces, roofs and less paving) can be effective in mitigating overheating; it could also have a positive impact in terms of flooding.
- BRAC was asked whether it was aware of any complaints about overheating from owners of new houses. It was considered that satisfaction levels were generally high but also that occupants are unlikely to blame the house if it only overheats for 5 days a year.
- BRAC considered that overheating and how the building we build now are going to perform in the future may be another good topic for the BRAC Strategy Day.

ITEM 12: UPDATE ON BUILDING REGULATIONS AND STANDARDS RESEARCH & DEVELOPMENT PROGRAMME 2012/13 [BRAC (12) P16]

12.1 DCLG presented paper 16, along with annex A, to which updated BRAC on progress on DCLG's Building Regulations and Standards research and implementation programme for 2012/13. BRAC was asked to note the amendments to the programme that were made since the last BRAC meeting, which were chiefly the addition of additional proposed projects around Part L. DCLG commented that due to limitations in staffing capacity it may not be possible to take forward all the research projects in the programme and it would also like BRAC's views on the priority for projects.

12.2 BRAC had the following comments:

- BRAC considered the proposed funding for the project on developing a quality assurance standard for the house building process was very low.
- BRAC reaffirmed the comments made at the previous main meeting that the projects on accessibility / Part M should take into account the changing demographics and shape / size of individuals. BRAC also suggested that the word "disabled" should be removed from the project titled "Disabled Access Standards".
- BRAC suggested the possibility of bringing in secondees from industry to support DCLG with capacity issues on the management of research projects.
- In terms of the order in which projects are taken forward BRAC considered that the projects on indoor air quality and accessibility should be prioritised.

**ITEM 13: UPDATES FROM NORTHERN IRELAND, SCOTLAND AND WALES
ADMINISTRATION [BRAC (12)P17]**

- 13.1 The Scotland and Northern Ireland observers presented their oral updates arising from paper 17 on regulations and standards in their administrations.
- 13.2 The Scottish observer commented that the key issue for the Departmental Working Group is Energy. He confirmed that the Administration had undertaken analysis of the costs on housebuilders of its energy proposals and this research indicated it was likely to add £10k to the cost of building a new home. Proposals for the requirement for carbon monoxide detectors in all buildings are being considered. Climb-ability of protective barriers is a particular issue after the death of a child and the proposed changes are likely to bring standards in line with England.
- 13.3 The Northern Ireland observer advised that a consolidated version of the Northern Ireland Building Regulations were made in May. Building notices are to be restricted and completion certificates mandated. BRAC asked whether stairs had come out of Part R of the Northern Ireland Building Regulations and he responded that he would confirm this.
- 13.4 No oral update from Wales was provided.

ITEM 14: ANY OTHER BUSINESS

- 14.1 BRAC members discussed 4 different format options for the layout of new approved documents and agreed that the version in 12pt font and with the narrowest margins was the best. BRAC also commented that diagrams within approved documents should be bigger and clearer. It was also noted that technical guidance in Scotland was now all electronic.
- 14.2 The observer from Scotland said he would be willing to share the research commissioned by the Scotland Administration on Indoor Air Quality and should BRAC members want a copy then to email him.

**BRAC Secretariat
Building Regulations and Standards Division, DCLG
June 2012**

PRESENT (for all or part of the meeting)

BRAC Members

Neil Cooper	Chair
Peter Caplehorn	Deputy Chair
Keith Bright	Member
Emma Clancy	"
Alan Crane	"
Nick Cullen	"
Clifford Fudge	"
Adrian Levett	"
David Mitchell	"
Neil Smith	"
Andrew Shipley	"
Paul Timmins	"
Stephen Wielebeski	"
John Tebbit	"
Trevor Haynes	"
Tracy Aarons	"

DCLG Officials

Bob Ledsome	Deputy Director, Building Regulations and Standards Division, DCLG
Anthony Burd	Head of Technical Policy, BRSD
Stephen Porter	BRSD, DCLG
Paul Decort	"
Ian Drummond	"
Steven Kelly	"
Clover Summers	"
Guy Brampton	"
Montaz Muqiuith	"
Tracy Cull	"
Sandra Simoni	"
Shayne Coulson	"
Peter Watt	"

Prof Jeremy Watson	Chief Scientific Adviser, DCLG
Philip Hammond	LABC (presented and took questions on Item 10)
Emily Hay	Climate Change & Sustainable Buildings, DCLG

Sarah Thomas	BRAC Secretariat, BRSD
--------------	------------------------

Observers

Bill Dodds	Building Standards Division (BSD), Scottish Government (SG)
Seamus McCrystal	Northern Ireland