



Buildings Regulations Advisory Committee (BRAC)

Member's Handbook

November 2006

Department for Communities and Local Government: London

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All enquiries related to BRAC administration or material found in this Handbook should be addressed to the BRAC Secretariat at:

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1. Terms of Reference

- 1.1 BRAC was originally established in 1962 under Section 9 of the Public Health Act 1961 – now superseded by Section 14 of the Building Act 1984 – to advise the appropriate Secretary of State on the exercise of his/her powers to make Building Regulations, and on other related matters. Section 14 states:

“14(1) The Secretary of State for the time being charged with the exercise of the power to make building regulations and the Secretary of State for Wales acting jointly shall appoint a committee, to be known as the Building Regulations Advisory Committee, for the purpose of advising the Secretary of State on the exercise of his power to make building regulations, and on other subjects connected with building regulations.

14(2) The Secretary of State may pay such expenses incurred by members of the Building Regulations Advisory Committee as he may, with the approval of the Treasury, determine.

14(3) Before making any building regulations containing substantive requirements, the Secretary of State shall consult the Building Regulations Advisory Committee and such other bodies as appear to him to be representative of the interests concerned.”

- 1.2 The Secretary of State therefore has a statutory obligation to appoint BRAC and to consult the Committee (and other relevant bodies) for its advice before making any building regulations containing substantive requirements. In practice, BRAC is used by the Secretary of State as an advisory group on the whole range of Building Regulation issues.
- 1.3 BRAC is categorised 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. BRAC also falls within the remit of the Parliamentary Commissioner for Administration.

2. Operating Guidelines

Relationship with the Department

- 2.1 BRAC members are appointed jointly by the Secretary of State for Communities and Local Government and the Secretary of State for Wales, respectively, under Section 14(1) of the Building Act 1984. However, sponsorship of BRAC is the responsibility of the Department for Communities and Local Government (DCLG), and 'the Secretariat' is provided by the Department's Sustainable Buildings Division (SBD). The Secretary of State for Communities and Local Government is accountable to Parliament for the policies and performance of BRAC. He/she is also responsible for the resourcing of BRAC and the framework within which the Committee operates.
- 2.2 By convention it is the Secretary of State for Communities and Local Government who is responsible for making and amending the Building Regulations for England and Wales, and it is he/she who consults BRAC via SBD. An official of the Welsh Assembly Government attends meetings as an observer.

Membership

- 2.3 Appointments to BRAC are subject to 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 between one to three years and there is no minimum or maximum level of membership. Appointments can be terminated by the Secretaries of State by the giving of three months notice.
- 2.4 Members are appointed on an independent basis to represent particular fields of expertise or specialism, rather than as delegates of particular organisations or interests. They are not paid, but can claim travel and subsistence and other expenses (see Section 5).

Advice and consultation

- 2.5 BRAC does not have its own specific work programme. As indicated under 'Terms of Reference' above, BRAC's role is to give independent expert advice and views to Ministers on matters related to the Building Regulations, which in practice is usually given via SBD officials. That advice will normally be proffered in response to requests

for such advice from SBD at meetings or in correspondence, but BRAC or its working parties (see paragraph 2.10) may volunteer advice as well. In either event, BRAC's relationship as a consultative committee is directly with SBD and Ministers, and is subject to the observance of confidentiality where appropriate.

- 2.6 BRAC is therefore an important sounding board for policy and technical matters directly affecting the building and construction industry. The Committee is consulted before SBD carries out formal public consultations and often assists SBD in the development of proposals via its working parties.

Arrangements for Meetings and 'Awayday'

- 2.7 With effect from 2007, it is proposed that BRAC will meet three times per year, in February, June and October. Members are expected to attend these meetings, and to give their apologies to the BRAC Secretariat (see page 4) in advance if they are unable to. Meetings are held in Eland House, Bressenden Place, London SW1, and entrance to the building is via security barriers. To enable access, the Reception will provide members with a temporary security pass on each occasion.
- 2.8 The agenda and discussion papers are sent to members in advance of each meeting by the Secretariat, and minutes are produced and circulated as soon as possible after each meeting (members should ensure that the Secretariat has up to date contact details). In addition to members, relevant SBD officials attend meetings, together with observers from the devolved administrations in Wales, Scotland and Northern Ireland. It is, however, possible that some BRAC meetings may be held in public, where appropriate.
- 2.9 BRAC usually has an annual 'Awayday' for members to consider strategic issues (and occasionally other meetings), which some SBD officials may also attend. The agenda is agreed with SBD and the arrangements are made by the Secretariat.

BRAC Working Parties

- 2.10 BRAC usually convenes working parties to develop technical and other specialist advice related to the Building Regulations (or occasionally may task individual members). Working parties are appointed at a main meeting of BRAC by calling on volunteers from the membership, who will work alongside SBD officials. Specialists from the building industry and other stakeholders will also be co-

opted to assist working party members, as appropriate, and the secretariat is usually arranged by SBD. Working parties meet as often as required – usually in London – and report back regularly to the main BRAC Committee, so that progress towards meeting objectives can be properly monitored.

- 2.11 Members may also be asked to represent BRAC on other groups or to attend other functions on the Committee's behalf.

BRAC Publication Scheme and Classification of Papers

- 2.12 The BRAC Publication Scheme, drawn up under Section 19 of the Freedom of Information Act 2000 (FOIA), specifies the classes of information that the DCLG/SBD will publish and make available relating to the main BRAC Committee and its Working Parties. This has been agreed by BRAC. The scheme, and other information about BRAC, can be found at www.communities.gov.uk/brac. Any enquiries about the scheme should be addressed to the Secretariat (see page 4).
- 2.13 Because much of the policy on which BRAC is consulted needs to be treated on the basis of “in confidence/members only”, a classification has accordingly been agreed which takes account of that need and is reflected in BRAC's publication scheme. Details of the classifications are at Annex A. **Members should note these and ensure that they observe them at all times.**

3. Code of Practice for Members

- 3.1 This section sets out a Code of Practice for members of BRAC. It is based on a general model which is applicable to NDPBs and similar organisations.

Individual Members' Responsibilities

- 3.2 Members of BRAC have collective responsibility for ensuring that the Committee complies with the statutory and any administrative requirements of its operation, as indicated above, and will be advised further on this by SBD as appropriate. They must engage fully in collective consideration of the issues, taking account of the full range of relevant factors, including any guidance issued.
- 3.3 All members **must**:
- follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life which is at Annex B;
 - comply with this Code, ensure they understand their duties, rights and responsibilities, and that they are familiar with the function and role of BRAC, which should not be exceeded, and attend any relevant training or induction that may be necessary;
 - abide by rules relating to the use of public funds (see Section 5 – the Secretariat can provide further information) and act in good faith and in the best interests of BRAC;
 - respect the classification of information obtained during the course of their work on BRAC, as appropriate. The provisions of the Official Secrets Act 1911 to 1989 apply to members of BRAC. They should not use any information gained in the course of their public service for personal gain or for political purpose, nor seek to use the opportunity of public service to promote their private interests or those of connected persons, firms, businesses or other organisations;
 - not hold any paid or high-profile unpaid posts in a political party, and not engage in specific political activities on matters directly affecting BRAC's work. When engaging in other political activities, members should be conscious of their public role and exercise proper discretion;

- respond appropriately to any complaints received, in consultation with the Secretariat.
- 3.4 When speaking to the media, members **must** follow the guidance set out in Section 4 (Press Enquiries). Section 4 is also relevant when members are speaking in public on matters relating to BRAC's work.
- 3.5 Members **must** ensure that they comply with DCLG's rules for officials on the acceptance of gifts, benefits and hospitality which are applicable to members whilst working in their official capacity as members of BRAC (Annex C gives general guidance; more detailed guidance can be obtained from the Secretariat, if required).
- 3.6 Individual members can be removed from office by the Secretary of State if they fail to perform the duties required of them in line with the standards expected in public office.

Public Service Values

- 3.7 Members **must** at all times:
- observe the highest standards of **impartiality, integrity and objectivity** in relation to the advice they provide;
 - in accordance with Government policy on **openness**, comply fully with the FOIA (advice on compliance and copies of the Act can be obtained from the Secretariat), always having regard to the appropriate classification of BRAC's work (see paragraph 2.12);
 - be **accountable** for BRAC's activities to Parliament, and the public more generally, for its activities and the standard of advice it provides; and
 - ensure that BRAC's business is conducted in the most **efficient and economical** way, and within the available resources.

Role of the Chair and Contact with Ministers

- 3.8 The Chair will be the main point of contact between BRAC and SBD on day-to-day matters. Communications between BRAC and Ministers will normally be through SBD in the first instance and the Chair thereafter, except where the Committee has agreed that an individual member should act on its behalf. Nevertheless, individual members have the right to request direct access to Ministers on any matter which they believe raises important issues relating to their duties as a member. In such cases the agreement of the rest of the Committee should normally be sought and the Secretariat consulted.

3.9 The Chair should ensure that when new members are appointed they are fully briefed regarding their duties and responsibilities, and that any training needs are considered, in consultation with the Secretariat. He/she has particular responsibility for providing effective leadership on matters such as:

- formulating BRAC's strategy for discharging its duties and the process for doing so, in consultation with SBD;
- chairing main Committee meetings, having approved the agenda;
- ensuring that BRAC provides advice which is impartial, technically and legally sound, and which takes proper account of appropriate guidance;
- encouraging high standards of propriety and promoting efficient working;
- ensuring that the minutes of BRAC meetings and annual reports of the Committee's work are accurate;
- ensuring that BRAC establishes and maintains an appropriate publication scheme to meet its commitments under the FOI;
- providing assessments of performance of individual members, on request, prior to the expiry of their terms of appointment.

3.10 The Deputy Chair, where appointed, will assume the Chair's role in his/her absence.

Handling Conflicts of Interest

3.11 The purpose of these provisions is to avoid BRAC members being influenced, or appearing to be influenced, by their private interests in the exercise of their public duties. All members should therefore declare any personal or business interests which may, or may be perceived (by a reasonable member of the public) to, influence their judgement or conflict with their responsibilities as members. This should include, as a minimum, personal direct and indirect pecuniary interests¹, and should normally also include, the same interests of close family members and of people living in the same household.

¹ Indirect pecuniary interests arise from connections with bodies which have a direct pecuniary interest or from being a business partner of, or being employed by, a person with such an interest. Non-pecuniary interests include those arising from membership of clubs and other organisations. Close family members include personal partners, parents, children (adult and minor), brothers, sisters and the personal partners of any of these.

- 3.12 The Secretariat holds and maintains a Register of Members' Interests which members are obliged to complete, and which will be posted (excluding personal contact details) on the DCLG's website at www.communities.gov.uk/brac during 2006. The register thus identifies potential areas of private conflict before they arise in any specific form, and ***it is therefore important that members keep their entry under review and advise the Secretariat of any changes.***
- 3.13 Members have a duty to ensure that they act in good faith and in the best interests of BRAC. Annex D sets out details for declaring interests, which were agreed by BRAC in 1996. If members are in any doubt about a possible conflict of interest they should contact the Secretariat for advice.
- 3.14 More generally, any changes in personal circumstances, including any new appointment, which may impinge on their role on BRAC should also be notified to the Secretariat.

Personal Liability of BRAC Members

- 3.15 Legal proceedings by a third party against individual members of advisory bodies are very exceptional. A member may be personally liable if he/she makes a fraudulent or negligent statement which results in a loss to a third party; or may commit a breach of confidence under common law or a criminal offence under 'insider dealing' legislation, if he/she misuses information gained through their position. However, the Government has indicated that individual committee members who acted honestly, reasonably, in good faith and without negligence will not have to meet out of their own personal resources any personal civil liability which is incurred in execution, or purported execution, of their committee functions. Members who need further advice should consult the Secretariat.

4. Press Enquiries

- 4.1 As indicated in paragraph 3.3, members should respect the classification of information obtained during the course of their work on BRAC (see Annex A). Members **must not** therefore contact the press/media to discuss any 'in confidence' matters, or discuss them in any context where they may become public knowledge or be picked up by the press/media, without first contacting the Secretariat and the DCLG Press Office, as detailed overleaf.
- 4.2 Members may be contacted themselves by the press and other media and it is important to know how to respond, rather than be "bounced" into comment or accepting invitations for radio or TV interviews. It is also important to bear in mind that the definition of 'Press' is wide, covering not just newspapers, periodicals and trade journals but also any other published medium such as the Internet. Some of the points below may be equally applicable to members speaking in public on BRAC issues, irrespective of whether or not the media are present.
- 4.3 If a member is approached by a journalist and asked for their views on DCLG's and/or BRAC's work and policy concerns, they should proceed as follows:
 - a) if the question relates to confirmation of a matter about which a member is confident is already in the public domain, they should try to be as helpful as possible but confine their comments to factual information. They should not give an opinion on the issue as this could be taken as the view of BRAC. They should also let the Secretary to BRAC know about their conversation immediately after the event, who will consider whether the DCLG's Media Desk (see paragraph 4.4) should be advised;
 - b) if the question is clearly sensitive and could well make headlines, the member should not comment and should refer the journalist to the DCLG Media Desk, and inform the Chair, Deputy Chair and Secretary to BRAC (see paragraph 4.4);
 - c) if a member inadvertently makes off-the-cuff comments about the DCLG or BRAC to someone whom they later realise is a member of the press or media, or in the presence of them, then they should advise the Chair, Deputy Chair and Secretary to BRAC (see paragraph 4.4) as a matter of urgency; and

- d) if there is a national incident having a direct relationship to Building Regulations (e.g. a department store fire carrying implications for fire safety) then, although it is likely that DCLG will be contacted in the first instance, it is possible that a member may be contacted directly by the press or media at any time of the day or night for instant comment, or to request an interview. In these circumstances, a member should not comment or participate in any interviews, but should refer the journalist/interviewer to DCLG's Duty Press Officer (see paragraph 4.4). If the approach occurs during normal office hours, members should preferably let the Secretary to BRAC know first who will then contact the DCLG Media Desk; but if he/she is unavailable members should not hesitate to contact the Media Desk direct. Members should also, as a matter of urgency, keep the Chair and Deputy Chair of BRAC informed so that they are forewarned of any likely approaches.

4.4 The relevant addresses and telephone numbers (as at September 2006) are:

DCLG Media Desk
7th Floor
Eland House
Bressenden Place
London SW1P 5DU

BRAC contact – Jane Garvan: 020 7944 5274

E-mail: Jane.Garvan@communities.gsi.gov.uk

Main Switchboard: 020 7944 4400

DCLG Duty Press Officer: 020 7944 5945

(outside office hours and weekends)

Secretary to BRAC:

Office: 020 7944 5748

E-mail: Kevin.Flanagan@communities.gsi.gov.uk

5. Reimbursement of Expenses

Claims for Expenses

- 5.1 The Department will pay, in full, the reasonable expenses incurred by members in attending meetings, including working parties. These expenses cover:

- rail fares
- motor mileage
- the cost of taxis to and from stations (where justified)
- expenses for overnight hotel accommodation*
- child and elder care expenses.

*Overnight hotel accommodation may be justified for members with long distances to travel, or for those in professional practice who have had to break-off a project to attend a meeting, or where critical timing is essential for them to meet all their other obligations. See also paragraph 5.6.

Paragraphs 5.5 to 5.8 explain the procedures for claiming the expenses mentioned above.

Loss of Earnings

- 5.2 Section 14(2) of the Building Act 1984 empowers the Secretary of State to pay expenses incurred by members of BRAC. As unsalaried members of a committee, BRAC members qualify for loss of earnings, provided that they meet the criteria that they necessarily would suffer a loss of salary or wages, or would necessarily incur additional expense in employing another person to perform their duties, on a particular occasion when they were engaged in BRAC duties. Where a member does not suffer loss, but indirectly loses the opportunity to earn a fee, a case would need to be put forward to the Secretariat for consideration in the light of the circumstances of each claim.
- 5.3 The amounts which can be claimed are reviewed from time to time by DCLG and the current rates may be obtained from the BRAC Secretariat.

The daily allowances are:

- (i) where the period during which loss or expense is incurred is not more than 4 hours –
 - with effect from 1 April 2006 £30.41
 - with effect from 1 November 2006 £30.72
- (ii) where the period during which loss of expense is incurred exceeds 4 hours –
 - with effect from 1 April 2006 £60.82
 - with effect from 1 November 2006 £61.43

Tax Position

- 5.4 There are usually no more than three BRAC meetings per year, although for members serving on working parties the number will be higher. In any event the number and nature of these meetings, and the venues, means that they cannot conceivably be construed as “places of work” – a definition relating to the Inland Revenue criteria for taxation purposes. The combined effect therefore, with members’ expenses being no more than “reimbursement”, and BRAC meetings not constituting a “place of work”, is that it is the DCLG’s understanding that members are under no obligation to declare the receipt of their expenses to the Inland Revenue. If at any time the Inland Revenue should query the position with any member, the Secretariat should be contacted.

Making Claims

- 5.5 The following will assist in the smooth processing of claims:
- a) members should ensure that they use the correct claim form (“Non Civil Servant claim form” SAP 100” – available electronically, or in paper format, from the Secretariat) and ensure that the details are explicit (particularly where, for example, their home and office addresses are shown as being in London, but where they perhaps have had to break off from a project outside London to attend a BRAC meeting and have to return to that location – the payment of expenses will be quite proper under such circumstances but obviously requires explicit explanation);

- b) members should **include all receipts** with their claim (these may be the actual rail ticket or a receipt for it, but in the case of taxi fares, hotel bills, or meals/snacks the actual receipt is required);
- c) if members claim loss of earnings or fees, they must ensure that the relevant criteria are adhered to and that full details are given. If members are VAT registered and wish to also claim VAT, then a formal business invoice showing their VAT Registration number is required.

The Secretariat should be contacted in the event of any queries.

Hotel Bookings

- 5.6 Members should obtain approval from the Secretariat before making an overnight stay. If approval is given and a hotel needs to be booked, then the DCLG has an hotel booking service which can find and book accommodation within the current subsistence rates, and to the agreed standards (see below) throughout most of the UK.
- 5.7 The current standard is: single room with en suite facilities (WC and shower or bath), bed, TV, tea and coffee making facilities, telephone, adequate space and facilities (e.g. chair, writing surface for working in the room, wheelchair access). The hotel should have reasonable security arrangements (e.g. secure car parking, door locks, adequate lighting etc). Its location must provide a degree of personal safety and the surrounding area should be salubrious, with minimum noise during the quiet hours. Restaurant facilities should be available offering a table d'hôte menu at reasonable prices for three courses with coffee/tea and soft drinks, **(claims cannot be made for alcoholic drinks)**. Special requirements to meet religious or dietary needs should be met.
- 5.8 Members **must** settle their hotel bills on departure and then reclaim their expenses from the Department in the normal way.

Classification of BRAC Papers

All BRAC papers (including those for working parties) are given one of the following classification markings by the Secretariat, in accordance with the Committee's publication scheme:

“OPEN”

Members are free to disseminate the information contained in such papers.

“IN CONFIDENCE/MEMBERS ONLY”

The information in such papers is issued for members' consideration only.

The Seven Principles of Public Life

Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Acceptance of Gifts, Benefits and Hospitality

Extract from Part A, Chapter 3, Section 4, of the DCLG Staff Handbook

Overriding rules

- 3.4.8** The overriding rules governing the acceptance of gifts, benefits and hospitality are that:
- a. your conduct in a private capacity must not foster the suspicion of any conflict between your official duty and private interests;
 - b. your conduct whilst acting in an official capacity must not give the impression – to any member of the public, to any organisation with whom you deal or to your colleagues – that you have been (or may have been) influenced by a gift or consideration to show favour or disfavour to any person or organisation;
 - c. you must not accept any gifts, benefits or hospitality – either directly or through a third party (i.e. a family member or friend) that would, or might appear to:
 - place you under any obligation to an individual or organisation making the offer;
 - compromise your impartiality or otherwise be improper.
 - d. any gifts, benefits or hospitality must be refused if either you or the Department are in any doubt about the propriety of accepting them.
- 3.4.9** The procedures contained in this Staff Handbook cannot cover every situation that might arise and where it does not, you must seek and follow the advice of your Head of Unit or Human Resources. ***(In these circumstances BRAC members should contact the Secretariat for advice).***
- 3.4.10** The Permanent Secretary is final arbiter on the advisability of acceptance or refusal of gifts, hospitality, etc.

Guidance to Members of BRAC on Declaring Interests

1. As indicated in paragraph 3.11, all members, including the Chair and Deputy Chair, should declare any personal or business interests which may conflict with their responsibilities as members. It is essential that they are completely open about such matters. Exceptionally, it may be appropriate to declare such interests within the confidentiality afforded to any particular item of business within BRAC.
2. The Register of Members' Interests held by SBD (see paragraph 3.12) contains information on a member's main financial and other interests, which members are required to keep up to date. However, the identification and need to declare a potential conflict of interest may go wider than the declaration in the Register and may include interests through family connections, personal friendships and business associations, and include debtor/creditor relationships
3. A conflict of interest may arise in a variety of circumstances where BRAC has provided advice. These may therefore include decisions on:
 - consultancy, research or other work, placed by SBD/DCLG;
 - approval of persons or organisations by SBD/DCLG to conduct specified functions under the Building Act 1984, or related legislation or regulations;
 - financial payments or grants made to particular individuals or organisations by SBD/DCLG to carry out certain tasks;
 - other decisions by SBD/DCLG significantly affecting a specific individual's or organisation's work.

Action Required of Members

4. Members must seek to avoid situations in which conflicts of interest may arise. Whenever possible it will be important to anticipate the situation arising rather than suddenly being confronted with it. In either event, it is essential that a declaration of interest is made straight away for the record.

5. If on receipt of a meeting agenda it is apparent that there is, or may be, a conflict of interest on a particular item, a member should contact the Chair and the Secretary explaining the position. If the Chair and Secretary consider that there is a conflict of interest, then the member should not take part in the discussion². The declaration of interest and action taken will be recorded in the minutes.
6. If a conflict of interest only becomes apparent during the course of the meeting, a member should immediately draw the Chair's attention to it and declare the nature of that interest. If it is apparent that there is indeed a conflict, then that member should withdraw from the discussion². The declaration of interest and action taken will be recorded in the minutes.

² There is now case law which indicates that remaining in the room is not sufficient when a conflict arises and that the member should withdraw entirely from the meeting.