



Carbon Reporting Guidance Consultation

A response by the British Property Federation

1. BACKGROUND

A. BRITISH PROPERTY FEDERATION

The British Property Federation (BPF) represents companies owning, managing and investing in property. This includes a broad range of businesses comprising commercial property owners, the financial institutions and pension funds, corporate landlords, residential landlords, as well as all those professions that support the industry.

Buildings alone generate almost half of all CO2 emissions in the UK - 27% from the 26 million residential dwellings and 17% from the 2 million non-domestic buildings¹. The BPF has a dedicated team for sustainability issues, reflecting the priority which its leading members place upon issues of climate change and resource efficiency. We also provide Secretariat support to the Green Property Alliance, a group of the leading organisations representing both landlord and tenant interests (BPF, Investment Property Forum, UK Green Building Council, BCSC (the British Council for Shopping Centres), British Council for Offices and the Royal Institution of Chartered Surveyors).

B. FOR FURTHER INFORMATION AND FOLLOW-UP

We would be delighted to expand upon any aspect of this response and to provide further supporting information. Please contact in the first instance: Patrick Brown, Assistant Director, British Property Federation, 7th Floor, 1 Warwick Row, London, SW1E 5ER Tel: 0207 802 0108 Fax: 0207 834 3442 Email: pbrown@bpf.org.uk

Our response is not confidential.

C. APPROACH IN THIS SUBMISSION

In seeking to be as helpful as possible, we have responded to the consultation questions and included additional points which we think are helpful. A summary of main points follows in the section immediately overleaf.

¹ All Party Urban Development Group, Greening UK Cities' Buildings, 2008

2. PRINCIPAL SUBMISSION

Before addressing the questions posed by the consultation paper, we felt it useful to set our most important observations in context.

The commercial property industry has for some years been seeking to reduce its sustainability impacts. Through that process, we have gained valuable insight into the complexities affecting both the collection of the data and the way in which it is reported. However, the industry is also well aware of the importance of reducing emissions from the built environment (non-domestic buildings alone account for around 22% of UK carbon emissions). Without significant progress, the Government's Climate Change Act target of an 80% overall reduction in UK carbon emissions on 1990s levels by 2050 is unlikely to be achieved.

One of the absolutely fundamental issues that must be recognised in tackling emissions from commercial buildings is the fact that the majority of commercial buildings are tenanted², meaning that information about and influence over emissions, and the cost and benefit impacts of reducing them, are distributed among owners and occupiers. There is an enormous variety of tenanted non-domestic buildings – from single occupation distribution centres or supermarkets to multi-occupier shopping centres or office blocks. There is also variety in way in which energy is procured and in the availability to the owner and occupier of information about, and influence over, the energy used in buildings (with multi-occupier buildings inevitably being the more complex).

The lack of available data on sustainability impacts has consistently been a major stumbling block to the meaningful improvement in building design, the development of emissions reduction strategies and also to better policy design.

It is for this reason that the industry has been working with the Global Reporting Initiative (GRI) to initiate work on a sector supplement, which would refine the general GRI guidelines for carbon reporting specifically to address the issues arising in the construction and real estate context. Such a sector supplement would be elective, but would apply worldwide and across boundaries. It would also present a staged approach to carbon reporting, which includes setting in place systems for managing emissions, which we think will lead to lasting long-term emissions reductions.

We applaud the Government's attempt to rationalise carbon measurement and reporting for industry, and recognize the challenges it faces in creating an approach which is:

- Consistent with existing and evolving international approaches
- Applicable to smaller organisations as well as larger ones
- Cost-effective
- Complementary to existing policies

However, the draft guidance is highly problematic in the context of tenanted business premises. We therefore make a **key recommendation** that Annex E is revised, or that bespoke guidance is developed by the property industry for Government endorsement. This is because the means of identification of the share of operations for which GHG emissions need to be calculated (Section A) are not compatible with the relationship between landlord and tenant; because the implicitly assumed alignment of patterns of energy use, energy procurement and financial control simply do not exist; and because the financial reporting distinctions

² The Investment Property Databank, which holds and examines property sector information on behalf of the industry, said in 2005 that research indicated that 61% of retail property, 63% of office property and 23% of industrial property was held by investors and leased to tenants. Most non-domestic buildings are occupied by someone other than their owner.

on which Annex E relies are both inappropriate for the purposes of carbon reporting and likely soon to change dramatically for accounting purposes.

Where the ownership and occupation of business premises are in different hands, the basic primary reporting obligation for emissions arising from the use of the premises should always lie with the occupier, irrespective of how the lease is accounted for under current or future financial reporting standards, because it is the occupier who is responsible for, and has greatest control over, those emissions.

The BPF has developed a methodology with the Carbon Trust which permits the transfer of carbon for landlord services from landlord to tenant, providing the tenant with sufficient information to take responsibility for those emissions. The Landlord Energy Statement and Tenant Energy Review (LES-TER)³ are designed to help the parties to a tenancy to measure, manage, understand and report upon their energy use (both electricity and fuels burned). We recommend that the Government permits the use of this methodology to calculate emissions for tenancies such that:

- Landlords would take responsibility for fuels burned under common services for common areas under Scope 1.
- Landlords would take responsibility for electricity used in common areas under Scope 2.
- Tenants would take an apportionment of common services attributed to their demise, by sub-metering or by floor area where no sub-metering exists.
- Tenants would be responsible for any fuels they procured directly and any direct contracts with energy suppliers.
- Landlords *could* take responsibility for tenant's emissions if they wished to, and particularly if a green agreement/lease was in place permitting reasonable cost sharing on energy efficiency improvements and exchange of data.

The advantages of this approach are:

- It is open and transparent.
- It is clear who is responsible for what.
- It follows the principle of polluter pays.
- It follows the pattern of energy control, which motivates improvement in isolation.
- It provides a common platform for negotiation between landlord and tenant in rented buildings.
- It follows the anticipated trajectory of emerging – and desirable – trends towards greater sub-metering and collaboration between landlords and tenants which should arise from other Government policies and market drivers. Guidance suggesting that landlords should have primary responsibility for reporting on emissions which are fundamentally attributable to, and under the practical control of, their tenants, would have none of those advantages. It is the occupier who has greatest control over the emissions arising from the use of his premises, and it is vital that reporting obligations recognise that.

Guidance for how to use the LES and TER are included as an appendix to this response.

³ www.les-ter.org.uk

3. RESPONSE TO CONSULTATION QUESTIONS

DOES THE GUIDANCE PROVIDE ENOUGH DETAIL? ARE THERE ANY ISSUES ON WHICH YOU WOULD WELCOME FURTHER GUIDANCE?

We believe that bespoke guidance is required for the way rented property is dealt with, and would be pleased to coordinate this work.

DO YOU AGREE WITH ALL THE RECOMMENDATIONS? IT WOULD BE HELPFUL IF YOU COULD COMMENT ON ANY RECOMMENDATIONS WITH WHICH YOU DISAGREE (GUIDANCE: PAGE 76).

Unless the approach laid out in Annex E is abandoned, **Recommendation 1** is not appropriate for rented property and requires further thought.

Setting the Organisational Boundary

It will often be possible to argue that the owner of property which is rented out to third party occupiers has “some business involvement” in the occupiers’ operations at the property, because the lease will impose certain restrictions on the occupier’s use of the property and may also impose certain obligations (for example, to provide services) on the landlord. The question of setting the organisational boundary would therefore arise.

On the face of it, the owner of property which is rented out to third party occupiers should not generally have to report on emissions from rented property, because the owner will typically have no equity share in the occupier’s operation at the property, little if any ability to direct the financial and operating policies of the tenant’s operation at the property, and little if any authority to introduce and implement its operating policies at the tenant’s operation at the property.

We believe that to be the correct conclusion. However, the guidance at Annex E confuses the picture by reinterpreting the two control based approaches in the context of leased assets through the wholly inappropriate (see further below) filter of financial reporting.

The Guidance should clearly direct businesses to take primary reporting responsibility for the emissions associated with their occupation of property, with qualifications and suggestions for dealing with information sharing and emissions arising from common areas. The BPF would be pleased to coordinate work, involving representatives from both the property owner and tenant communities and advisors, to arrive at such an approach.

Attributing Responsibility for Emissions from Leased Assets

In theory, aligning responsibility for carbon reporting with responsibility for financial reporting in the context of leased assets seems like a good idea. Unfortunately, there are two fundamental problems with doing so in practice.

First, the operating lease / finance lease distinction is likely to be scrapped for lessees. The International Accounting Standards Board, together with the American Federal Accounting Standards Board, is in the advanced stages of a consultation about requiring all lessees to treat all leases in broadly the same way as finance leases are treated today. It is worth noting that the Boards are still considering whether to change

the way in which landlords, and in particular landlords of investment property, account for their leases. It makes little sense for nascent carbon reporting rules to adopt a distinction from the world of financial reporting which seems to be on the way out.

Secondly, the principles underlying the operating lease / finance lease distinction are wholly inappropriate when it comes to attributing responsibility for emissions and carbon reporting. The finance lease concept seeks to identify leases which are in essence financing transactions, i.e. the lease covers more or less the whole useful life of the asset and the rent can fairly be viewed, as a commercial matter, as equivalent to deferred payment for that asset, together with a finance charge. Conversely, an operating lease is one where the asset is made available to the lessee for only a part of a much longer useful life, for rent that reflects the right to use the asset for that period; it is not equivalent to a financed acquisition of the asset.

Unsurprisingly, it is in the context of equipment, plant and machinery and cars that finance leases are common. Leases of land, including business premises, are almost invariably treated as operating leases under current rules, meaning that the property appears on the landlord's balance sheet and rent goes through the income statements of the landlord and the tenant; the tenant has no asset or liability on his balance sheet.

Following Annex E and [Recommendation 1](#), the primary reporting obligation in relation to emissions arising from leased business premises would therefore almost invariably fall on the landlord, even though those emissions are under the practical control of the tenant, not the landlord. That approach is fundamentally wrong.

That is not to say that the position is simple for leased property. Certain services are performed by the landlord for the tenant to varying degrees, and many of these carry a carbon intensity. A mechanism is needed for capturing such services and their implications in a carbon reporting system. We examine this issue below.

Mismatch in patterns of Financial Control, Energy Procurement and Control of the Use of Energy in Rented Buildings

Another reason why the approach recommended by Annex E and [Recommendation 1](#) will not work for rented property is that patterns of financial control, control of energy and energy procurement are very poorly aligned in rented buildings:

- Landlords use energy to provide both services in the shared parts of the building and exclusive use services to the tenanted areas;
- However, the extent of such provision varies, particularly for heating and air conditioning;
- The annual service charge accounts tell tenants how much of the cost of these landlord services they bear, but seldom the associated amounts of energy and carbon. Agreed measures or sub-metering need to be promoted to enable tenants to report on the carbon attributable to their use of landlord services;
- Some tenants pay for their own metered electricity supply for their lighting, office and kitchen equipment and any extra air conditioning installed during their fit out, for example to server rooms, and can choose suppliers; and
- Some tenants also purchase other fuel directly such as gas for kitchens and oil for generators.

Consequently, emissions responsibilities bear little relation to patterns of ownership and control in buildings.

With splits in both purchasing and operational responsibility, it is difficult for landlords and managing agents to know, and even more difficult for them to influence, how much energy a particular tenant uses. Meanwhile, very few tenants know how much energy and of what kind the landlord's services use, and what proportion is attributable to them.

Even where sub-metering is in place, it can be difficult to attribute energy use since changes can often be made to buildings without corresponding changes to the metering arrangements. This was the direct experience of a BPF member who undertook a complete meter mapping exercise in preparation for the Carbon Reduction Commitment and found that the sub-meters in some cases were not placed correctly at the boundary of tenant demises.

Landlords and managing agents have traditionally had little incentive to improve the energy performance of buildings in-use. This is not surprising: the investment and management costs would fall upon the landlord, while the tenant would get the energy and cost savings. Tenants have usually been more concerned with the service rather than the economy of it, with energy a comparatively small percentage of the cost of occupation, and have generally not been willing to pay a higher rent in return for a more efficient building.

Times are changing, however, with fluctuating fuel and electricity prices and growing concerns about energy security, climate change and greenhouse gas emissions from burning fossil fuels.

Owners, occupiers, managers and outsourced contractors are all taking more interest in energy performance, for reasons including marketing advantage, corporate responsibility, professional pride, cost saving and carbon accounting.

However, in the tenanted sector – and particularly in multi-tenanted buildings – the impetus to make improvements is undermined by the fact that the landlord and tenant have differing access to information about the energy performance of both the whole building and that of individual tenancies. At the same time, while the tenant has the greatest practical control over emissions, even his control is not perfect, with landlords typically procuring and on-charging certain services.

What all this means is that financial control – at least as it is defined in the draft Guidance and particularly Annex E – is a very poor proxy for control over emissions, as patterns can vary so much from building to building. A building may be multi-tenanted, but the extent of landlord provision can vary from full service (where the landlord supplies pretty much all energy) to providing simply lights on stairwells, with tenants purchasing all other energy directly from the supplier. This means that landlord influence over how much energy is used by the tenant can vary from limited to negligible. This in turn affects the ability to set meaningful targets in emissions reductions, and further calls into question the appropriateness for a landlord to be reporting upon tenant emissions and setting emissions reductions targets upon them.

We are aware that the reason this approach was chosen is the desire to align carbon reporting as far as possible with the CRC. However, a working group coordinated by the BPF, with members drawn from across the property industry, identified several key issues and difficulties with the CRC approach, which are detailed in a Guide for Landlords and Tenants⁴. The principal problem with the CRC approach is that it effectively places responsibility for tenant emissions on the landlord. We would argue that, if landlords are to be responsible for tenant emissions under CRC, some other incentive is needed to engage and motivate tenants to make reductions in the energy they control and consequently the carbon they emit. Aligning the

⁴ <http://www.bpf.org.uk/topics/document/23672/carbon-reduction-commitment-crc---a-guide-for-landlords-and-tenants>

responsibility for emissions reporting more closely with the pattern of energy control could generate faster reductions.

A methodology to do all this exists: the BPF/Carbon Trust/Usable Buildings Trust Landlord Energy Statement and Tenant Energy Review (LES-TER). LES-TER permits the transfer of carbon from common services to tenants. The methodology was designed to do this pursuant to the legislative requirements for Display Energy Certificates, and is recognised in Government guidance as a means for landlords to transfer and apportion energy and associated carbon from landlord services to tenants when they complete their DEC. If such an approach was adopted under a mandatory carbon reporting framework in the future, a 'reasonable assistance' duty, such as in the EPBD Regulations, could be placed in any enabling legislation to ensure that landlords would assist tenants in their transferred obligations on an ongoing basis. The benefit of this approach would be that tenants would directly benefit from reducing their energy use, through savings on energy bills and in terms of reputational benefit from showing emissions reductions under Scope 1 & 2.

Under [Recommendation 2](#), some of our members who operate internationally have told us that they have difficulty in some foreign territories obtaining complete emissions factors. We urge the Government to influence other countries to make such factors available in the interests of delivering, over time, effective reporting of global emissions.

Under [Recommendation 5](#), as DEFRA is intending to introduce voluntary carbon reporting, with a view to possibly mandating such reporting in the next few years, there is a clear need for comparability between DEFRA and DECC emission factors. For example, the Grid electricity factor for the Carbon Reduction Commitment (CRC) should be the same as the one required by the DEFRA Voluntary Corporate Reporting Guidelines and the Intergovernmental Panel on Climate Change (IPCC), which are the ones property companies are most likely to use in their sustainability reporting. It is not clear why the emission factor of 0.537 kgCO₂/kWh, rather than DEFRA's, has been used for CRC. We would welcome harmonisation of the two factors or, if DECC's factor is based upon more developed understanding of grid factors, further clarification to explain that.

Under [Recommendation 7](#), we believe this should be standard practice in the interests of openness and transparency.

Under [Recommendation 8](#), the industry has been undertaking considerable work to seek to agree intensity ratios for energy use in buildings, and in particular rented buildings. The Better Buildings Partnership, a private sector alliance with the London Development Agency, seeks to achieve absolute reductions in the portfolios of London property owners. They have recently produced a Benchmarking Discussion Paper which identifies the difficulties in assigning a single normalisation factor to emissions for rented buildings. The main problem is that there are trends in sustainability which could, in time, skew benchmarks and metrics. An example of such a trend is the growing popularity of higher densities of occupation, leading to increased pressure on landlord services as they are used more intensively. Work is ongoing between the key property industry member organisations to agree sectoral metrics and with a possible view to setting out recommended approaches on gauging intensity. We would be pleased to share the results of this work in due course if that would be helpful.

DO YOU AGREE WITH THE CRITERIA GIVEN TO DETERMINE WHICH SCOPE 3 EMISSIONS ARE SIGNIFICANT? IF YOU DISAGREE, PLEASE SUGGEST ADDITIONAL OR ALTERNATIVE CRITERIA (GUIDANCE: PAGE 55).

The criteria listed on page 55 for determining which categories of Scope 3 emissions are most significant seem sensible. It may also be sensible to recommend to organisations that if they are intending to report certain Scope 3 emissions in future, or if for whatever reason they are unable to report on a certain Scope 3 impact in one year whereas they ordinarily would, that they explain this point in the scope of their report.

YOUR COMMENTS ARE SOUGHT ON THE EMISSIONS DATA THAT WE RECOMMEND YOU REPORT? (GUIDANCE PAGE 23 – 25).

We agree with the requirement to report total GHG emissions as a gross and then to 'net off' green tariffs and carbon offsets. This helps to ensure transparency in performance, and will make it easier to compare performance between similar organisations by clearly identifying the impact of offsets and green tariffs.

WHAT IS YOUR VIEW ON THE SUPPORTING EXPLANATIONS THAT IT IS SUGGESTED ORGANISATIONS SHOULD INCLUDE IN THEIR REPORT? (GUIDANCE PAGES 25-29)

We consider the supporting explanations to be helpful and approve of the suggested approach.

YOUR COMMENTS ARE SOUGHT ON THE EXTERNAL EMISSION REDUCTIONS ACTIVITIES THAT WE HAVE IDENTIFIED AND THE 'GOOD QUALITY' CRITERIA THAT THESE EMISSIONS REDUCTIONS SHOULD MEET (GUIDANCE PAGE 58-65).

We see the sense in transparent reporting of the use of carbon offsets and green tariffs and welcome guidance on what constitutes 'good practice' in their constitution and utilisation. We understand the negative reputational consequences for those who have been reporting to date using net averages, and the importance of separating reductions which have arisen from internal strategies and external activities. Such an approach makes it easier to recognise opportunities and may drive organisations to observe a balanced approach between internal and external activities.

We also understand the principle of not reporting energy where REGO subsidies are being claimed as zero carbon, since this ensures that emissions reductions are not double counted.

However, if those principles are to be observed, the Government approach of requiring carbon footprinting by reference to rolling grid averages to determine carbon intensity of electricity use presents a disincentive to the wider take up of green tariffs, offsets and renewables since there is no demand side incentive to take them up. A rolling five year grid average is fine for the CRC, which is based primarily on energy use, but carbon reporting should be based on a more accurate assessment of carbon intensities. We would particularly urge the Government to consider this point before making carbon reporting Guidance mandatory or introducing fiscal incentives or penalties based on emissions.

YOUR COMMENTS ARE SOUGHT ON HOW ORGANISATIONS SHOULD ACCOUNT FOR RENEWABLE ELECTRICITY THEY GENERATE. (GUIDANCE: PAGE 58)

See response to previous question.

WE WELCOME YOUR COMMENTS ON THE ATTACHED IMPACT ASSESSMENT FOR THIS POLICY? DO YOU HAVE ANY ESTIMATES FOR HOW LONG IT WOULD TAKE YOU TO FOLLOW THE GUIDANCE? WE WELCOME INFORMATION ON COSTS AND BENEFITS FOR BOTH POLICY OPTIONS.

No comments, though we would expect the Government to consult again before any requirement for mandatory reporting was introduced.

PLEASE PROVIDE ANY GENERAL COMMENTS ON THIS GUIDANCE, ESPECIALLY ANY ISSUES WHERE YOU WOULD WELCOME FURTHER EXPLANATION.

As previously set out, we would welcome the opportunity to determine some more focused guidance for the reporting of emissions arising from rented property, in partnership with Government and industry representatives and other relevant stakeholders.