

Building Regulations Advisory Committee **Annual Report 2009**





Building Regulations Advisory Committee Annual Report 2009

This report reflects the work of the Committee in 2009 under the last Government. It should not necessarily be construed as a commentary of the new Government's policy positions and work

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Contents

Section 1	Introduction by the Chair and Deputy Chair	4
Section 2	The role and operation of the Building Regulations Advisory Committee (BRAC)	6
Section 3	BRAC's advice and activities during 2009	10
Section 4	BRAC membership and observers during 2009	17

Introduction by the Chair and Deputy Chair

We are pleased to present this latest report on the advisory work carried out by the Building Regulations Advisory Committee (BRAC) covering the calendar year of 2009.

BRAC has a long and illustrious history in helping to develop and establish building regulations, which play a key role in ensuring safe, accessible and energy efficient buildings. As in previous years, the Committee continued to work closely with officials in Communities and Local Government's Sustainable Buildings Division in 2009 to provide technical and strategic advice and views on a broad range of issues related to building regulations and buildings standards.

As this report indicates, during the year BRAC assisted the Department in finalising the Future of Building Control Implementation Plan and commented on a number of proposals aimed at developing the competent person scheme framework. The Committee also ran a number of working parties to assist the Department in reviewing and developing proposals for amendments to Parts A & C, Part G, Part J, Parts L&F and Part M of the Building Regulations - brief details of the work of the working parties can be found in paragraph 26 of the report.

As in recent years BRAC also gave its views on sustainable buildings initiatives, including the review of the Code for Sustainable Homes and the proposals for zero carbon in new non- domestic buildings. Furthermore, the Committee commented on the UK Climate Projections 2009 and the challenges presented by the need to further accommodate climate change adaptation in the Building Regulations.

BRAC was particularly pleased that the then minister with responsibility for the Building Regulations requested a specific meeting with the Committee in May 2009 to seek the views of members on the built environment in the context of the economic climate. We hope that ministers found the subsequent paper prepared by the Committee helpful which offered our recommendations (see paragraph 17 of the report).

Finally, we would like to pay tribute to the breadth of knowledge and expertise and the hard work of all members of BRAC during 2009 and particularly thank Ziba Adrangi who stood down from the Committee at the end of the year. We are also grateful for the usual unstinting support of the BRAC Secretariat team within the Department, which enabled the Committee to function so effectively. BRAC looks forward to continuing to advise and support Ministers and officials in their work.

Neil Cooper

Michael Finn MBE



Michael Finn was appointed Chair of BRAC in January 2002 and was reappointed in 2009 for a final term until December 2011. He first became a member in July 1991 and has therefore to date given 19 years service to the Committee.

Michael is a chartered surveyor, who was formally an equity partner in Drivers Jonas, Chartered Surveyors, and now practices as an independent property consultant. He is past President of the Building Surveyors Division of the RICS and the Association of Consultant Building Surveyors. His experience in both the public and private sectors covers

many areas of building construction and management involving both the existing building stock and new construction.

Michael was awarded the MBE in the Queen's Birthday honours list 2008 in recognition of his considerable service to building standards.

Neil Cooper



Neil Cooper has served as a member on the Committee since October 2006 and was reappointed in 2009 for a further term until September 2012. He was selected for the role of Deputy Chair of BRAC in February 2009.

Neil is a chartered surveyor and is currently Managing Director of MLM Building Control Ltd. He is a founding member and former Chair of the Association of Consultant Approved Inspectors and served as a policy committee member of the Consortium of European Building Control. He has provided consultancy and expert witness evidence to UK and international Governments on Building Control policy and regulatory issues. Commencing his career in construction

management he has experience of public and private sector construction and control in a wide range of new and existing buildings.

The role and operation of the Building Regulations Advisory Committee (BRAC)

Brief background on the Building Regulations

- 1. The work of the Building Regulations Advisory Committee (BRAC) is concerned with the provision of advice on building regulations applicable in England and Wales. Comparable committees exist in Northern Ireland and Scotland.
- 2. The powers to make building regulations are contained in the Building Act 1984, as amended by the Sustainable and Secure Buildings Act 2004. Building regulations may be made for the purpose of: securing the health, safety, welfare and convenience of persons in or about buildings; furthering the conservation of fuel and power; preventing waste, misuse or contamination of water; furthering the protection or enhancement of the environment; facilitating sustainable development; and furthering the prevention or detection of crime.
- 3. The principal Building Regulations 2000 (as amended) contain procedural requirements and a broad range of what are termed functional requirements with which anyone carrying out building work subject to the regulations must comply. The regulations apply to most new buildings and many alterations or changes of use of existing buildings, whether domestic or non-domestic. The functional requirements are grouped under 14'parts' (A, B, C, etc), as listed below and, in essence, they provide a baseline of minimum standards to assure the delivery of 'fit for purpose' new and refurbished buildings. The Building Regulations are supported by statutory Approved Documents which give detailed technical guidance on ways to comply with the regulations. Local authorities, private sector approved inspectors and competent person schemes exercise a building control function to ascertain that the requirements of the Building Regulations have been complied with. Only local authorities have a statutory enforcement function.
- 4. More detailed information on the Building Regulations can be found on the Department for Communities and Local Government's (hereafter referred to as "the Department") website: http://www.communities.gov.uk/planningandbuilding/buildingregulations/buildingregulationsadvisory/

PART		
Α	Structure	
В	Fire safety	
С	Site preparation and resistance to contaminants and moisture	
D	Toxic substances	
Е	Resistance to the passage of sound	
F	Ventilation	
G	Sanitation, hot water safety and water efficiency	
Н	Drainage and waste disposal	
J	Combustion appliances and fuel storage systems	
K	Protection from falling, collision and impact	
L	Conservation of fuel and power	
М	Access to and use of buildings	
N	Glazing – safety in relation to impact, opening and cleaning	
Р	Electrical safety	

Terms of reference

6. BRAC was originally established in April 1962 under Section 9 of the Public Health Act 1961, which has been superseded by Section 14 of the Building Act 1984. The terms of reference of BRAC contained in Section 14 are to advise the appropriate Secretary of State (currently the Secretary of State for Communities and Local Government) on the exercise of his power to make building regulations and on other subjects connected with the regulations, in England and Wales. Section 14 also places a duty on the appropriate Secretary of State to appoint a BRAC (jointly with the Secretary of State for Wales) and to consult the Committee (and other relevant stakeholders) before making any building regulations containing substantive requirements. In practice, BRAC is used as a sounding board on most matters affecting building regulations/standards. Consultation is primarily carried out via officials of the Department's Sustainable Buildings Division (SBD) (see 'Secretariat' below).

7. BRAC is defined as an advisory non-departmental public body (NDPB) and is also designated as a Scientific Advisory Committee under the Government's Code of Practice for Scientific Advisory Committees 2001.

Membership

- 8. BRAC consists of appointed members and appointments are currently made jointly on behalf of the Secretary of State for Communities and Local Government and the Secretary of State for Wales in open competition, with full regard to the Commissioner for Public Appointments' Code of Practice for Ministerial Appointments to Public Bodies. Terms of appointment are usually for two or three years and members can be reappointed for terms up to a total of 10 years, subject to satisfactory performance assessments and balanced against the case for new members. There is no prescribed minimum or maximum number of members of BRAC.
- 9. Members are appointed on an independent basis to represent particular areas of expertise and experience, relevant to building regulations, rather than as delegates of particular organisations or interest groups. Full details of the membership during the year can be found in Section 4.
- 10. All members (including the Chair and Deputy Chair) are unpaid for their work on BRAC, but can claim travel and other expenses, including loss of earnings, as appropriate. Members are provided with a *Member's Handbook* containing guidance on membership and are expected to adhere to a code of conduct detailed therein, which includes procedures for declaring any conflicts of interest. The Member's Handbook can be found on the BRAC web pages on the Department's website see address in paragraph 4. A *Register of Members' Interests* is also maintained by the BRAC Secretariat, to which members are required to contribute.

Sponsorship/Secretariat

11. By convention, the Secretary of State for Communities and Local Government has responsibility for making and amending building regulations in England and Wales and thereby for consultation with BRAC. The Secretary of State is also accountable to Parliament for the policies and performance of the Committee, and for the resources allocated to its operation. BRAC is therefore sponsored by the Department but, as the Committee covers England and Wales, Welsh Assembly Government officials liaise closely with the Department's officials and a representative attends BRAC meetings as an observer (representatives of the other devolved administrations in Scotland and Northern Ireland also attend as observers).

12. The Secretariat function for BRAC is provided by officials from the Department's Sustainable Buildings Division (SBD), who can be contacted at:

Communities and Local Government Sustainable Buildings Division Zone 5/E8, Eland House Bressenden Place London SW1E 5DU

Tel: 0303 444 1819

Email: brac@communities.gsi.gov.uk Website: www.communities.gov.uk/brac

- 13. The main tasks of the BRAC Secretariat involve: operating the procedures for the ministerial appointment of members, including recruitment exercises; making arrangements for main Committee meetings and awaydays, including preparing/co-ordinating and circulating agendas, briefings, papers and minutes; arranging for publication of documents in accordance with the BRAC publication scheme (see paragraph 14); processing expenses claims and overseeing the budget; and co-ordinating production of annual reports and other publications.
- 14. Public bodies are required to adopt and maintain a scheme for the publication and availability of information in accordance with Section 19 of the Freedom of Information Act 2000. The BRAC secretariat has therefore prepared and maintains a BRAC publication scheme, which the Committee and the Information Commissioner have approved. The publication scheme can be found on the BRAC web pages, along with BRAC agendas, papers, minutes, annual reports and other information, which are published in accordance with the scheme.

Resources

15. BRAC is not grant-aided and has no resources (i.e. budget, staff or accommodation) of its own, but its running costs are funded by the Department. The total expenditure in 2009 was approximately £14,000 which was primarily used to cover the expenses (only) members are entitled to claim and the costs of holding meetings and an annual awayday. In addition to this expenditure, SBD bears the cost of carrying out the secretariat tasks referred to in paragraph 13.

BRAC's advice and activities during 2009

Introduction

- 16. As in previous years, BRAC provided advice during 2009 on aspects of the Building Regulations and the supporting Approved Documents and on other initiatives related to building standards. Its main business was held in three allday Committee meetings at the Department on 26 February, 5 June and 8 October. The Committee was also occasionally consulted via email.
- 17. In addition, the then minister responsible for the Building Regulations held a specific meeting with BRAC on 5 May 2009 to seek the Committee's advice/views on the built environment in the context of the economic climate, including how to improve training/skills in the construction industry and the quality of the building profession. BRAC convened a think tank meeting (see paragraph 20) to discuss the advice sought from the minister and provided its recommendations in a BRAC paper. The BRAC Chair presented the paper to the minister's successor at that time, when they met on 15 October 2009. Further details can be found in paper BRAC(09)P44, which will be published on the BRAC web pages in accordance with the BRAC publication scheme.
- 18. BRAC establishes working parties, when appropriate, to help formulate its advice and develop proposals on technical reviews and other specialist matters related to the Building Regulations. The working parties consist of volunteers from the membership, one of whom will act as Chair, who work alongside the Department's officials and other co-opted experts from key stakeholders. The Department makes the arrangements for working party meetings which are held-mainly on its premises as often as necessary, reporting back to the main Committee with their advice and recommendations. Some BRAC members also assisted the Department individually on various workstreams. There were six BRAC working parties in 2009 relating to Parts A & C; Part G; Part J; Parts L & F; and Part M of the Building Regulations (see reports in paragraph 26).
- 19. As in previous years, BRAC members met in Cambridge for their annual awayday on 5/6 November 2009. These awaydays are held to enable members to consider strategic or key topical issues away from the pressures of normal business, which assist the Committee in carrying out its advisory role to ministers. Some officials from the Department also attend the awaydays. The general theme for the 2009 awayday was "Shaping the future" details of the presentations received and BRAC's deliberations can be found in paper BRAC(10)P1 when published on the BRAC web pages.

20. BRAC members also occasionally convene their own think tank discussions and meetings, chaired by the BRAC Deputy Chair, which - like awaydays - are held to consider strategic or topical issues. In 2009, think tank meetings were held on 4 June at the Rubens Hotel, London and on 10 December at the Department, prior to the Committee's Christmas lunch. As indicated in paragraph 17, the 4 June meeting was convened to facilitate specific advice requested from the previous minister and the 10 December meeting followed-up the discussions arising from the awayday the previous month.

Issues considered in 2009

21. During 2009, the main BRAC Committee was consulted by the Department and advised on the following issues and was kept up to date with developments. Details of the issues considered and the Committee's deliberations can be found in BRAC agendas, papers and minutes when published on the BRAC web pages. The relevant BRAC papers and minutes numbers (prefixed by BRAC(09)) are indicated as 'P' or 'M' in square brackets below:

THE BUILDING CONTROL SYSTEM

- Future of Building Control: Implementation Plan [P2, P28, P33] [M1, M3]
- Devolution of the power to make building regulations to Wales [P4] [M1]
- Draft risk assessment method for building control a presentation from consultants commissioned by the Department [M2]
- Self-certification of the installation of larger combustion appliances [P12, P35]
 [M3]
- Proposed changes to the local authority building control charging regime [P13]
- Applications to run competent persons schemes to support amended Part G of the Building Regulations [P27, P32]
- Amended methodology for calculating water efficiency in new dwellings [P29]
- Proposals for changes to the conditions of authorisation, application process and quality assurance arrangements for competent person schemes [P34] [M3]
- Simplification of the built environment theme of the Simplification Plan 2010 2015 [P45]

TECHNICAL REVIEWS OF THE BUILDING REGULATIONS (brief reports on the BRAC working parties formed to take forward these reviews can be found in paragraph 26)

- Review of Parts A (Structure) and C (Site preparation and resistance to contaminants and moisture) [P5, P16] [M2]
- Review of Part G (Hygiene) [P14, P24, P31]
- Review of Part J (Combustion appliances And fuel storage systems) [P1, P17, P30] [M1, M2]

- Review of Parts L (Conservation of fuel and power) and F (Ventilation) [P6] [M1]
- Report of the Part M Working Party on Accessible Housing and Lifetime Homes [P18] [M2]

SUSTAINABILITY

- Sustainability policy updates [M1]
- Review of the Code for Sustainable Homes [P7, P36] [M1] [M2] [M3]
- Zero carbon new non-domestic buildings [P37] [M2] [M3]
- Climate change adaptation and building regulations, including a presentation on the UK Climate Projections 2009 from the Department for Environment, Food and Rural Affairs [P38] [M3]
- Building regulations and user behaviour [P39] [M3]

OTHER ISSUES

- Sustainable Buildings Division Research and Development Programme 09/10
 [P3] P41 (Annexes A and B) [M1]
- Sustainable Buildings Work Programme [P20] [M2]
- 22. In addition, BRAC received and commented on a presentation from a BRAC member at the February meeting relating to *The Cost Burden of Regulation* [M1].

Information papers, emails and oral reports received during 2009

23. BRAC received papers on the following issues for information during the year to assist members in their advisory role, which can also be found on the BRAC web pages when published:

REGULAR INFORMATION PAPERS

- Sustainable Buildings updates brief information on miscellaneous developments not covered by other papers including the Draft EU Construction Products Regulations, Energy Performance of Buildings Directive, and Heat and Energy Saving Strategy [P9, P22, P41]
- Parliamentary Questions related to building regulations and standards [P10, P23, P42]
- Casework decisions on statutory determinations and appeals [P11, P43]

OTHER INFORMATION PAPERS

- The Building (Amendment) Regulations 2009 relating to change of name from CORGI to Capita (operator of approved gas safety scheme) [P15].
- BRAC Annual Report 2008 [P25]

- 24. BRAC was also notified of some key developments or announcements via email for information including:
 - The Building (Amendment) Regulations 2009 amendment of Schedule 2A relating to Competent Person Schemes
 - Building and Approved Inspectors (Amendment No.2) Regulations 2009 (SI 2009/2465), postponing the coming into effect of the amendments to Part G of the Building Regulations.
 - Welsh Ministers (Transfer of Functions) (No.2) Order 2009 transferring the power to make building regulations and other executive functions in the Building Act to Welsh ministers and restricting BRAC's remit to England.
- 25. In addition, BRAC continued to receive oral reports at meetings during the year on relevant building regulations/standards issues relating to the devolved administrations. These were provided by officials from the Welsh Assembly Government, the Building Standards Division Scottish Government, and the Department of Finance and Personnel Northern Ireland, who attend BRAC meetings as observers. Details of these reports can be found in BRAC papers P21 and P40, and also in the minutes of the three meetings in 2009 when published on the BRAC web pages.

Working party reports

26. The following are brief reports of the work of the operational BRAC working parties in 2009. Further information can be found in the relevant BRAC papers and minutes referred to in paragraph 21.

Part A (Structure) and Part C (Site preparation and resistance to contaminants and moisture) working party

BRAC's joint Part A and Part C working party, chaired by Dr Alastair Soane, held its first meeting on 30 October 2008. As part of the review considering possible amendments for 2010, the working party continued its discussions over the course of four meetings in 2009. An evaluation of Parts A and C of the Building Regulations identified a number of issues that could not be resolved at that time. It was decided therefore that work on reviewing Parts A and C should continue, with a view to proposing appropriate changes in a future revision of the Approved Documents.

Part G (Sanitation, hot water safety and water efficiency) working party

The review of Part G and the proposals for change were developed under the supervision of a BRAC working party convened in late 2007, chaired by John Tebbit. After the legislation to amend the regulations was laid and the draft Approved Document G was published in 2009, a detailed opinion was received from the European Commission, which necessitated the implementation date of the "new" Part G being delayed to April 2010 (the next common commencement date). Amendments were proposed to Approved Document G to take account of the detailed opinion and other issues identified in the intervening period, on which the working party was consulted. The changes to Part G will come into force on 6 April 2010, including its new title *Sanitation*, hot water safety and water efficiency.

Part J (Combustion appliances and fuel storage systems) working party

BRAC's Part J working party, chaired by David Mitchell, met for the first time on 9 February 2009 to discuss the backward and forward look and the research needed to help form the issues on which the consultation on Part J were to be based. The key aspects of this were air supply for combustion in air tight homes; carbon monoxide alarms; better guidance on bio-fuel technology; concealed flues; and bunding of domestic oil tanks.

The working party met subsequently in May and December 2009. At the December meeting they discussed the outcomes of the consultation which closed on 26 November 2009. The changes to Part J are due to come into force in October 2010.

Part L (Conservation of fuel and power) working party

BRAC's Part L working party was formed to review and amend the energy efficiency provisions of the Building Regulations with a view to reducing carbon dioxide emissions from all new buildings by 25 per cent from 2010.

Chaired by Lynne Sullivan, the Part L working party met for the first time in June 2008 and held several subsequent meetings during 2008 and early 2009. A public consultation was launched in June 2009. The working party met three further times at the end of 2009 and beginning of 2010 to consider the consultation responses and the final Part L proposals that were developed in the light of the consultation.

The energy efficiency requirements of the Building Regulations will be revised in March 2010 and the Approved Documents issued in April 2010. The changes will come into force on 1 October 2010 and will require a 25 per cent improvement above current standards for every new home. An aggregate approach for improvement of new non-domestic buildings will deliver an improvement of 25 per cent overall, rather than for each individual building. The requirements will also apply when people carry out work to existing buildings, including extensions and conversions, fabric renovations, replacement windows and boilers.

Part F (Ventilation) working party (working alongside the Part L working party)

To help maintain indoor air quality and avoid adverse health effects that could otherwise have occurred due to the greater tendency to more airtight buildings arising from the Part L changes, Part F has been reviewed in parallel with Part L.

BRAC's Part F working party, also chaired by Lynne Sullivan, first met in September 2008, and held several subsequent meetings during 2008 and early 2009. The joint Parts L/F public consultation was launched in June 2009. The working party will meet twice more during early 2010 to consider the consultation responses, and the final Part F proposals that were developed in the light of the consultation. Part F will be revised in March 2010 with new requirements and guidance for installation and commissioning of ventilation systems and the Approved Document will be issued in April 2010. The changes to Part F will come into force in on 1 October 2010.

Part M (Access to and use of buildings) working party

BRAC's Part M working party on Lifetime Homes, chaired by Andrew Shipley, was established in February 2008, as a result of a commitment in the National Strategy for Housing in an Ageing Society to look in greater detail at development of standards relating to accessible and adaptable housing

The working party met on 10 September and 27 November 2008 and 4 February and 15 April 2009. The working party has used British Standard Institute (BSI) *Draft for Development (DD) 266 on Accessible Housing and Lifetime Homes* as a basis for discussing the development of technical aspects of accessible housing design. Comments from the working party will be submitted to BSI and the discussions resulting from the working party are being used to support development of a broader evidence base to feed into the 2010 review of Lifetime Homes Standards Policy.



BRAC committee in session

Publications

- 27. The publications BRAC assisted the Department in producing during 2009 can be found and downloaded free of charge, via the Department's website and the Planning Portal (see paragraph 4). This includes Statutory Instruments (i.e. regulations), Approved Documents, Departmental circulars, circular letters, consultation papers and other documents.
- Hard copies of these documents can be obtained as follows:

Priced publications by mail order from:

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Consultation documents and other free publications

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BRAC membership and observers during 2009

Membership

Chair Michael D Finn, MBE, FRICS, FBEng, FRSA,

MCIArb

Chartered Surveyor. Partner, Vail Williams, Real

Estate Consultants.

Deputy Chair Neil Cooper, Dip Surv, FB Eng, MRICS, MIOD

Chartered Surveyor. Managing Director MLM Building Control Ltd. Member CIC Approved

Inspector Management Board.

Mrs Tracy Aarons, FRICS, MIFireE, BEng(Hons), MSc

Group Manager, Built Environment, Mendip District Council.

Professor Keith Bright, MSc, FRICS, IEC, FBEng, MCIOB, NRAC

Emeritus Professor of Inclusive Environments, The University of Reading. Access Consultant. Director, KBC Ltd.

Alan Crane, CBE, C.Eng, FICE, FCIOB, FCMI, FFB, MIOD

Chairman, 3C's Construction Industry Consultants. Chartered Engineer.

Trevor Haynes, CEnv, FBEng, FRICS, FCIOB, MCMI, DMP

Assistant Director, Building and Consultancy Services, Birmingham City Council. Director of Local Authority Building Control Advisory Services Ltd (LABCAS).

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Director, PRP Architects.

Peter Caplehorn, BA Arch, Dip Arch, RIBA, CIBSE, ARB

Technical Director, Scott Brownrigg, Architectural practice.

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John Tebbit, BSc(Hons), CEng, MICE

Chartered Civil Engineer. Non-Executive Director, Robust Details Limited. Industry Affairs Director, Construction Products Association.

Peter Warburton, MSc, FCIBSE, CEng

Consultant, Ove Arup & Partners Ltd. Building services, IT, energy and more sustainable design – freelance technical writer.

Andrew Shipley, MRICS, Dip Env Acc AA

Lifetime Homes Coordinator, Habinteg Housing Association.

Ms Lynne Sullivan, BA(Hons), DipArch RIBA, FRSA

Partner, SustainableByDesign LLP.

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Chartered Civil Engineer & Surveyor. Head of Building Control, Wandsworth Borough Council. Member, London District Surveyors Association (LDSA).

Stephen Wielebski, MSc (Dist), C Env, P Eng, MSPE, FCIOB, FBEng, ACIArb, FRSA

Divisional Development Director, Miller Homes Limited. Civil Engineer, Professional Engineer, Chartered Environmentalist and Chartered Builder.

* Membership concluded on 31 December 2009

NB: Full details of BRAC members' appointments are available on request from the BRAC Secretariat

Observers

The Welsh Assembly Government

The Scottish Government

The Department of Finance and Personnel, Northern Ireland