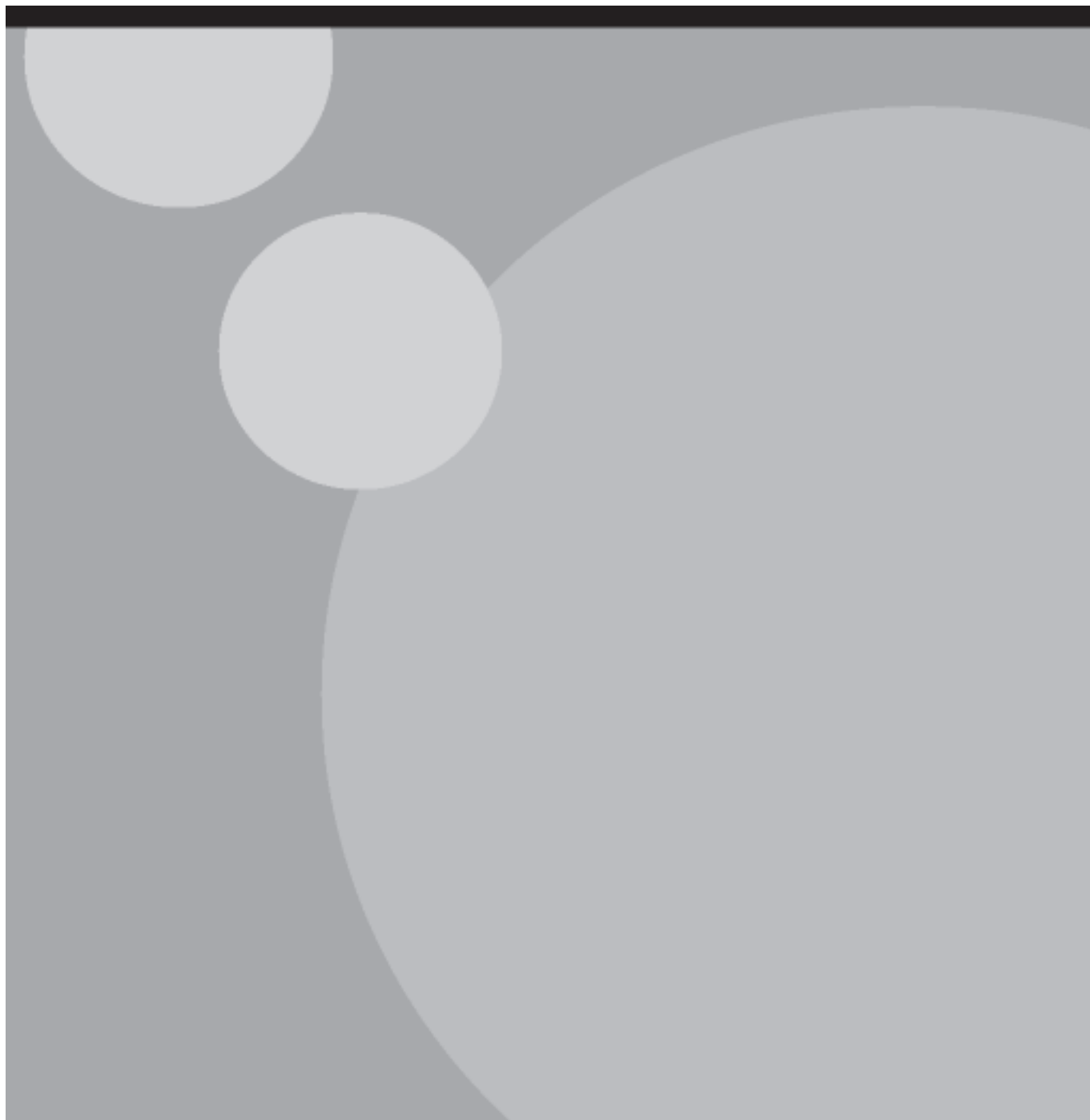




The Building Regulations Advisory Committee

Member's Handbook



The Building Regulations Advisory Committee

Member's Handbook

Department for Communities and Local Government
November 2010

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This handbook has been prepared by the Building Regulations Advisory Committee Secretariat to assist BRAC members to carry out their duties and meet their responsibilities. Members are asked to confirm their acceptance of the terms and conditions of membership explained in the handbook when they are appointed or reappointed to the Committee. Any enquiries should be addressed to the BRAC Secretariat at:

Department for Communities and Local Government
Sustainable Buildings Division
Zone 5/E8, Eland House
Bressenden Place
London SW1E 5DU
Tel: 0303 444 1819/1813

E-Mail: brac@communities.gov.uk

Website: www.communities.gov.uk/brac

SECTION 1

The Building Regulations Advisory Committee's Role

Terms of reference

- 1.1 The Building Regulations Advisory Committee (BRAC) was originally established in 1962 under Section 9 of the Public Health Act 1961 – now superseded by Section 14 of the Building Act 1984 – to advise the appropriate Secretary of State on the exercise of his power to make building regulations, and on other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 appropriate Secretary of State therefore has a statutory obligation to appoint a BRAC (jointly with the Secretary of State for Wales) 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 a sounding board on a wide range of building regulations and other related issues.
- 1.3 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. The Committee also falls within the remit of the Parliamentary Commissioner for Administration.

SECTION 2

Operating guidelines

The Building Regulations Advisory Committee Secretariat's relationship with the Department for Communities and Local Government

- 2.1 BRAC consists of appointed members only who are currently appointed jointly by the Secretary of State for the Department for Communities and Local Government (DCLG) and the Secretary of State for Wales, respectively, under Section 14(1) of the Building Act 1984. In practice this is usually undertaken by a relevant Minister with responsibility for building regulations on the Secretaries of States' behalf (in the form of a letter).
- 2.2 By convention it is the Secretary of State for DCLG who 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.
- 2.3 Sponsorship of BRAC is therefore the responsibility of DCLG. The Committee is not grant-aided and has no resources of its own (i.e. budget, staff or accommodation) but its running costs are funded by the Department's Sustainable Buildings Division (SBD) – see address after Contents page - which also provides 'the Secretariat' for BRAC. The main tasks of the Secretariat – which are referred to in the following paragraphs – involve: operating the procedures for the ministerial appointment of members, including managing recruitment exercises; making arrangements for meetings, including preparing/co-ordinating and circulating agendas, briefings, papers and minutes; arranging for publication of documents in accordance with the BRAC Publication Scheme; processing expenses claims and overseeing the budget; and co-ordinating production of annual reports and other publications.

Membership – terms of appointment

- 2.4 Appointments to BRAC (i.e. all members, including the Chair) are subject to open competition with full regard to the Commissioner for Public Appointments' *Code of Practice for Ministerial Appointments to Public Bodies*. Recruitment exercises are advertised on the Department's and the Cabinet Office's public appointments websites and are publicised as appropriate. Applicants applying for membership will need to complete an application form and, if selected, attend an interview after which they will be notified if they have been successful.

- 2.5 Terms of appointment are usually for two or three years and members can be re-appointed for terms up to a total of ten years where appropriate, subject to satisfactory performance assessments which are carried out by the BRAC Chair in consultation with the Department and the member concerned, and balanced against the case for new members. There is no prescribed minimum or maximum number of members of BRAC.
- 2.6 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. They are not paid, but can claim travel and other expenses, and loss of earnings, as appropriate (see Section 5).
- 2.7 In order to maintain the Government's high standards in public life any appointments made by the Secretaries of State may be suspended or terminated in the event that an appointee is arrested, charged or convicted of a criminal offence, and/or where it is believed that the appointee's performance or conduct means that he or she is no longer an appropriate or suitable person for the office of membership of BRAC. In this event, the Secretaries of State will, if appropriate, give a period of up to three months notice in writing. Members are also asked to give the Secretary of State a similar period of notice should they wish to stand down before their terms expire. This should be done by writing to the relevant minister with responsibility for building regulations.
- 2.8 Should BRAC be dissolved or wound up during the period of an appointment, the appointment would also cease to have effect from the relevant date. Members would be advised accordingly.

Consultation with the Building Regulations Advisory Committee

- 2.9 BRAC does not have its own specific work programme. As indicated in Section 1, the Committee's role is to give independent expert advice and views to the Secretary of State and other ministers on matters related to building regulations, which in practice is usually given via the Department's officials in Sustainable Buildings Division. That advice will normally be proffered in response to requests for such advice from the Department at meetings or in correspondence between meetings (usually via email), but BRAC may volunteer advice as well. **Members should ensure that the Secretariat has up to date contact details.**
- 2.10 BRAC is an important sounding board for policy and technical matters directly affecting the building/construction industry and is usually consulted before the Department carries out formal public consultations. The Committee also assists the Department in the development of detailed proposals via its working parties (see paragraph 2.15).

Main committee meetings and awayday

- 2.11 BRAC currently holds three main all day meetings per year, normally in February, June and October. Meetings are usually held at the Department's offices in Eland House, Bressenden Place, London SW1. Reception in Eland House will provide members with a temporary security pass on each occasion.
- 2.12 **Members are expected to be able to devote sufficient time to their BRAC duties and attend meetings regularly** (including working parties where applicable – see paragraph 2.15), as **participation at these meetings is an essential part of a member's role** and thus the effectiveness of the Committee. Attendance at meetings will be taken into account when the case for reappointment is considered. If a member is unable to attend a main Committee meeting for any reason, it is important that the Secretariat and the Chair are informed as soon as possible. In this event, members can provide comments on papers via email or post.
- 2.13 The agenda for main Committee meetings is prepared by the Secretariat and agreed with the Chair, although other members can also suggest agenda items in advance if they wish. The agenda and discussion/information papers are sent to members to read in advance of each meeting by the Secretariat, and minutes are produced and circulated as soon as possible after meetings. In addition to members, relevant departmental officials attend these meetings, together with observers from the devolved administrations in Wales, Scotland and Northern Ireland.
- 2.14 BRAC usually has an annual 'awayday' in November for members to consider strategic or key topical issues, which some departmental officials may also attend. The agenda is agreed with the Department before confirmation and the arrangements are made by the Secretariat. BRAC also holds its own strategic 'Think Tank' meetings for members only, usually after the main business at main Committee meetings but specific Think Tank meetings may also be held (e.g. prior to the Christmas lunch). BRAC is responsible for preparation of documents relating to its own Think Tank business.

The Building Regulations Advisory Committee working parties

- 2.15 BRAC convenes working parties when appropriate to help formulate its advice and develop policy and technical proposals relating to building regulations. Working parties are usually appointed at a main Committee meeting by calling on volunteers from the membership, who will work alongside departmental officials and co-opted experts from the building industry and other stakeholders. Members are expected to contribute to the work of working parties, including taking on the role as Chair where appropriate. The Secretariat for working parties is arranged by the Department. Working parties meet as often as required, usually in London,

and report back regularly to the main Committee, so that progress towards meeting objectives can be properly monitored.

- 2.16 Members may also be asked individually to represent BRAC on other working groups or at functions, or to assist the Department with particular tasks.

The Building Regulations Advisory Committee's Publication Scheme and classification of papers

- 2.17 The BRAC Publication Scheme, drawn up as required under Section 19 of the *Freedom of Information Act 2000* (FOIA) which is applicable to specified public bodies, gives details of the classes of information (e.g. agendas, papers and minutes etc) that the Department will publish and make available relating to the main BRAC Committee and its working parties. This has been prepared by the Secretariat and approved by BRAC and the Information Commissioner and is regularly updated. The publication scheme and other BRAC information can be found on the BRAC webpages on the Department's website at: www.communities.gov.uk/brac Any enquiries about the publication scheme should be addressed to the Secretariat.
- 2.18 As much of the policy on which BRAC is consulted needs to be treated initially on an 'in confidence' basis, a classification has accordingly been agreed for documents which takes account of that need and is reflected in the Committee's publication scheme. Details of the classifications are at **Annex A. Members should note these and ensure that they are observed at all times.**

SECTION 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 non-departmental public bodies and similar organisations.

Individual members' duties and responsibilities

- 3.2 Members of BRAC have individual and collective responsibility for ensuring that the Committee complies with the statutory requirements of its operation, as indicated in preceding paragraphs above. In doing so, they will be required to absorb and interpret detailed information and give advice and views on a broad spectrum of policy and technical issues, some of which may be outside their particular sphere of experience. Members will also be required to display sound judgement and good communication skills, particularly oral, with the ability to work constructively with others on the Committee to achieve a common consensus and also engage others from the industry to support BRAC's and the Department's work.
- 3.3 All members **must**:
- comply with this Code of Practice, ensure they understand their duties, rights and responsibilities and that they are familiar with the function and role of BRAC as set out in this handbook – which should not be exceeded, and attend any relevant training or induction that may be necessary
 - respect the classification of information obtained during the course of their work on BRAC, as appropriate (see **Annex A**). The provisions of the Official Secrets Act 1911 to 1989 apply to members of BRAC. They should also 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
 - follow the guidance set out in Section 4 when speaking to the media or speaking in public on matters relating to BRAC's work
 - abide by rules relating to the use of public funds (see Section 5) and act in good faith and in the best interests of BRAC
 - ensure that they comply with the Department'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)
 - 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 (members will be asked to complete a questionnaire relating to political activities when applying for membership)

- be prepared to co-operate and respond appropriately to any complaints received about BRAC or its members, in consultation with the Secretariat.

Public service values

- 3.4 Members **must** also at all times follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life (see **Annex B**) and:
- observe the highest standards of objectivity, impartiality and integrity in relation to the advice they provide in accordance with government policy on openness
 - comply fully with the *Freedom of Information Act* (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
 - be accountable for BRAC's activities to ministers and 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.
- 3.5 Members can be removed from office by the Secretary of State if they fail to perform the duties and responsibilities required of them in line with the standards expected in public office (see paragraph 2.7).

Role of the Chair and contact with ministers

- 3.6 The Chair will be the main point of contact between BRAC and the Department on day-to-day matters. Communications between BRAC and ministers will normally be through departmental officials (i.e. in Sustainable Buildings Division) 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 contact ministers direct on any matter which they believe raises important issues relating to their duties as a member, which should be done in writing in the first instance. In such cases the Chair and the Secretariat should be advised. Ministers may attend BRAC meetings from time to time.
- 3.7 The Chair has particular responsibility for providing effective leadership of BRAC and – in consultation with the Department – the duties include:
- formulating BRAC's strategy for discharging its duties and the process for doing so
 - chairing main Committee meetings, having approved the agenda

- ensuring that BRAC provides advice which is objective, 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 main Committee meetings and annual reports of BRAC's work are accurate
 - ensuring that BRAC establishes and agrees an appropriate publication scheme to meet its commitments under the *Freedom of Information Act* carrying out assessments of performance of individual members, when requested by the Secretariat
 - assisting with the recruitment of new members, including undertaking duties as an interview panel member
 - ensuring that when new members are appointed they are fully briefed regarding their duties and responsibilities, and that any training needs are considered.
- 3.8 A Deputy Chair may be selected from the membership by the Chair, in consultation with the Department and subject to a satisfactory performance assessment. The Deputy Chair will assist the Chair in carrying out their duties including in his/her absence.

Handling conflicts of interest

- 3.9 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 (financial) interests¹, and should normally also include, the same interests of close family members and of people living in the same household.
- 3.10 To facilitate this process, members will be asked by the Secretariat to complete a questionnaire for a "Register of Members' Interests" on appointment and relevant details will be made publicly available on request. **It is important that members keep their details under review and advise the Secretariat of any changes in personal circumstances which may impinge on their role on BRAC.**
- 3.11 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

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.

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.

Personal liability of the Building Regulations Advisory Committee members

- 3.12 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.

SECTION 4

Media contact

- 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 or other media to discuss any 'in confidence' matters classified 'Protect/Members Only', or discuss them in any context where they may become public knowledge or be picked up by the press/media, without first contacting the BRAC Chair and the Secretariat.
- 4.2 Members should also take care when commenting publicly on any Government policy related to building regulations, including when making presentations or writing articles, to ensure that comments are not inappropriately attributed collectively to BRAC and that no conflict of interest arises. In such circumstances members may find it helpful to discuss the matter with the Chair and the Secretariat beforehand.
- 4.3 Members may be contacted themselves by the press or 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 issues relevant to BRAC's work, irrespective of whether or not the media are present.
- 4.4 If a member is approached by a journalist and asked for their views on the Department's and/or BRAC's work and policy concerns, they should proceed as follows. 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 collective view of BRAC.

They should also let the Chair and the Secretariat know about their conversation immediately after the event, who will consider whether the Department's Media Desk (see paragraph 4.5) should be advised

- the question is clearly sensitive and could well make headlines, the member should not comment and should refer the journalist directly to the Department's Media Desk, and inform the Chair and the Secretariat
- a member inadvertently makes off-the-cuff comments about the Department or BRAC to someone whom they later realise is a member of the press or other media, or in the presence of them, they should inform the Chair and the Secretariat as soon as possible, who will consider whether the Department's Media Desk should be advised

- there is a national incident having a direct relationship to building regulations (eg a department store fire carrying implications for fire safety) then, although it is likely that the Department will be contacted in the first instance, it is possible that a member may be contacted directly by the press or other 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.

If the approach occurs during normal office hours, members should refer the journalist directly to the Department's Media Desk, but if not, members should refer the caller to the Department's Duty Press Officer (see paragraph 4.5). Members should also inform the Chair and the Secretariat as soon as possible so that they are forewarned of any likely approaches.

4.5 The contact details (as at Oct 2010) are:

BRAC Secretariat – see after contents page

BRAC Chair – details available from the Secretariat

Department for Communities and Local Government Media Desk

Eland House
Bressenden Place
London SW1E 5DU
BRAC contact – tel: 0303 444 1819/3

E-mail – press.office@communities.gsi.gov.uk

Department's main switchboard: 0303 444 0000

Department's duty press officer: 0303 444 1201
(outside office hours and weekends)

SECTION 5

Reimbursement of expenses

Claims for expenses

5.1 Section 14(2) of the Building Act 1984 empowers the Secretary of State to pay expenses incurred by members of BRAC. The Department will therefore pay, in full, the reasonable expenses incurred by members in attending meetings, including working parties, and undertaking other BRAC business. These expenses cover:

- rail (standard class only which should be booked in advance where possible to minimise the cost) and bus fares
- motor mileage costs (see paragraph 5.2)
- the cost of taxis to and from stations (only if public transport is unavailable or where otherwise justified)
- overnight hotel accommodation (see paragraphs 5.3 – 5.6)
- when staying with friends/relatives (see paragraph 5.7)
- loss of earnings (see paragraphs 5.8 – 5.9)
- dependent care costs (where justified)
- other incidental expenses, such as costs (or partial costs) of PC ink cartridges and paper; stationery; postage and phone calls (these must relate directly to BRAC business).
- reimbursement of any costs incurred should a meeting be cancelled belatedly.

Members are expected to use the most economical form of transport where possible.

Motor mileage

5.2 The standard motor mileage allowance rates are reviewed from time to time by the Department, but the current rates (as at November 2008) are:

- higher (up to 10,000 miles) = 40p per mile
- lower (over 10,000 miles) = 25p per mile

Hotel bookings

- 5.3 Overnight hotel accommodation may be justified for members with long distances to travel for BRAC business or where it is essential for them to meet other business obligations.
- 5.4 Members should inform the Secretariat in advance if they intend to arrange an overnight stay and wish to claim expenses. The Department has a hotel booking service which can find and book accommodation if needed within the current subsistence rates, and to the agreed standard (see below) throughout most of the UK.
- 5.5 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**).
- 5.6 Members **must** settle their hotel bills on departure and then reclaim their expenses from the Department in the normal way.

Staying with friends/relatives

- 5.7 Alternatively, if members have to stay with friends or relatives while they are away from home on BRAC business, they are entitled to claim a flat rate allowance for the 24 hour period. The current rate for staying with friends or relatives (all areas) is £35 per night.

Loss of earnings

- 5.8 As unsalaried members of a committee, BRAC members may also qualify for loss of earnings, provided that they meet the criteria that they necessarily would suffer a loss of salary or wages (particularly where self-employed), or exceptionally 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.
- 5.9 The amounts which can be claimed are reviewed from time to time by the Department, but the current daily allowances (as at December 2009) are:

- (1) where the period during which loss or expense is incurred is not more than 4 hours – £32.02
- (2) where the period during which loss of expense is incurred exceeds 4 hours – £64.03.

Tax position

- 5.10 The number and nature of BRAC 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. Therefore, with BRAC meetings not constituting a “place of work” and members’ expenses being no more than “reimbursement” it is the Department’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

- 5.11 The following will assist in the smooth processing of claims:
- Members should ensure that they use the correct claim form – non civil servant claim form SAP 100 – which is available electronically (however, a wet signature is required), or in paper format, from the Secretariat. Please ensure that the claim details are explicit (eg travel details, method of transport and nature of business).
 - 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 and incidental expenses the actual receipt is required). Where a ticket/ receipt is not attached, members must always explain the reason why this is so (eg “ticket retained by ticket barrier”).
 - If members claim loss of earnings or fees, they must ensure that the relevant criteria are adhered to and that full details are given (see paragraph 5.8). If members are VAT registered and wish to also claim VAT, then a formal business invoice showing their VAT Registration number is required.

Further guidance notes on making claims are provided on the claim form SAP100, to which members should have regard.

- 5.12 Completed claim forms (hard copies only) should be signed and sent by post to the Secretariat for processing. Claims should be made as soon as possible after the expenses are incurred and within the same financial year if feasible. The Secretariat should be contacted in the event of any queries. The Secretariat will also question any claims received which do not comply with the above guidance as they are subject to the Department’s audit procedures.

ANNEX A

Classification of the BRAC agendas, papers and minutes

The above main BRAC Committee documents are given one of the following classification markings by the Secretariat and are published on the BRAC webpages on the Department's website or made available, in accordance with the BRAC Publication Scheme:

UNCLASSIFIED

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

PROTECT/MEMBERS ONLY

The information in such documents should be treated as confidential and is issued for members' consideration only until it is appropriate to downgrade to **Unclassified** for the purpose of publication on the Department's website.

ANNEX B

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.

ANNEX C

Acceptance of gifts, benefits and hospitality

(Extract from Part A, Chapter 3 of the Department for Communities and Local Government's staff handbook to which the BRAC members should have regard)

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 the Staff Handbook cannot cover every situation that might arise and where it does not, staff must seek and follow the advice of their 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.

ANNEX D

Guidance to the Building Regulations Advisory Committee members on declaring interests

1. As indicated in paragraph 3.9, 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 the Secretariat (see paragraph 3.10) 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 other 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 the Department
 - approval of persons or organisations by the Department to conduct specified functions under the Building Act 1984 or other related legislation or regulations
 - financial payments or grants made to particular individuals or organisations by the Department to carry out certain tasks
 - other decisions by the Department 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 Secretariat explaining the position. If the Chair and Secretariat 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 discussion ². The declaration of interest and action taken will be recorded in the minutes.

² Although it falls to the Chair to decide whether a member should remain in the meeting room, 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.