

From the Office of the Minister



Department of
**Finance and
Personnel**

www.dfpni.gov.uk

Craigantlet Buildings
Stoney Road
Belfast BT4 3SX
Telephone 028 9052 9140
Facsimile 028 9052 3600

Mitchel McLaughlin MLA
Chairman
Committee for Finance and Personnel
Committee Office
Parliament Buildings
Stormont

Our Ref: Sub/336/08

John **September 2008**

Dear Mitchel,

**CONCLUSIONS AND RECOMMENDATIONS OF THE CFP REPORT ON
THE BUILDING REGULATIONS (AMENDMENT) BILL (NIA 11/07)**

Thank you for your Report on the above Bill which I welcome. It is clear that the Committee has considered all of the matters raised in the Bill and other related issues very thoroughly as identified in the comprehensive Report. Below I set out my response to these conclusions and recommendations

Amendments to the Bill

I will be proposing two key amendments to the Bill at Consideration Stage, firstly to strengthen the statutory duty on district councils in respect of preserving the character of protected buildings, by omitting "have regard to" and inserting instead "take account of", and secondly to remove the repeal of the civil liability provisions in the principal Order.

In relation to the former, officials will consider how buildings not covered by the definition of "protected buildings" might be addressed in guidance issued to district councils and the Committee will be apprised of the outcome of this exercise. Both of these amendments are fully in line with the Committee's recommendations.

Code for Sustainable Homes

I would reiterate the evidence given by officials during Committee Stage that, although the application of the Code for Sustainable Homes in Northern Ireland is a matter for the DSD Minister, the standards in the Code are the precursor for the future of building regulations requirements. Building Regulations set the minimum standards to be achieved whereas the Code's minimum standard will always be set above the Building Regulations requirements. As the Building Regulations requirements are enhanced, the Code standards will also be raised.

Type approvals

Regarding type approvals, I am advised that District Councils are already working on a voluntary arrangement to ensure consistency of approach in this area. Officials will monitor how this is working through the Building Control Liaison Meetings held quarterly, and on an informal basis as necessary. I would advise however that any legislative intervention deemed necessary should the voluntary arrangements fail to deliver is likely to be for another Department to pursue.

Appeals to the Department

I am pleased that the Committee accepts the evidence presented to it in relation to the workability of determinations elsewhere and that the provisions for appeals received by the Department against decisions of a district council should continue. The Department has now published on its website guidance on satisfying Part R (Access to and use of buildings) in light of the number of appeals arising since it was last amended. It has also included a turnaround target in its 2008/09 Corporate Plan. As recommended by the Committee, the present appeals mechanism will be reviewed after the proposed guidance based system has had an opportunity to bed down.

Building to out-of-date plans

In the work that will be undertaken to the Building Regulations (NI) 2000 to introduce a guidance based system, it will be proposed that additional regulations be introduced to reduce the time permitted to commence work following approval of plans and which currently allows individual houses within multi-house applications to be built to outdated standards. However, as is acknowledged in your report, there is no evidence to indicate that this practice is commonplace.

Dangerous buildings

I accept that DFP should facilitate discussion with Building Control to examine how best to address the outdated legislation on dangerous buildings and places, including consideration of which Department would be best placed to take this forward. This work will be taken forward as soon as possible.

Cross-jurisdictional policy co-ordination

In relation to establishing more formal North-South and East-West arrangements for co-ordinating policy and legislation on building regulations where appropriate, I am content that the arrangements which exist currently are working well.

Reducing the carbon footprint of existing buildings

The Committee will appreciate that (as with other legislation) it would be extremely onerous to apply the Building Regulations retrospectively in trying to reduce the carbon footprint of existing buildings, so any encouragement to improve the carbon footprint of existing buildings will fall to other Departments and Agencies with an energy efficiency remit.

However, the Committee may wish to note that the last amendment to Part F "Conservation of fuel and power" of the Building Regulations (NI) 2000 which

came into operation in November 2006 introduced, for the first time, requirements that in certain instances, cost-effective consequential improvements to the thermal fabric of an existing building had to be considered where an extension of, or significant adaption to, an existing building was being undertaken. The extension of this requirement will be reviewed on an ongoing basis.

With the recent significant increases in energy prices, it is anticipated that many of the cost-effective improvements recommended in the reports accompanying Energy Performance Certificates (see below) will be implemented. The energy efficiency of the existing building stock should therefore improve and correspondingly emissions should decrease.

Energy Performance Certificates

The duty to have an Energy Performance Certificate has been a legal requirement on sellers in the domestic market since 30th June, similar requirements will be introduced for new buildings from 30th September and will extend to new rentals and sales of all other buildings from 30th December.

My officials commenced an awareness campaign in early March beginning with property and conveyancing professionals and extended that to the general public from mid-May. That campaign generated timely interest across the media and with other interested parties. Officials are continuing to organise seminars, to give presentations and seek advertising opportunities to enhance general awareness of the requirements as the remaining phases approach implementation.

There is an adequate number of trained accredited energy assessors available to serve the existing domestic market and training is now being focussed in ensuring that the non-domestic market will be equally well serviced.

Other policies for reducing emissions

I too look forward to the outcome of the consultation on green rebates and appreciate the potential that such a policy may have on reducing emissions, as well as the potential for Planning Service to contribute through enhanced permitted development rights.

Carbon neutral buildings

In line with the Committee's recommendation, I will take the opportunity at the earliest possible opportunity to announce my intention to commit to amending the Building Regulations in 2016 to require new dwellings to be zero carbon. This announcement will build on the evidence presented to the Committee by officials that a commitment had previously been given to amend these regulations in 2010 and again in 2013. These three key timescales will ensure that the Northern Ireland Building Regulations will be amended in line with similar proposals for the regulations in the other jurisdictions.

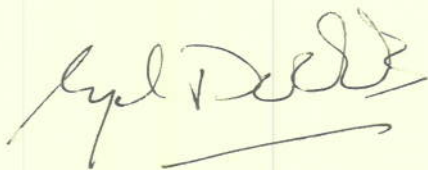
LZC technologies/grant assistance

In relation to the integration of LZC technologies, evidence given to the Committee highlighted that that these technologies will be required to meet the tighter emissions targets to be established by 2013. In the meantime, my officials will keep under review the cost-effectiveness of these technologies as fossil fuel prices vary in the future. The enhanced primary powers proposed in this Bill are designed to facilitate the introduction of requirements for new builds to incorporate and use LZC systems.

As far as grant-aid is concerned, I can assure the Committee that in my previous post the decision not to extend the Reconnect scheme was not taken lightly. Evaluation of the Scheme was necessary and is on-going. I await the outcome of the DETI evaluation and any review of the need to recommence funding for LZC technologies.

Departmental responsibility for the Building Regulations

Finally, in relation to the transfer of responsibility for the Building Regulations to DoE, I expect all Departments' functions will be reviewed following the implementation of the Review of Public Administration, so, while the Committee's points are well made, it may be appropriate to await that opportunity before implementing any change to the present distribution of functions. Such a decision would be for the wider Executive to approve.

A handwritten signature in black ink, appearing to read 'Nigel Dodds', with a long horizontal flourish underneath.

NIGEL DODDS OBE MP MLA