

Construction Industry Council Roundtable Meeting Report:

De-Risking the System – Building Control Compliance

December 2, 2022

The aim of the *RIAI CIC De-Risking the System – Building Control Compliance roundtable meeting of industry-wide representatives held under Chatham House rules* was to create an opportunity for a forum in which current policy, legal and regulatory frameworks, the volume and delivery of our buildings, and the infrastructure to support those, could be looked at together with recommendations created using a cohesive voice and collective influence.

The room was agreed on the importance of a system that supports quality. The need to resolve inherent conflicts and inconsistencies that are leading to delays and additional costs was recognised. The value of the construction industry to the country and revenue is significant, and inconsistencies are creating a severe impact on the delivery of infrastructure, critically on the delivery of homes. It creates not just an adverse societal impact, but also damages the collective reputation, both professionally and as a country in which to do business.

Importance was placed on the alignment of objectives while respecting the various roles that are played in any project.

There was agreement that the purpose of Building Control and regulation is to ensure health, safety and welfare for all, not just for the eventual user but also for those delivering the building. Through this, the regulations achieve nine of the Sustainable Development Goals.

The main issues addressed in the meeting were:

- Resourcing the industry
- Collaborative roles
- Regularisation
- Supervision v Inspection, and the need for both.
- Certificate Submission
- Penalties

Resourcing the industry

The most significant issue raised during the meeting was the requirement for greater resourcing across the industry. An increased capacity is needed, with appropriate numbers of Building Control Officers in response to area requirements. There was an emphasis on the need for a greater level of competency. It was proposed that experience as an architect, engineer or surveyor could be required in order to become a Building Control Officer at local authority level in order to assist and promote compliance.

The lack of clerks-of-work onsite has created a gap in the competent management of projects. It was discussed that a Building Control Officer could be designated to work collaboratively with the Assigned Certifier of the project. The degree of effort required of compliance by small

practices was acknowledged, and it was suggested that perhaps increased access to Building Control Officers could alleviate some of this pressure (health – safety – welfare for all), creating a collaborative proactive relationship as opposed to reactive.

“Active and early communication and collaboration between DCC Building Control and the statutory certifiers (Design Certifier, Assigned Certifier, Builder) along with engagement with the assigned Builder, their Contractors and the project Designers/Inspectors is critical”.

It was proposed that getting the design process and building control strategy correct at the start, in collaboration with all parties including the Building Control Inspector, will assist in significantly reducing issues arising at Certificate of Compliance on Completion.

An improvement to IT systems was proposed, calling for a more robust BCMS online assessment. “While we understand that BCMS Version 2 is coming, there are many issues that we would like to see addressed very soon, the website is extremely slow”. A more agile system which would be able to check submissions from Part A through to Part M, and have the ability to identify issues as they arise could significantly improve output and avoid unnecessary delays.

The lack of funding for building compliance was acknowledged. The ring-fencing of budgets for this statutory function at council level was proposed. The Commencement Notice fees could be reconsidered and increased to ensure increased resourcing. While greater inspection will increase the cost at construction stage, it is preferable here than more costly retroactive amendments onsite.

Collaborative roles

With the impetus behind the meeting motivated by the union of many relevant perspectives within the industry, the importance of collaboration was emphasized. Clarity of roles was deemed necessary, and a common understanding between all parties. It was acknowledged that issues do arise on any project, but that a culture of supporting one another to resolve problems should be fostered.

Regularisation

The need for standardisation of building administration across all local authorities was emphasised. “We would like to see more consistency in building regulations requirements throughout the country. The variations in requirements need to be addressed. They are often totally inconsistent, and unless you have experience in dealing with the issues on a daily basis it is difficult to work in this context”.

As part of this, it was recommended that a basic standard for general arrangement drawings should be required for submission.

The importance of consistency in decision-making across the country was highlighted, and perhaps an NCT-like feedback system be adopted; here is what does not comply and why. The possibility of retrospectively correcting administrative errors was promoted, to avoid unnecessary delays, cost, and unwarranted reputational damage due to simple human error. Clarity of when the local authority should inspect was also sought – it was highlighted that inspection at the time of or after submission of CCCs can be unnecessarily difficult and damaging to reputation. It was emphasised that regulation demands that buildings should comply with regulation – not ‘best practice’.

“Alerts by Building Control would be useful, by text, email, on the website, by any means available. It would be useful if these could be highlighted especially for those who aren’t undertaking related work every day. All building control authorities could feed into this”.

The room supported “developments and improvements in building control. All our members also welcome building control inspections on sites as it raises the standards for everyone”.

“It is in the interest of our clients that an agreed BCAR strategy and inspection regime is put in place as early as possible and that inspections by Building Control take place during the construction phase and not when a Completion Certificate (CCC) is about to be submitted... the BCA should ensure that all Commencement Notices are compliant with the provisions regarding the listing of items yet to be designed - as per SI9 Clause 7 for “*schedule of such plans as are currently designed or as are to be prepared at a later date*” and as detailed in COP Clauses 5.1 and 5.3”.

The difficulties of the opt-out policy were raised, and it was proposed that this should be revisited.

BCAR was introduced as a reactive measure, and through maturity should now become proactive. The issue of regulation, certification, and guidelines for modern building materials and methods of construction was also raised.

Supervision v Inspection

As part of the meeting, the differences between supervision and inspection were highlighted. Supervision was defined as a constant exercise, carried out by someone with the necessary competencies. It was stated that the Supervisor was the sole person who could ensure the building built was done so in the correct manner. Without supervision, a required level of compliance cannot be ascertained.

Inspection was deemed to be a periodic activity. The residual culture of “I’ll sign it because they did” needs to be eradicated, and inspection cannot be relied on as supervision. Inspection cannot be used as a snag list, and the differences between inspection and supervision emphasised the importance of the regular presence of the design team on site. It is an obligation of the “Assigned Builder” to appoint competent persons to supervise and competent persons to carry out the works and when CIRI becomes fully operational. subcontractors will be required to have a supervisor with their crews on site.

Certificate Submission

One of the main proposals raised was the possibility of submitting certificates throughout the building process, aligned to phase completion. It was accepted that completion can exist where snags do not affect the building regulation or health, safety and welfare. This could eradicate unnecessary delays. This means “ensuring that all parties have a common interpretation of the Act and its application particularly around phased/sectional completions”.

It was proposed that a building register be established that can be used to easily collate and access all relevant certificates for the building, and that a link is established between the certificates of completion and management of the building thereafter. In addition, the documents should be downloadable; “We are often asked for documents which are already on the BCMS, either as part of the Commencement Notice submittals or Fire or DAC submittals. These can be accessed from the BCMS so it is difficult to understand why they can’t be downloaded from that source”.

Another suggestion was to set up an improved “Lessons Learnt” database. While there are some examples on the BCMS, they are now outdated, it would be helpful to update and develop this resource and keep it current. “For example, we learned recently that the transfers on emergency escape fittings are too small. While these should not be on the market, they currently are, and it caused a minor issue. 90mm stickers are too small”.

Should an assigned certifier walk away before completion, it can leave a project in difficult limbo, and it was proposed that penalties be introduced in response to this.

Penalties

It was highlighted that the mechanism in which to challenge requirements made by the Building Control Officer by appeal was unworkably long, and that this system needs to be reconsidered with a standing adjudicating committee on interpretation of regulations or suchlike – particularly with regard to issues surrounding ‘best practise’ or accidental administrative errors.

Under BCAR, whilst the Assigned Certifier has statutory standing, with a role that is clearly set out under the Code of Practice for Inspecting and Certifying Buildings, the Assigned Certifier has limited powers, and one submission suggested that this be changed. The issue of disincentivising non-compliance was raised. Immediate Closure Notices in order to prevent blatant disregard, repeat offences, or deliberate and dangerous misconduct were proposed.

“The National Building Control Management Office should be the “court of final judgement” on all BCAR related matters and interpretations of the act”.

Concluded 17.05.2023