



*Appointed Persons
Summary Report*



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Introduction

This report details the work performed to date for the Communities and Local Government contract Technical Support for the Introduction of Appointed Persons (DCLG ref. CI 71/9/13). The contract relates to determining whether it is necessary to introduce a regulation, as allowed for within the Sustainable and Secure Buildings Act 2004 (SSBA), to create the role of Appointed Person to improve compliance with the Building Regulations or whether amendments to existing measures would achieve the desired improvement.

Work carried out in the Appointed Persons project to June 2006

Work performed between January and June 2006 comprises the following:

- An information search and review including a search for published sources of information addressing non-compliance with the Building Regulations; a review of the Planning Supervisor and forthcoming role of Co-ordinator with respect to the Construction (Design Management) Regulations with a view to possibly modelling the function of Appointed Person on this role; and an investigation of the Scottish Building Control system and the role of Approved Certifiers.
- A presentation to a Building Control Bodies meeting outlining the project objectives along with obtaining initial feedback. Following the meeting a questionnaire was distributed to the group membership covering topics including non-compliance with the Building Regulations and the potential role for Appointed Persons. A condensed version of the questionnaire along with a short article was also disseminated to industry using BSRIA's electronic newsletter.
- A workshop aimed at providing industry feedback concerning: what are the difficulties in complying with the Building Regulations; options for strengthening compliance; and defining the ideal characteristics of the role of Appointed Persons or equivalent.
- Preparation of a Summary and Options Paper that included seven options for improving compliance with the Building Regulations, as follows:
 - 1 Appointed Persons – In depth checking. A single, project specific person, to check and/or confirm compliance to Building Regulations.
 - 2 Appointed Persons – Management/co-ordination role. The Appointed Person would not himself check the design and construction but would confirm that these meet the Building Regulations based on information provided by others from the project team.
 - 3 Appointed Persons – Partial coverage of Regulations. The Appointed Person would provide his checking or management role as per options 1 or 2 but on only some Parts of the Building Regulations (for example, those felt be subject to the higher levels of non-compliance).
 - 4 Appointed Persons – Partial coverage by project type. The Appointed Person would provide his checking or management role as per options 1 or 2 but on only some types of project (for example, dwellings, or small commercial projects).

- 5 Increased resources for Building Control/ Approved Inspectors to allow enhanced checking of design submissions and more on-site checking during construction.
- 6 Increased self certification through approval of those schemes currently under consideration and extension of the concept to further schemes as appropriate.
- 7 Extended use of Robust Details/Accredited Details beyond those currently in place for Part E and those planned for Part L.

There is also the option to do nothing, but this was not specifically discussed by the Working Group.

- Establishment of a Working Group representing both building control bodies and contractors/consultants.

The members of the Working Group were: Greg Brown (human Technology Systems); Steve Driscoll (Southend-on-Sea Borough Council); Ian Featherstone (Pearce Construction), Sian Lewis (Home Builders Federation), David McCullough (Carillion), Martin Russell-Croucher (RICS), Richard Tudor (WSP Group).

In addition, officials from Communities and Local Government were present as observers.

- Holding the first Working Group meeting. The objectives of the meeting were to discuss the advantages and disadvantages of each option and to select one or more preferred options.

Conclusion reached by the Working Group

The clear preference from the Working Group meeting was for Option 2, in other words for Appointed Persons performing a management/co-ordination role. This option suggests a single, project-specific person to confirm that the design and construction of a building meets the Building Regulations based on conformity information provided by others within the project team and from self-certification schemes and Robust Details/Accredited Details schemes.

The concept could be applicable for all construction covered by the Building Regulations.

Summary of potential Appointed Person role

The Appointed Person could perform the following roles:

- Provide a single point of contact for all those involved in the design and construction and approval process concerning Building Regulation compliance issues
- Check that suitably qualified persons were involved in the design/construction process
- Collect conformity information from designers and contractors that the requirements of the Building Regulations have been met inline with the specific companies quality assurance procedures. The Appointed Person may not in person check details relating to the design and construction of the building

- Collate conformance documentation from self-certification schemes and Robust Details/Accredited Details schemes
- Liaise with Local Authority Building Control and provide necessary conformance documentation
- Act as a focal point for queries relating to Building Regulation compliance including resolution of disputes between various parties.

Relationships between Appointed Person and existing members of the project team

There is no reason why an Appointed Person could not be provided by adjusting the responsibilities within the existing members of a project team. For example, a person already involved in the design or construction process could fulfil the role. This could be the client (or the clients representative), overall project management company, architect, main contractor or consulting engineer. Alternatively, a third-party consultant/organisation could also be an Appointed Person.

Logically, the client would be responsible for appointing the Appointed Person. Early appointment of the Appointed Person is recommended so that he is involved in the design, construction and handover phases of the project.

The role of Appointed Person would not impinge on a designers/architect's responsibility to design in accordance with the Building Regulations or a contractor's responsibility to construct/install.

Summary of issues requiring consideration

The study has raised a number of issues, including those listed below, that should be considered further. These are summarised in the following table:

1. In general, it is believed large-scale construction work employing professional staff already endeavours to achieve compliance with the Building Regulations. In these instances the role of Appointed Person (AP) may do little to enhance compliance. Published information identified in this study relates to non-compliance for domestic buildings. No published studies cover non-domestic buildings.
2. It is not clear how what is essentially the management and co-ordination role of the AP would be applicable to small-scale domestic construction projects
3. A major concern relating to non-compliance is the lack of on-site checking and supervision.
4. Would the confirmation of compliance raise levels of actual compliance, as the system would be essentially based on trust.
5. What future role would Local Authority Building Control provide if the AP role was adopted? Would they continue to carry out a limited amount of design and on-site checking?

6. What role, if any, would the current Approved Inspector (AI) provide? If the AP was to replace the AI role and in cases where the AP was to be a member of the construction team (rather than an external appointment as is currently the case with AIs) the AP would be essentially self-certifying the entire construction project (excluding existing self-certification schemes/robust details).
7. If what is now the AI role was to be provided by the AP this could be seen to represent a reduction in conformance checking as AIs currently check design & construction details rather than just confirming compliance.
8. Should there be any co-ordination or integration between the roles of AP and the new Co-ordinator role for the Construction (Design & Management) Regulations?
9. How would the AP actually confirm compliance with designers and contractors? What methodology would he use? What amount of confirmation? At one extreme the AP could request individual confirmation of potentially hundreds of individual issues; at the other extreme confirmation could be whether the complete structural or building services design comply the Regulations.
10. Who would have legal responsibility if following handover it was found that an area of the design or construction did not meet with the Regulations?
11. Who would pay the fee associated with the Appointed Person role?
12. What documentation would be provided to the Local Authority Building Control?

Summary of next step

The authors of this report, reflecting on the findings of the study, have recommended that further consideration is given to Option 2 and Option 4 as well as the “do-nothing” option.

This summary report and the full report of this study into the potential provided by the Appointed Person provision of the SSBA 2004 will be incorporated into the wider review of the future of the Building Control System that Communities and Local Government currently has underway. It is anticipated that Communities and Local Government will be issuing additional information on this review within the next few weeks.