



House of Commons
Business and Enterprise
Committee

Construction matters

Ninth Report of Session 2007–08

Volume II

Oral and written evidence

*Ordered by The House of Commons
to be printed 8 July 2008*

The Business & Enterprise Committee

The Business & Enterprise Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department of Business, Enterprise & Regulatory Reform.

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The current staff of the Committee are: Eve Samson (Clerk), Emma Berry (Second Clerk), Robert Cope (Committee Specialist), Louise Whitley (Inquiry Manager), Anita Fuki (Committee Assistant), Lorna Horton (Committee Secretary) and Jim Hudson (Senior Office Clerk).

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Construction Products Association
Mr C N Jones

Oral evidence

Taken before the Trade and Industry Committee

on Tuesday 23 October 2007

Members present

Peter Luff, in the Chair

Mr Brian Binley
Mr Peter Bone
Mr Michael Clapham
Mr Lindsay Hoyle

Mark Hunter
Anne Moffat
Mr Mike Weir

Witnesses: **Mr David Fison**, Chief Executive, Skanska UK plc, Construction Confederation, **Mr Nick Raynsford MP**, Chairman, Construction Industry Council, and **Mr John Colley**, Executive Managing Director, Saint Gobain Insulation and Gypsum and President, Construction Products Association, gave evidence.

Q1 Chairman: Gentlemen, welcome to this first and much delayed evidence session of this inquiry into the construction industry. I apologise publicly for the delay. We did think we might be about to be abolished at one stage, and so we decided to be prudent and tidy up our on-going investigations rather than open a new one. Having been spared, or at least reborn, we can proceed. I am very grateful for the industry's tolerance and patience. The other thing I would like to say before we begin is that there was some puzzlement as to why we were doing this inquiry. The answer is we think you are frightfully important and do not get enough attention, and there may be public policy issues that you want amended, looked at, refreshed, and, indeed, your evidence, not just your evidence but the evidence from a bewilderingly large range of potential witnesses—we have had some 47 submissions altogether—suggests there is an appetite for this inquiry, so we are all the more glad we are doing it. We have deliberately set a very broad agenda so that you could tell us what you thought was important within it, and that has happened in the evidence that we have received and we are very grateful for that. I would like to say a particular thank you to your three organisations for actually putting in joint evidence and, indeed, supplementary evidence dealing with specific issues, some responding to requests from me, some updating issues since your original evidence was submitted. We are very grateful for that coherence, though it does still mean there are 47 other witnesses as well, potentially, which does pose something of a challenge to the management of the inquiry but we are coping. So, that is by way of introduction. Can I then ask you to introduce yourselves, as I always do, and particularly to explain what you do in the sector: because those of us who are relatively new to the issue are a bit bewildered by the extraordinarily wide and large number of organisations and their roles. I would suggest there could be 300 representative organisations in the broadly defined construction sector, so could you explain how you fit into the overall scheme of things as well as introduce yourselves, please?

Mr Fison: I am Chief Executive of Skanska UK. We are a £1.5 billion contractor, so I do everything from roads to utilities to bridges to buildings, *et cetera*. Today I am representing the Construction Confederation, which is an umbrella group, probably the largest representative body in the building and civil engineering sectors. We have about 4,000 construction companies representing about 75% of the construction output, but I am very much speaking as a contractor.

Mr Raynsford: I am Nick Raynsford, Member of Parliament for Greenwich and Woolwich. I should explain to you why I am here today. I am also the Chairman of the Construction Industry Council, which I will say a little bit about in a moment, but I think for proprietary reasons I should draw attention to the declaration relating to that in the Declaration of Members' Interests. The CIC is the representative body for professionals within the construction industry, covering a very wide range of bodies involved in design, planning, engineering, in facilities management, in surveying, in research and a whole series of other professional services to the industry. That sector accounts for probably a turnover of around £14 billion a year of which £2.5 billion is earned overseas, so it is extremely important in relation to export work, and the CIC represents, effectively, some 300,000 people working in that sector and about 27,000 firms.

Mr Colley: I am John Colley. I am Executive Managing Director for Saint Gobain for insulation and gypsum, which is predominantly plasterboard, and I look after all the northern European territories—Eastern Europe, South Africa, *et cetera*—so quite extensive responsibilities beyond the UK. I am here as President of the Construction Products Association, which is an umbrella body which represents the manufacturers and distributors of building materials. It contains a very large number of trade associations, plus the major companies. It represents something in the region of about £40 billion of sales, which is something in the region of perhaps 4% of GDP. The manufacturing sector is round about 20% of UK manufacturing.

Q2 Chairman: The biggest industry I have ever heard of.

Mr Colley: It is quite big.

Q3 Chairman: One question before I pass on to my colleagues. The Strategic Forum for Construction. What role does that have? I believe you are all involved with it.

Mr Raynsford: Should I answer that one to start with, because when I was construction minister in the period up until 2001 I was actually responsible for setting up the Strategic Forum. Its objective was to oversee the implementation of the Industry Improvement Agenda set initially by the Egan Report, *Rethinking Construction*, and the subsequent follow-up report *Accelerating Change*, and the Strategic Forum was designed to bring together the key players in the industry to focus strategically on the main implementation targets arising from the Egan Report. It represents the main umbrella bodies in the industry. It is serviced by the three organisations who are giving evidence to you today.

Chairman: Thank you very much indeed. Lindsay Hoyle.

Q4 Mr Hoyle: Thank you, Chairman. Are you game keeper or poacher now, or shall we judge you at the end? Can I move you on to construction in the UK economy? Obviously the construction industry is a major player in fact. The gross value-added is more than energy, automotive and aerospace sectors combined, so it really is a huge benefit to the UK. To what extent has the construction sector been a driver of economic growth in recent years?

Mr Colley: Certainly we produced some figures recently for 2005 which suggested the construction industry produces something in the region of £80–90 billion of added value in the UK, and that compares to retail, which was for that year about £61 billion, the chemicals industry £16 billion, aerospace 7 billion, and so it is a very significant industry. It is almost 9% of GDP, the industry as a whole.

Q5 Mr Hoyle: It is that point, is it not? People talk of aerospace, it is trendy, the UK has got to be seen to be flying and building aircraft that go round the world. Given the importance of your sector, do you think there is enough attention given to you by the Government as we give to other industries?

Mr Raynsford: If I can answer that one, I think the three ways in which government relate to the industry, firstly, as a client, and the important thing to remember is that the Government in its broadest sense, the public sector, represents about 40% of the industry's total work load, so it is a very, very important role as a client. The Government's interest is obviously to get best value and the Office of Government Commerce has done extremely good work in identifying best practice and trying to promote that. There is a Public Sector Construction Clients Forum as well which brings together the main client bodies. We believe that this could be more effective and, indeed, that more work could be done to ensure that the OGC recommendations on

best value really are applied across the whole of the public sector. The implementation, in our view, is patchy at the moment. A number of government agencies, such as the Highways Agency, are very much engaged in the process; others less so. The second way in which government relates to the industry is as regulator. Here the position is quite fragmented. If I can give a very brief summary, the Department for Business, Enterprise and Regulatory Reform, your department, is responsible, obviously, for construction legislation, payment regulation, that sort of issue; CLG is responsible for building regulations and planning; Defra is responsible for environmental issues; the Treasury (I have already mentioned the OGC) is in the lead in relation to procurement; the DCMS is responsible for design and architecture, though I should add that architectural registration is still with CLG; the DCSF is responsible for skills and training, the DIUS for higher education, the DWP for health and safety. All of those involve regulatory inputs into the industry, and from industry's point of view the crucial issue is coordination, which does not always work as well as it should, and that is, I think, an area of concern. We do see the need for good regulation (and perhaps we can come back to this at a later stage) to drive performance, but it needs to be better coordinated. The third role in which the Government relates to the industry is as sponsor. That is the role of BERR, and we have very constructive relationships with BERR and the ministerial teams. Stephen Timms is currently the minister. The capacity of BERR is, obviously, limited by the amount of resource it is able to deploy and I cannot but reflect on the fact that when I was construction minister I had a team of approaching 200 civil servants working on a range of issues including industry improvement, trade promotion and other such factors. The current capacity is less than that and the research programme which we used to fund is no longer there, the specific industry-related research programme, so there are capacity issues, but we have a good and constructive relationship with BERR and the aim is to ensure that they act as an effective sponsor for our industry.

Chairman: Brian has some questions later which I think I would like him to bring in now. It seems logical in terms of the flow.

Q6 Mr Binley: You are very kind, Chairman. Can I first of all say how delighted I am to see a good, solid Northampton boy in such an important position, in such an important industry. I am concerned and the National Audit Office has been concerned about fragmentation for some time. I wondered whether you feel, as they do, that the impetus for improvement within the industry provided by the Latham Review in 1994 and then Egan that you have touched on in 1998 has lost its impetus, has ground to a halt, and it is time for another real look at this? You have got massive experience in this area. How would you want to see changes to make the industry less fragmented, both from the Government's side and from the sector itself?

Mr Raynsford: If I can kick off, I suspect my colleagues will also want to contribute on this.

Q7 Chairman: The point we are putting here is not the economic market condition of fragmentation; it is fragmentation of representation, the interaction of public policy issues.

Mr Raynsford: Yes. This is a very diverse industry, as you recognise. The Strategic Forum does bring together the key players and is an attempt to focus on those issues that really have to be dealt with at an industry-wide level and which are crucial to the success of the industry and its relationship with government. I believe that it has done pretty well in the last few years in that particular function, particularly under James Wate's chairmanship last year. I think there was a lot of very impressive work that was undertaken in relation to both health and safety, waste, sustainability and industry integration. So, there are good work streams in train there, but it would be wrong to give the impression that there was not still a problem about the very diverse nature of the industry and trying to ensure that all parts of it are striving to improve. We have a very long tail and some parts of the industry do give the best an unfortunate bad name. The image of the industry is not as good as it ought to be because some of the public's perception of the industry is often the least attractive part—the small informal, often slightly dodgy, operators who people perhaps encounter when they need to improve their own homes and have a less than satisfactory experience.

Q8 Mr Binley: Can I go back and press you, Nick, I am sorry, but I really would like your view, because you are as knowledgeable as almost anybody, on this whole area of reforming government to service and work with the industry more effectively and, indeed, for reforming the industry itself in a reverse capacity, as it were?

Mr Raynsford: If I can pick up your earlier question, I think there was a real surge of activity in the aftermath of the Latham and Egan Reports and the movement for innovation which was established in the late 1990s and was very much an attempt to drive the improvement programme through demonstration projects. I think there is a feeling across the industry that the momentum has to some extent been lost, but that does not mean that there is not still progress being made. So it is important to find ways in which a new thrust of energy can be injected to ensure that we are driving ahead on the things that are vital, and some of the big policy challenges of the current time, sustainability in particular, are absolutely vital as people, I think will come on to deal with later.

Mr Binley: I am going to make you Prime Minister: what would you do?

Q9 Chairman: The machinery of government.

Mr Raynsford: The machinery of government I am, in a sense, slightly reluctant to talk about because I was part of it. I have to say that in my day I did have probably an easier task than my successors have had, because I have already referred to the rather

larger capacity within the old DETR and the DoE before that, and it was probably easier to corral the many other elements within government behind the industry improvement agenda, particularly the Egan Report. I think it is quite hard for BERR to ensure really effective integration across central government with such a diverse pattern as I have described.

Q10 Mr Hoyle: You have touched on the capacity and efficiency. I think it is quite right to draw you a little more. There are problems, as we see it, that construction output is forecast to grow between one and 3.5% per annum for each of the next five years. At the same time construction inflation is running at twice the rate of consumer price inflation. This suggests there is little spare capacity within the industry. From where do you expect the construction industry to draw greater capacity over the coming years?

Mr Fison: Maybe I can pick that up. I think the first thing to say is that the construction industry has a great capacity to deliver when it gets engaged early. There are huge efficiencies when the supply chain (the complete supply chain, not just part of it) gets engaged. We are not the most efficient industry in the way we procure and in the way we deliver. One of the ways we can solve that problem is simply by earlier engagement. I think we have to recognise that we are also slow to change and we use migrant labour, as you know, and we have used it for many, many years, and they are very, very good labour, and we have got no criticism or problems with that, but whilst we have a source of labour like that, then it is easy to carry on the way you carry on, and I do believe that there is plenty of scope, if we saw that labour reducing, to change the methods of construction and there is possibly not enough incentive to change the methods of construction whilst we have those resources.

Mr Colley: I wonder if I could perhaps speak as well, partly from the manufacturers'/distributors' perspective, which I think is where the heavy investment has to go in, in terms of longer-term capacity, as typically plants are very costly and have quite a long lead-time to put them in. What I would say is the Construction Products Association has undertaken a survey very recently of our members and they have added something in the region of about 10% new capacity this last couple of years and are planning to add another 9% in the year or two to come. My own industries as well, the plasterboard industries, added 35% capacity this last year and the mineral wool insulation industry has added round about 70% over the last couple of years; so there are very significant amounts of capacity which are being added and I think it does show that the industry really is quite flexible in terms of being able to plan and equate its capacity with demand.

Q11 Mr Hoyle: It is strange that you do admit being dependent on migrant workers. Is that because there is not enough training done or is that because there is not enough pool labour to draw on?

Mr Fison: I think the construction industry is not perceived as an attractive industry for young people to go into—that is something which we have all got to work at delivering; it is a joint effort—and as such we do not draw enough people into it. So, when there is a large pool of high quality migrant labour, it is fairly natural that we will go and draw upon it. In the longer term we need to correct that problem, and that does require us to make sure the education in our schools actually sells construction as a beneficial career to follow. It means that we have got to provide in the industry a way for young people to come in and for it to be seen to be attractive, and one of the important things for that is stability.

Q12 Mr Hoyle: I do worry about what you have just said, but in the longer term how long do we have to wait? That is closing the stable door when the horse has bolted 17 fields away, is it not? It is not good enough, is it? You have got to be taking action now surely. We do not want to be looking at it in the future. I think it is very negative.

Mr Fison: I agree with that, but when you are talking about educating children that obviously takes a number of years.

Q13 Mr Hoyle: If you have not started now when do you think you will start?

Mr Raynsford: Could I add a comment to that, because I think it would be wrong to give the impression the industry has not started? I would like us to tell you about a particular experience last year when I was engaged in supporting some specific training initiatives designed to help people living in some of the most deprived communities in the country to get the benefit of the work that would come from the regeneration activities in those areas, and talking to some of the people involved in running the training programmes, they made the point that it was the negative image of the industry among the parents which often was the biggest obstacle to recruiting the youngsters in those areas, because it was still perceived as a dirty and dangerous industry. The industry is changing. There are considerable advances. There is much more being done to train and develop young people in deprived areas, and I am very conscious of that in East London in the run-up to the Olympics. The work is being done to ensure that the construction opportunities are used for young people currently out of work.

Q14 Mr Hoyle: Can I just say to you, there is life outside London. I know you are dedicated to London, you have been a great ambassador for London, but, believe it or not, the UK is much bigger. What we have got to do is get the mindset outside London. Let us look at the whole of the UK and what the message is. Let us take action now and let us not wait until later. I get that message.

Mr Raynsford: The example I was giving earlier, I did not mention it, but it was specifically in Bradford, so please be assured that I am not only—

Q15 Mr Hoyle: To a Lancastrian that is not a good example, I assure you! What does bother me is that what we have seen with migrant workers is composite companies that have been used in the construction industry that have been collapsed halfway through a contract. People are not paying their tax and national insurance. There has been a real problem there. Are we going to see an end to that?

Mr Fison: I play at the major contracting end, the larger company end, and, I must say, we do not see that problem. Of course we read it in the press and we know about it.

Q16 Mr Hoyle: It is on the major construction sites where it is actually happening: because you sub-contract, who then sub-contract, who then form a company, put people as directors and there are not the responsibilities that go with major sub-contractors. It is because it is halfway down the line from the major companies that nobody is actually looking at it, but it is something that you should have a look at and come back on. For that we would be very grateful. Can I move on to one other question? Are there particular areas, both in the workforce and geographically, in which you can foresee skills or other capacity shortages which touch on to where we have just been, other than Bradford?

Mr Colley: I think this is probably more an issue around manpower. Generally speaking, most manufacturing industries nationally are structured, so I do not personally see issues around regional shortages. I think the issues are probably much more around labour, perhaps contracting labour as well rather than manufacturing or distribution type labour, which is really the issue to which you referred a bit earlier, where they may be shortages in the South East which results in higher wage levels, *et cetera*.

Mr Fison: The one other area which is a real capacity constraint at the present time in the industry is the ability to tender for work. The sheer capability of the industry to put together tenders, particularly large and complex ones, and there there is a requirement for some further thought and it is quite interesting that there is a range of different approaches. The Highways Agency are using their ECI to shorten down the process. There are also possibly some lessons to be learned from the private sector, who have two-stage tendering and they have a greater use of frameworks, but there is a capacity constraint in the number of people to estimate and tender for work.

Q17 Mr Hoyle: You used to always say, I do not know whether it is still the case, that construction always does better under a Labour Government because they are willing to spend. Mr Fison is nodding.

Mr Raynsford: I have to be very careful in this current context because of the hat that I am wearing at CIC, but I think there is no question in the last 14 years that the industry has benefited enormously from continued growth without the boom/bust

cycles that were actually very damaging to the industry in most of the post-war period up until the mid-1990s.

Chairman: Your dating is noted with approval by the Chairman.

Q18 Mr Clapham: Before we leave the area, Mr Fison, could I ask about bogus self-employment. You may have seen the report that was done maybe three years ago by Dr Harvey for UCATT, which suggested that because of bogus self-employment we were in a situation where something like £2.5 billion in revenue was being lost each year. Are we getting to grips with that? Have new procedures been put in place to deal with that?

Mr Fison: You have put in regulations which, hopefully, will work their way through the system and prevent it. I believe there is regulation in place now to move us forward.

Q19 Mr Clapham: Coming back to the way in which this has been dealt with, I understand that there is a new certification system that the Inland Revenue has introduced. Is that working through the industry?

Mr Fison: It is early days, but, yes, it is working and it gets teeth in the very near future. That is why I say the regulation is there, we have all got to support it and we have got to make it work.

Chairman: Before I move on, Peter Bone wants to come in.

Q20 Mr Bone: It is on the contracting point, Chairman. I used to run a plc. We sub-contracted to contractors, we did have enormous problems. One of the things that has come up previously is, if you are tendering for a government contract, say with the Highways Agency, and then you are going to contract with a different department, you still have to go through all the pre-approvals in both contracts. Surely, would it not be easier to get one pre-approval from the Government for the company which could then apply across any government contract?

Mr Fison: Absolutely. It would be of great assistance and we could find ourselves submitting non-standard documentation but on the same subject—for instance, health and safety as an example—to thousands of different departments, whereas it could be managed by one. To date there have been a couple of attempts to do so, but none have succeeded and are being employed by enough of the industry and enough of government to make it effective.

Mr Bone: Thank you. On the manpower issue, I was slightly surprised about the shortage because, if I pick a date at random, say 1997, there are more people unemployed now than there were at the end of 1997 in my patch and it seems to be that it is not that there are not the people there, it is just that the industry would prefer to have migrant workers, who may be better skilled and perhaps have more of a work ethic, is that right, rather than a shortage of people?

Mr Hoyle: Or work for less.

Q21 Mr Bone: That is another issue in my area, yes. There is certainly some sort of evidence that they are in fact undercutting; in fact sometimes not even working for the minimum wage.

Mr Fison: I think there are two points to make around this. Firstly, ConstructionSkills are training a huge number of people and we are taking on a huge number of apprentices, and I do not believe that the construction industry is anti-British workers, and where we can see a long-term workflow, I believe we will use ConstructionSkills to train up British workers and bring them through the pipeline. Of course, the danger is that our industry is fundamentally short term—we have short-term projects—and you cannot deny the attraction of being able to bring in and take out a resource, and there is this conflict which exists. So, the more we can get long-term programmes which enable us to recruit, to use the ConstructionSkills people to train up and use British workers the better.

Q22 Chairman: We are not spending long on skills today because we are having a separate session later on in our inquiry when we will be looking at skills in more detail, but can I check a couple of things before we move on. What you are saying really is that there is not actually a shortage at the grassroots end, but you do have some problems with retraining adult learners. So it is not actually about the basic training for the people actually on the construction sites, the shortages are further up the industry. The project managers are in short supply.

Mr Fison: The industry is probably at the highest activity that I have known, probably higher than in the late eighties, and so it is true to say that there are shortages or there are tension points right the way up and down. None of those cannot be overcome by the appropriate engagement of clients through the whole supply chain.

Q23 Chairman: Your objection is not that there is a lack of adequate training facilities, for example, through the old technical college system that we used to have which was so strong; it is a different problem?

Mr Fison: Yes, I think there is adequate training there. We are not that clever as an industry, in terms of the way we procure, to make sure that we get a smooth flow of people out of those colleges into our industry.

Q24 Chairman: We will look at that in more detail later. The other thing I want to highlight from your evidence, which I find fascinating (and we heard this weekend from the Royal London Hospital, we heard this there anecdotally), you are actually saying the flow of migrant workers to the UK has actually been a barrier to innovation.

Mr Fison: Certainly it is my personal view, my company's view, which is what we expressed, Peter, to you.

Q25 Chairman: I met someone the other day who built a power station in India many years ago who said, "I did not need cranes, because there were so many guys I could just use ladders and bullets." It is that point, is it not? The availability of labour means you do not need to innovate.

Mr Fison: Yes, but there was a point that I made earlier about capacity. I believe that if you face a cliff there are plenty of solutions to solve it. We as the UK construction industry know how to do it. Of course, when you have options, you will choose the one which is most expedient to you.

Mr Clapham: Chairman, before we leave the skills area: is there much more that the Construction Industry Training Board could be doing? I was amazed to learn when we met last week that we only had 5,000 apprentices in London. It just seemed to me that you are one of the industries that still has a training board and we ought to be using that training board much more effectively. Is there much that you see that could be done through the Industry Training Board?

Q26 Chairman: Quite briefly, because we are going to deal with training later; a snapshot impression.

Mr Raynsford: If I could very briefly respond to that, as I serve on the ConstructionSkills Board as a representative of the professional services side. There is a lot of work being done by the CITB—ConstructionSkills to both enhance the craft training and to deal with the problem the Chairman raised earlier of the need for on-going in-service training and particular career advancement for people in middle management. There are some areas where there are particular capacity pressures at the moment, but I think we are heartened by the reversal in the trend for more participation in higher education. In the last couple of years we have seen a real increase in the number of students enrolling and initiatives such as the Inspire Scholarships to encourage people into that sector, which is run by ConstructionSkills and gives all the help they can to change the image of the industry and to recruit more people. There is a lot to do but I think it is moving in the right direction, and the CITB—ConstructionSkills plays a very important role in that.

Q27 Mark Hunter: My key questions are about what government can do to encourage capacity growth, but I do want to press you a little bit further on a recurring theme so far, and that is the negative perception of the industry. David mentioned it earlier on; Nick has just talked about it again; a couple of minutes earlier you referred it to as having a dangerous and dirty reputation. I am intrigued to know, because I am sure there must be lots of things that the industry itself is doing: could you tell us a little bit more about the industry's initiatives to overcome that perception problem and what you feel is the way forward? Do you feel it is more for government to do than it is for yourselves, or are there a whole list of things that you are already doing and that are succeeding in changing that image problem that perhaps we do not know about?

Mr Raynsford: Shall I kick off but I think my colleagues will probably want to add. I think the first point to make is that the industry is enormously varied and large, and while it is absolutely world-class, at the top, the public's perception is often conditioned by what they see in terms of the builder who comes to do a repair job in their home, who may not be in that same category. If that is the case, the public perception is conditioned by their own experience rather than all the examples they see of the wonderful buildings, and it is one of the paradoxes that research tells us that the public love the products of the construction industry, they think that the outcome, the products, the buildings, the civil engineering projects, all the infrastructure that the industry builds is marvellous, but they are still not as positive about the industry. What is being done about it? Considerate Constructors Scheme, I think, has been hugely important and influential in trying to reduce unnecessary grievance to the public by either unsightly, noisy or anti-social behaviour on sites. I think that is a big contribution. The image of the industry: ConstructionSkills, the Sector Skills Council, has been doing a lot recently to try and focus on the dichotomy I have just mentioned that the public love the product, just reminding the public that actually the product is produced by the industry, and that the top end of the industry is world-class and very, very good; and it is working on that, I think, plus measures to ensure that we are better at helping to recruit people into the industry and training them so they will be able to do the jobs, particularly in areas of regeneration and things like that that I have already referred to. All of those things can make a difference. So a lot is being done, but there is still a lot more to do.

Mr Colley: I think the issues at the manufacturing end are perhaps slightly different. They are much more issues about getting high quality engineers, mining engineers, these sorts of people, to come into the construction industry. A lot of work is being done, and many of the manufacturers are building much closer relationships with the universities in terms of presentations, in terms of putting research work to them, certainly my own organisation is and plenty of others, as a way of building the reputation of the industry as being a good quality industry for good quality graduates to move into.

Mr Fison: I think a great deal is being done in the physical sense, whether it is through ConstructionSkills, whether it is through doubling the number of apprentices, whether it is through starting a GCSE. So there is an enormous number of actions aimed at bringing individuals in, but that is a slightly different question from the image, and the CITB—ConstructionSkills have run some TV advertisements, to my knowledge the whole of the contracting industry goes to schools. We started going to schools partly to try and make it safe, to encourage kids not to hurt themselves on our sites, but actually more and more we are finding it an opportunity to talk to children and try and sell it. But, of course, how many schools do we get into in a year? I have no idea, but I guess it is a low percentage overall, and so I do think it is an area where we need

to combine all the forces, both private and public, and try and get the message into schools that there is a good career and, I think most importantly, it is a stable career. As these pipelines of work get more secure, as the methods of procurement provide stability for workers, I think that is a key attractiveness which in the past has not been there.

Q28 Mark Hunter: As a last word on this, do you think the image problem, the perception problem, is more or less of an issue now than it was five or 10 years ago or about the same?

Mr Fison: Less.

Q29 Chairman: What do young people want to do now? We keep on hearing every industry has an image problem. What do they want to do?

Mr Fison: Fortunately, more and more of them are applying to engineering graduate courses, so at least that is beginning to be recognised.

Anne Moffat: My son is a bricky!

Q30 Mark Hunter: If I can move on to my main questions, the evidence memorandum that you have submitted to us talks about the need for the public sector specifically to outline more clearly its long-term investment programme so that the construction industry itself can invest in capacity. I am interested to know, do you think that the industry receives accurate and, dare I say, timely information of the Government's investment plans and particularly so when those plans change? Perhaps, with respect, John and David might have a go at this before Nick does.

Mr Colley: I have to say, I think the situation is better than it was some years ago. First of all, we have the Comprehensive Spending Review, which does lay down some indication of spending plans for the future, which is helpful. Secondly, if you take something like zero carbon homes by 2016 and the early announcements that we are going to see significant building regulation changes in 2010–13, that is also helpful to us, because we have a better idea of what we are shooting at and clearly we can start creating some of our own forecasts around what may or may not happen then. In terms of the Government and its own targets, the point I would make there is from our perspective our interest on targets: it is numbers of schools which are going to be built or refurbished, it is the number of hospitals which are going to be built, and so from our perspective again, knowing the targets and seeing the progress towards that is very helpful as well, because that, again, gives us confidence to invest for appropriate capacity to match these sort of demands. I think there are a lot of positives in that area. Of course if the Government does not hit its targets, then that is a bit more of a problem to us, or if the Government does not measure progress towards targets that is a bit more of a problem to us as well, such as, for instance, refurbished schools, for which it is generally very hard to get hold of any kind of figures. So, for us it is output targets, not input

spend, which interests us. Governments often talk that they are going to spend a billion or two billion more in this area. That is of less value to us.

Mr Fison: I totally agree with John. A much improved position but could be possibly better—the age-old school master's report—particularly when things change. Things do change from time to time—we are totally realistic in that—and then honesty is possibly not very quick onto the table. The transportation 10-year policy is an obvious example. When programmes are being cut, I think it would help if we knew quicker. The other message is just how much efficiency can be driven in and, therefore, how much public spending can be used to achieve more when there is a programme. When you can put together your supply chain right the way through, you can make real savings and, therefore, get more for your money, but it does need the time to put that supply chain together, to consult it, to get all the expertise together.

Q31 Mark Hunter: You both say it is better now than it was but it could be better still. If I were to say to you: is there a single specific, not a golden key to the solution here but a single initiative that might be taken to try and improve it still further, is there any one thing that stands out that the industry perhaps thinks is blindingly obvious that is not currently being done at the moment, or is it more a case of there being lots of small things that might be done to take it on still further?

Mr Fison: If I was to give one answer, it would be: be realistic about the delays that always enter into your programmes; they are a fact of life. They are a fact of life everywhere. The statement of what is going to be achieved and then the reality; there is a certain consistency in the drop-off.

Mr Colley: I think for me probably one of the issues with building regulations, which do have a very big impact on materials demand and the type of materials demand, whether it is one type of material or something totally different which some other supplier makes, sometimes these are actually determined at the very last minute before they are enacted, or as enacted, and that can be a major problem. You could have bills, you could spend a huge sum of money on some capacity and find it favours some other material and that you have just wasted your money, frankly. So perhaps to have a more forward vision on the precision of the building regulations would actually be helpful. Having said that, the situation we have now is still a lot better than it was some years ago.

Q32 Mark Hunter: That is helpful. As a former council leader you will understand if I do not want to get too involved in a debate about building regulations today, but the point is certainly taken. Can I ask you finally on this section from me—this is for all three of you—about what you see as being the barriers to the wider adoption of collaborated and integrated working across the construction industry? You indicated earlier on that you felt there was more potential for working together. What do you think that the obstacles are there at the moment

given the statement of the obvious that such practices would be potentially beneficial to all concerned? Is it culture?

Mr Colley: I think the main barrier is sometimes a slightly misguided outlook around how to let contracts; that sometimes there is a belief that, if you break a contract down into every minute bit and then tender it off individually, you will somehow get a better price. Where you possibly get a better price; you will not get better value. So to some extent it comes from the client perspective about the contracts to actually open it up to integrated teams so that there is a manufacturer, there are distributors and there are contractors—in effect, a supply chain, who will bid against another supply chain—and from that, for instance, from my own industry, we will design or help design the technical installations and, clearly under pressure from competition, you will design out costs, you will design out waste, you will organise site deliveries in an efficient and effective manner, whereas if all of those are bid off separately that cannot happen. It is a bit like, if you like, plasterboard systems with performance requirements. You can buy the steel separately, you can buy the plasterboard, but you have not, first of all, got any performance which comes with it and certainly you are not going to get the technical expertise to actually make that system perform; so most of it is the way that the plastering contract is actually structured.

Mr Raynsford: Could I just add that the Strategic Forum's Task Group on Integration has looked at this in some detail and produced a report quite recently which identified five main barriers. If I can very briefly summarise them, the first was traditional industry culture with a focus on low-costs and adversarial relationships; secondly, industry capabilities and capacity. It is absolutely essential to have an intelligent client if you are going to get better integration. So, where you have got clients like BAA setting the standard, things work very much better than if you do not have that. Thirdly, procurement arrangements, where there is enormous scope. The NAO produced a report 18 months ago suggesting there could be savings of between half a billion and 2.6 billion from the adoption of best practice in procurement. I did refer to that earlier as one of the areas where we think government could do more; if that was driven forward more energetically, the conclusions of that report and the work of the OGC and the Public Sector Construction Clients Forum. The fourth was the engagement with the supply chain, a lack of early engagement, for which there are a number of reasons, but that does act as a serious obstacle.

Q33 Mark Hunter: That is very interesting and pertinent to the point. Do you think it is possible for us to have a copy of that document as part of our evidence as well?

Mr Raynsford: Yes, of course, we can arrange for that.

Chairman: I have a couple of colleagues who want to come in before we move on.

Q34 Mr Bone: Mr Colley, on the contracting side, when I was contracting for government contracts in nationalised industries—this is many years ago now—in those days the contracts were so detailed that they would tell us how to build the clocks that we manufactured, and we knew the best way of doing it and we went back and pointed out to them they were adding an enormous amount of unnecessary cost because they wanted it in a specific way which did not enhance performance in one way at all. Have they gone away from that now or are they still micro-managing those details?

Mr Colley: I think the situation is better. I would not say it is perhaps exactly the same as with the private sector, but I think it is better in that there is more flexibility, and so manufacturers' proposals and suggestions are perhaps much more likely to be taken up if they clearly cut costs and cut waste.

Q35 Chairman: Our problem was, once they had issued a tender document with this specific detail, you had to do that. Though we went back to them and said, "This is daft", they would not change the tender document. Are they a little bit more globally based on what the product wants?

Mr Colley: I am certainly not an expert in that area, but my view is that they are more flexible.

Q36 Mr Clapham: Nick, coming back to the point you made about the NAO and the model you referred to, I suppose the nearest that we have seen in the application of that model would be T5, and yet we have not seen, if you like, a replication as we move towards building the stadium for the Olympics. Is there any reason why that template that was so successful with Terminal 5 is not being replicated for other projects in London?

Mr Raynsford: I think it is fair to say that the team that have been selected to build the main stadium (and, of course, there are number of other projects as well) is the team that built the Emirates stadium, which was a considerable success story. One of the problems we have is of a media which does focus on the problems. If you look at the construction projects that have attracted publicity over the last two years, it has not been T5, it has not been Emirates, it is Wembley because that was problematic. The product is magnificent, but the process was not, and I am afraid that attracted an enormous amount of attention, but the picture is better than just T5 and BAA. There are many other construction companies doing extremely well and moving the integration debate forward, but it needs to go faster.

Mr Fison: Very much so. There is very good integration with a number of utility companies where they are following the BAA model, adapted, obviously, to their own circumstances. I think the key on the BAA model is early involvement and, of course, it was not based upon fully competitive tendering, and I keep coming back to that. The competitive tendering model has real pluses but it has some real minuses when it comes to driving integrated behaviour. I think if you want to address that, we have to look at the people who place tenders

and make sure that the procurement officers in government are empowered to make judgments away from price-only: because I can see that if I was one of them I might be quite frightened to step away into that. So I think that is an area where you can really help.

Q37 Chairman: What Nick was saying, and you are endorsing, is that the role model here is the private sector. The BAA model, you would say, is being rolled out in other major projects, not the public sector. Is there any evidence the public sector has learnt from the T5 experience and the Emirates experience?

Mr Fison: The Highways Agency is a very clear example; the MoD is another very clear example.

Mr Raynsford: There are definitely good examples in the public sector. The position is a bit patchy, I think, is the—

Q38 Chairman: I am sorry.

Mr Raynsford: The application is patchy.

Q39 Chairman: Overall, marks out of ten for government procurement in the construction sector?

Mr Raynsford: It is probably not for me to say.

Mr Colley: I do not think it is for me to say either.

Q40 Chairman: David, come on, you have got to tell us then. Five?

Mr Fison: I had six out of ten and I had the private sector as seven out of ten.

Q41 Chairman: The Highways Agency would get a high—

Mr Fison: They would be eight; they are better.

Q42 Chairman: It is their job, is it not, construction?

Mr Fison: And they have thought it through, they are very clear.

Q43 Mr Binley: A lot of the stuff that you are tendering is coming from local government now, and that seems to me to be in most respects the worst area possible. Is it much too cumbersome, much too expensive and do we have to do something quite seriously and quickly there?

Mr Raynsford: If I can kick off, and my colleagues will probably add, I think the difficulty is the one-off or inexperienced client, and it is much easier if you are using experience. BAA had the experience of a number of previous projects—Stansted and so forth—before T5. Most local authorities, looking at the *Building Schools for the Future* programme as a classic illustration, are starting more or less from scratch, which is why it is essential that there is a central unit, Partnership for Schools, which has been established and is bringing co-ordination to that. So, that is the right response, I think, by government to have a central unit to support and to extend best practice among the 150 local authorities who will all be participating in the *Building Schools for the Future*. That seems to me to be the right way to handle it.

Q44 Mr Binley: Can I just push you, Nick. Have you seen a real improvement in those terms since the creation of that department?

Mr Raynsford: I think it is going slowly at the moment. I think all of us would feel it is going in the right direction but slowly. One of the interesting things is that Tim Byles, who is the Chief Executive of Partnership for Schools, was previously Chief Executive of Norfolk County Council and he led the local government taskforce on the implementation of Egan, so he understands the application of the Egan principles and has got experience in this field, but I think he would be the first to say that the local government experience was patchy.

Q45 Chairman: This is not unique to construction, the problem of smaller localised procurement and the lack of expertise in the procurement process applies pretty well across the whole procurement process, as I think this Committee may or may not say in a report shortly. Can I ask you two quick questions before we move on to a different theme? Long-term collaborative relationships—you have talked about the merits of them, particularly you, David. Does that risk locking out the small and medium-sized firms in the process? Does it only play with the big boys?

Mr Fison: Yes and no. Yes, in simple terms. If you are going to enter a long-term framework, I suspect that that favours the larger players, but the larger players in the UK do not self-perform even the majority of their work, it is a minority, and so they immediately form relationships with local suppliers. I think we are getting a very strong and clear message from some local authorities in this area that, in order to work in their patch, they expect us to bring the expertise that comes with the larger players but they also expect us to use the local supply chains. We are very relaxed with that, and so I think it can work, but it does need careful handling.

Q46 Chairman: This Committee's concern is obviously always public policy—we do not want to stick on those in the private sector and how it conducts its business—but given that public sector procurement is about a third of the construction industry sector give or take, still two-thirds is in the private sector, what role could government have to improve procurement and other issues in your sector, the private sector's contracts, if any?

Mr Fison: I possibly would have gone the other way around. I think there are some lessons from the private sector which could go to the public sector, but they challenge some of the principles of lowest cost always wins. The private sector are better at moving things forward once they decide to move things forward. Maybe that is not surprising, because they are spending their money. Once they press the button, it tends to move very much quicker; so I think it is the other way round.

Q47 Chairman: Are there any other mechanisms you can suggest, other than the obvious ones like secondment between private sector organisations and the public sector, to improve that? It is a very helpful comment.

Mr Raynsford: I would simply add that the whole industry improvement programme from Egan onwards was very much predicated on sharing best practice across sectors.

Q48 Chairman: I thought it was setting the clients a course here; it is the clients we are talking about improving?

Mr Raynsford: Yes, but engaging the clients in both public and private sectors so that they understand the best practice across the board and not simply focus on their own sector.

Q49 Mr Bone: I want to talk a little bit about budgets and delivery. How does the construction industry measure in getting things built on time for the price suggested?

Mr Fison: The evidence is not brilliant. I do not know how reliable the evidence is, but what evidence we have is that we are improving year on year on delivering on time and that probably something like two-thirds of all projects come in on time now. The definition of "on time" is always a moot point though, because projects do get delayed for good reasons and changed for good reasons.

Q50 Mr Bone: And on budget?

Mr Fison: I am told that the evidence suggests that it is about 50%.

Q51 Mr Bone: That is pretty appalling, is it not? Only 50% is on budget and only two-thirds is on time.

Mr Fison: If you had asked me personally I would have given a number much higher than that, but the evidence that I have is that it is 50%.

Q52 Mr Bone: Perhaps a more interesting statistic for this Committee would be is there a significant difference between private and public performance? My gut feeling is that it is much better when you are working for a private customer than it is when you are working for the Government. What would your views on that be?

Mr Fison: If I look at my particular projects, I do not believe that is the case. I think there is a tendency for the clients in the private sector to be more accurate in their forecasting prior to commencement, and that has been a problem with some government contracts, but once the contracts are entered into and the thing is bottom down, I do not personally see a huge difference.

Q53 Mr Bone: Perhaps the Olympics is an unfair example, but when the Government said it was going to cost this amount of money right at the beginning, nobody believed them, because we knew it would not, it was just a matter of how many times you

multiplied the cost to what it would actually be. If it is a private company they just cannot afford to get those sorts of things wrong, can they?

Mr Fison: No. Correct.

Q54 Mr Bone: Moving on to PFI projects, how does that relate to time delivery? Are they better or is there no difference?

Mr Fison: The evidence is they are better, and the reason for that is probably because you are placing 100% of your responsibility in one person's hands and that person has to get the banks to agree it too. So, there is enormous rigor imposed by the banking system on the contract, the clarity that the client (often the Government) has expressed in their requirements, which clarity may not be required in another contract, and then the proposals to deliver that. So, I think one of the big differentiators between PFI and non PFI is the rigor that is imposed by the financial disciplines.

Q55 Mr Bone: If it was a non PFI project, say it is a large project, do you think there is a tendency for companies to accept a price or put in a price that they know they cannot do it for but also know that there will be plenty of room to renegotiate the budget through the project and, therefore, it will be okay at the end, and sometimes when it does not happen you find that companies go bust along the way?

Mr Fison: It certainly has happened. All I would say is that it is a very inefficient way of doing business from both people's sides, very inefficient from the contractor's and the supply chain and very inefficient from the client's.

Q56 Chairman: I was interested in the implication of some of your remarks just then. Does it mean that banks are tougher task-masters than the Treasury?

Mr Fison: Much.

Chairman: Fascinating. Thank you.

Q57 Mr Clapham: Can we turn to health and safety? We are talking about a modern industry, we are talking about 2.3 million workers across the country, we are talking in terms of a product that the public like and at the same time we have an industry that is marred by its health and safety record. Why is it that last year we saw the number of fatalities increase? It went up to, I think, 77 last year. Why do you think it increased? I understand, by the way, at the same time there has been an increase in major injuries as well.

Mr Fison: Any single accident is an accident too many, and that we know, so straightaway we are not trying to defend anything at all. I think you can easily put it down, if you want to, to the increase in industry activity, and that must be part of the cause. Across the MCG and the Construction Confederation we have worked incredibly hard over the last five years to increase our safety performance and typically we have made a three-fold improvement. Speaking from my company's point of view, we have done slightly better than that, probably because we started slightly worse, but, interestingly, along that path we have twice had

problems where the graph stopped going down and blipped up. Why? Did we get complacent? Did we change the mix of work? Something happened and we had to renew our efforts. Since the Prescott Summit we have managed to drop the accidents quite dramatically. Last year it went wrong; unforgivable. It went the wrong way. Yes, we have got to look at the sectors where it occurred. There is some evidence that there is a difference between the different sectors of the market, but we have actually just got to get back on our bikes and work harder at it. We have got to engage with the workforce. We have got a much more competent workforce through the CSCS cards and we can see, as the CSCS cards go up, in direct correlation the accidents come down. So, the relationship between the qualified workforce is there. Now we have got to get the relationship with an engaged workforce which is both qualified and engaged, and that is where the effort is going in, and we have just got to renew our vigour and go for it harder and harder and harder. I believe that if we can engage with the workforce—and we have a quality workforce now—we can get back on that track going downwards again.

Q58 Mr Clapham: One of the things that you said earlier, David, is that there is an increased use of migrant labour. I understand that in those 77 deaths there were five migrants. That is what has been given to me verbally. I have not got anything on paper to verify that. Does that not suggest, if that is so, that we need to perhaps be looking at how we control agency working, because I understand that much of the migrant labour that comes into the industry is offered through agencies?

Mr Fison: I think the other thing to remember is high many migrant workers we have got here. The current estimates are seven to 10%. If we are awful about it and we just look at the statistics, 7% to 10% of 77 would equate. The migrant workers, the ones that we come across, are pretty skilled—they work under exactly the same regime on major construction sites as everyone else, they go through exactly the same induction, they wear exactly the same PPE (Personal Protective Equipment)—so I do not see that the migrants *per se* are the cause. It may be the type of jobs people go on. I think, again, we have got to be careful that we look at a long-term picture, that this is dropping, something went terribly wrong last year, but over the last five years we have been improving and we have got to get back onto that improvement trend.

Q59 Mr Clapham: It could be a trend for the future, and I say that because I am told that so far in the first six months of this year there have seen 36 fatalities in the industry, which is disturbing. From your experience are the fatalities in any particular sector of work or any particular area in the country, and, if so, is there much that we could do in focusing more onto that particular area?

Mr Fison: The evidence that I have is that there is some suggestion that there are more serious accidents on refurbishments and on housing projects, and so my suggestion there would be that

we should look at whether we are succeeding in keeping a qualified workforce in these locations, whether we have the same percentage of qualified people working there or whether they in some shape or form attract the slightly less qualified, and if that was the case, then clearly we should put more effort into those sectors to increase the CSCS carding and the engagement with the workforce.

Mr Raynsford: Could I add two observations? One is that there is no question that taking responsibility at the highest level is absolutely critical, and that was the message at the safety summit that the former Deputy Prime Minister held. Before that fatalities were in excess of 100 a year; so there has been a really significant reduction in that period. In the year before this last one, the level was 60, which was the lowest on record; so the overall context is one of improvement. The second thing is that the industry as a whole has really taken responsibility and understood its responsibility, and this is not just the contractors. Onto the professional side there is a real focus on the way to improve safety in design, to ensure that the way that buildings are envisaged right from the outset, not just the way they are built, does help to build in safety, and it is that acceptance by the industry it has got to go on driving down, not just fatalities but also injuries and, indeed, health problems, because wider health issues are particularly important in relation to materials, and so on. So the culture has got to be driven from the top of the industry and I think there is growing acceptance. The Strategic Forum certainly has given this very high priority.

Q60 Mr Clapham: We saw from April of this year the Construction Design Management Regulations. Do you feel they are going to have an impact in bringing all aspects of the industry together and that, in effect, is going to help with health and safety?

Mr Colley: Yes. It is perhaps just worth giving my perspective. On an earlier question you had about migrant workers, certainly my experience is that they are more compliant with safety standards than probably our own indigenous workers, which means more likely to be properly working a PPE and complying with the standards; so I do not personally think there are any issues there. What I would say though is I think, certainly in the manufacturing area, I travel the world and see plants the world over and the responsibilities are quite wide in that regard. The highest regulatory regime is the UK, beyond a shadow of doubt, in terms of guarding, in terms of all sorts of standards in the plant, and my own feeling is that the statistics in that area are probably amongst the best in the world as well. It is difficult, because other countries have different ways of measuring things, to get true comparatives and certainly to Construction Products many companies have presented a record of vast improvement in accident performance over these last few years—my own, we have cut ours by 70% in the last two or three years—and it is a matter of leadership, its standards, its auditing, its compliance and, above all else, it is usually site supervision which are the critical issues in this.

Q61 Mr Clapham: Coming to site supervision, would you think that we need stronger sanctions, for example, in the Health and Safety Executive to be seen or to have a higher profile with regards to construction?

Mr Colley: They do have very strong sanctions—there is no problem with them closing a site—and they will exercise those sanctions as well. Certainly they give final warnings. So, I actually think they are reasonably well, shall we say, equipped to do the job properly. Whether there needs to be more of them, one can certainly argue that companies should be more self-policing in terms of their own training and standards internally, but, I have to say, I am not sure, I think there being more of them probably would be helpful.

Mr Fison: We certainly feel that.

Q62 Mr Clapham: May I finally ask, in relation to migrant labour and some of the arguments that do arise around the agencies providing workers, do you feel that there is a need perhaps for the Gangmasters Licencing Regulations to apply in construction?

Mr Fison: I do not personally. We do not use gangmasters directly, and there are many regulations already in place to ensure we pay people properly. I was chatting to colleagues about this very question yesterday, and what we were not absolutely certain of is whether there is an issue at the bottom end of the industry. At the top end we think there is a regulatory burden which would add no great benefit and no greater protection. That was what we strongly felt. I must say, talking about the CDM, I happen to believe that is a great piece of regulation. The original regulations were not so good and were not so effective, but there has been great consultation and it is a good piece of work where all the parties were consulted, they have worked it through and it is very much how, I guess, the industry would like regulation brought into place. It is obviously early days but certainly it feels right.

Chairman: This Committee recently recommended an expansion of the powers of the Gangmasters Licensing Authority. I think we probably had in mind the hospitality sector as the principal target there, but it is where agency workers are being used in significant number in an industry there is always scope for exploitation, and certainly in my constituency the growers in the Vale of Evesham have welcomed the GLA because it has actually enabled them to prove that they are using legitimate labour and to drive out the cowboys. So, if you do on reflection think there are issues you wish us to address at the bottom end, the tail end, of the sector, I would like to hear from you about that, but that is a very helpful set of questions. Thank you very much. We change gear. Mike Weir.

Q63 Mr Weir: I was interested in some of the comments you make in your memorandum about sustainability in construction, particularly the distinction you make between the construction process itself and the finished product. Can you tell us, first of all, what progress has the industry made in

recent years towards achieving sustainability in the construction process, as opposed to the product, and what have been the drivers behind this?

Mr Colley: When you say “process”, do you mean the manufacturing process?

Q64 Mr Weir: The building rather than looking at the sustainability of the finished building.

Mr Colley: I see what you mean; the process of actual construction as opposed to what happens at the end of it. Certainly there has been some quite significant progress which I can give you few examples of. The cement industry have cut their energy use 25%; my industry has cut theirs by 16% in the last two or three years. A lot of R&D goes into these, of course, and the driver of that, I have to say, is actually very high energy prices, so people clearly do focus on those as well as green credentials, but I think probably the big issue is waste: waste in the production process, waste on the building site. I think, again, the driver probably there of a lot of work and effort is the Landfill Tax, which does have an impact, and to my mind it is a successful tax. For instance, in my own industry, I would say two or three years ago the industry as a whole was probably land filling 100,000 tonnes of production waste. Now it is down to almost nothing. We have certainly shut down all our landfill sites by putting in recycling facilities, and it is quite a major investment to be able to do that, to avoid landfill, and then, of course, we extended this to the construction sites where we take away our waste plasterboard from those sites and recycle it ourselves; and we have gone out with some quite clear commitments (there is the Ashdown Agreement) that will halve construction site plasterboard waste to landfill by 2010 and there will be no production waste to landfill by then, although we are very nearly there already. So there are some quite major initiatives, they are just ones in industries I am very familiar with, but I think there are plenty of others going on as well.

Q65 Mr Weir: What about the finished product and the sustainability of the buildings themselves? What are the barriers to achieving greater sustainability in new buildings?

Mr Colley: Are you talking finished construction or are you talking new construction?

Q66 Mr Weir: Yes, new construction. There seems to be a difference. You have talked about the process, how you are trying to reduce waste, and it seems to me cost driven, you want to reduce costs, and I quite understand that, but the other side of it is the building itself and the pressures that are on there both from your point of view and presumably from the ultimate client's point of view, whether it is public or private procurement of the building. What pressures are they putting on in this respect?

Mr Colley: The predominant determinant is building regulation. That generally drives the performance of a building, and builders normally build to it, whatever it is.

Q67 Mr Weir: But most large companies now tell us that they are looking to be more sustainable, to be greener, or whatever. What I am really asking you is: is this coming through in construction? Is the client coming to you and saying, “We want to make this building more energy-efficient, more sustainable in the long run”, or is the cost of the building still the determining factor above all in how a new building is built?

Mr Raynsford: Could I come in on this one, because I think the critical issue here is in relation to the product rather than process, and it is right to look at those two separate elements of sustainability. The critical thing is to get the best, most well-informed and co-ordinated approach to sustainability in construction. BERR, the department, is currently consulting on its sustainable construction strategy, and that is all about trying to ensure that there is the pulling together of best practice and an understanding of how you avoid a lot of fragmentation: because there is a huge ferment going on at the moment of people devising new approaches, new ideas, whether it is individual products, or process, or standards, and making sure that we end up with something that is really workable and is the best possible way forward to enable incredibly demanding standards to be reached. The CLG is responsible for the Code for Sustainable Homes, which is seeking to ensure that every new home is zero carbon by 2016, level six—that will involve a huge increase compared with where we are at the moment—and getting there in a way that everyone understands how to do it is vital. So the industry is working rather closely with BERR to try and ensure that that sustainable construction strategy is both effective—

Q68 Mr Weir: I understand that. I was interested in what John was saying. It seemed to me that from the constructor’s point of view regulation, taxation, energy prices were the driving factors. From what you are also saying it does seem to me that regulations again are the driving factor for the ultimate building, it is what the building regulation are or the strategies for a sustainable building. What I am trying to get it is: is there any pressure from the end client themselves for better standards of sustainable building or are they all sitting waiting for the Government to come up with better building regulations and better standards?

Mr Fison: No, no. Very definitely. It is government clients as well as private clients. There are some very clear requirements coming out in the *Building Schools for the Future* Programme; so there is pressure coming definitely from clients for more sustainable construction. Sometimes that, of course, leads to cost increase, which people do not like, and there, I think, one of the big issues that needs to be looked at is the initial cost versus the whole-life costs, and I think there needs to be more work done. We had great difficulty putting biomass boilers into Bristol schools because of the initial costs going up versus our whole-life saving.

Q69 Mr Weir: That is something I have come across with local government as well, trying to do more sustainable building, because when the initial capital cost is much greater it works against them going down that route. Is that something you are finding quite prevalent?

Mr Fison: If anything I am finding people solving it more. A year ago, or 18 months ago when we put it in there, it was our proposal. Subsequently we are seeing people put that proposal to us, clients leading the way, but I think the point that was made about the need for government to set, to avoid it becoming everybody having their own opinion of what is required, and to keep a tight framework so that the industry moves forward together is an important one, because otherwise you can go off in all directions and, whilst there might be individually brilliant solutions, will it move the country as a whole forward?

Q70 Mr Weir: Nick, you mentioned new build and refurbishment. I quite understand that. Do you think the Government is right to focus its attention on new build given that there are millions of homes in this country which are not energy efficient and that would have to be rectified if we were going forward in that way?

Mr Colley: Yes, I think the question is a good one. It is perhaps worth looking at new housing. We build something in the region of 190,000 a year, which is point eight of the housing stock—point eight of 1% we are building each year—so it is actually a tiny amount. If you think that we are going to go to zero carbon in 2016, which is quite a way off, and from then on you are looking at perhaps point eight of a per cent addition each year of carbon-efficient housing, you get a feel for actually the scale of the problem: because our existing housing stock is not carbon efficient in any way, shape or form. Indeed, if we take the 2010 Building Regulations, I think for every pound spent achieving performance above that and energy efficiency, it would save 50 times more carbon if it was spent on the existing housing stock. It gives you an idea of true efficiency of money and spend between new and existing build—. I think the existing housing stock produces 27% of the country’s carbon; so it is an enormous amount of it. There is a huge opportunity there to do a lot more in terms of improving the energy efficiency of the housing stock.

Q71 Chairman: The general principle I have got no problem at all; the very specific figures you quoted, are they a guesstimate or are they based on a meta-analysis?

Mr Colley: No, they are accurate figures, shall we say. Some effort has gone in. I have not just conjured them up out of thin air. They are, if you like, our estimates as an association of these figures, so I think they are reasonable.

Q72 Mr Weir: So basically from that you feel there has to be more effort in the older stock as well as the new build?

Mr Colley: Absolutely.

Q73 Mr Weir: Moving on from that to something Nick was saying about BERR's Draft Strategy for Sustainable Construction, do you think you will be able to bring together a wide range of a government initiatives under a single sustainable framework and move that forward both in new build and the older housing stock in particular?

Mr Raynsford: That is the objective, and the sustainable construction strategy has to obviously apply not just to new build but to refurbishment work as well.

Q74 Mr Weir: Are you happy that the draft is going to achieve that?

Mr Raynsford: We think the draft is a very good statement and a very well prepared statement of where we are at the moment, which is not to say that there is not scope for considerable further improvement. We ourselves within the CIC recently benefited from a secondment from Atkins to help us in the professional services side to co-ordinate our response; and, as I said earlier, the industry is working very closely with BERR to try and make sure that this document, which we think has huge potential, really does encapsulate what is necessary to meet those very demanding targets, but it has got to be for the whole range of construction, not just new build.

Q75 Chairman: Before we move on to the last few areas of questioning, can I pick up one or two details from that exchange particularly with Mr Colley I think. First of all, zero carbon: is it a realistic target? Ultra low carbon: possibly. Can we actually get to zero carbon? Are you confident it can be achieved?

Mr Colley: I think you can, whether it will be an appropriate solution to the problem is another matter.

Q76 Chairman: The amount of money you will spend on achieving it could have been spent better elsewhere.

Mr Colley: Absolutely. It is an enormous sum of money on achieving it when there is so much which could be done in so many other ways. Having said that, it has been set as a target quite a long time ahead, so it does give the industry every opportunity to try and develop technology, methods, materials which will allow that to be achieved; so I think as an appropriate target it is not an unreasonable thing to do.

Q77 Chairman: But the opportunity costs of it may be—

Mr Colley: May be quite steep for actually getting there, yes.

Q78 Chairman: On Landfill Tax, you said the benefit it had was encouraging recycling in your industry particularly.

Mr Colley: Yes.

Q79 Chairman: Of course other parts of the industry have responded by dumping their waste at random in farmyards and in country lanes. I hope you are not calling for a further increase in the Landfill Tax.

Mr Colley: To my mind I think the Government has made it clear that they wanted to go up by eight pounds a year until it reaches about £50. I have to say, I think it will have beneficial results. I appreciate the point you make and that you do get more fly-tipping with it.

Q80 Chairman: It has roughly doubled in my constituency in the last two or three years.

Mr Colley: I think at the moment it is about £23, something like that, and it will go to around about £30 next time round. I think it is also quite fair and reasonable to give an indication of where it is going in the future so the industry can plan to do something about it, which it is doing. So, for my mind, this is a tax I agree with. There are plenty of others I do not, but that one I do.

Q81 Chairman: You might discuss how you could use some of the sums raised to help some of the people who are suffering from its consequences. More seriously, you talked about your industry's response to rising energy prices, but has not one of those responses been to move jobs abroad, particularly the glass sector, for example, which has moved very extensively abroad? Have we not just exported jobs and carbon dioxide emissions?

Mr Colley: I think it is always a danger that as you get higher regulation (and, effectively, that does create higher costs of production, particularly compared to the Far East, which I think is largely unregulated) it is likely that much more carbon will be produced in producing some items than perhaps in a country like this. To some extent it can be not just exporting the problem, but it can be exporting and making the problem worse, so I think that can be a concern.

Q82 Chairman: Can we turn briefly to research and development. Mr Fison, I was very struck by some of the things you told us when we came to see you on that visit to the hospital about the fragmentation often in the house building sector in the UK compared with Sweden, I think it was, where a much more coherent sector has enabled much more R&D by Skanska in its products. Is that one of the reasons the construction industry has such a poor reputation for R&D, the fragmentation? Is the poor reputation fair? If it is not, what can be done to improve its reputation?

Mr Fison: I think there are three parts to this. It should be responded to in three ways. From a contractor's point of view, you are absolutely right, Peter. The UK contracting market is incredibly fragmented and as such the amount of money that we have available for R&D in an industry which makes 2% profit is not large, and I think that is a hold-back. There is a benefit of size for some players. In the Swedish market, which we were talking about,

the industry divides between three or four players. There is a consequence to that. They happen to make twice as much profit there as we do, but it does enable them to invest in R&D. So I think there is an issue to be addressed in fragmentation of the UK market.

Mr Colley: I am not sure these criticisms entirely apply to the manufacturing sector in part because it is quite concentrated, it is quite a size, the players are quite big in it, and there is quite substantial R&D which is done in the UK. We have something in the region of 50 or 60 people with PhDs or similar qualifications who work for us in the UK on research products and process research, and I suspect we are not alone in that in terms of the manufacturing industry, so I think size does help.

Mr Raynsford: If I can add the third dimension, there is an element of research which is necessary for the industry but which is unlikely ever to be commercially attractive because there is no immediate market application, and I am very conscious that looking back when I was construction minister we had a budget of around £23 million in the DETR, as it then was, for construction research precisely for this need. There is worry among the research community that the disappearance of that (because the DTI approach was very much towards generic rather than industry specific research) has resulted in some very necessary work for the industry not being undertaken, and I think that is an issue.

Q83 Chairman: We will have a more detailed section on research again in our evidence sessions later on in this inquiry. Have you got any particular views on the Building Research Establishment?

Mr Raynsford: It is an organisation that does very important work and is a valuable source of expertise and information for a huge range of players in the industry.

Q84 Chairman: I will tell them you said that. Can you tell me anything about the national platform for the modern built environment?

Mr Raynsford: It is a product of—

Q85 Chairman: It is not a general knowledge question!

Mr Raynsford: No, it is important, because it is an industry-led approach towards identifying the needs of the industry and it has very much the support of the Strategic Forum.

Q86 Chairman: Is it helping on the question of R&D?

Mr Raynsford: I think it is generally seen as positive, but that does not substitute for the gap that I have already mentioned.

Q87 Chairman: Can I express my particular gratitude for your memorandum, which I really enjoyed reading—perhaps enjoy is the wrong word—dated 27 June with factual examples of the problems of regulation. I get rather fed up with industry whingeing about the generality and not

providing the specifics, and you have done a magnificent job of providing the specifics. One of the themes that comes out of this excellent, very useful and rather chastening document is the Building Regulations, where often some even conflict with each other. What can we do about building regulations to maintain their effectiveness, which you have highlighted the importance of in some of your answers today, without making them a problem?

Mr Fison: I think that is a very difficult one. I certainly think the regulations, in general, have moved us in the right direction. They sometimes seem to change a bit frequently and expand a bit rapidly but, having said that, maybe more advice about where the regulations are going in advance so that we can see it. There are conflicting ones from time to time where you think, “That is stupid”, and you have got people in direct conflict. How the hell you get rid of those stupid examples I am not sure.

Q88 Chairman: Mr Colley has particularly made the point about timeliness and Worcester Bosch, if I can make this point about some of the requirements on new boilers, announcing them very late in the day making it very difficult for manufacturers to respond.

Mr Colley: Yes, and I think sometimes some of the issues around building regulation are actually resolved very late on before enactment. My own feeling is that the best way of avoiding this kind of thing is for consultation with the industry before getting to that point, which I am sure would avoid some of these issues arising?

Mr Raynsford: And it does involve keeping out of the silos, because I think one of the illustrations that we gave was the conflict between Part B, which is fire safety, and Part M which is disabled access. If either had been looked at just by the respective communities, they will focus on their particular concern, and the issue was not identified perhaps as quickly as it should have been, so an approach across the range rather than just looking at the individual set of regulations is important.

Q89 Chairman: Hansen was one of the very first examples of acoustics, sound requirements and thermal requirements as well.

Mr Raynsford: Yes.

Q90 Chairman: Part L, I think it was, a roofing contractor was having to do much more work than customers wanted to comply with the Building Regulations and being blamed for inventing unnecessary work. Has that been a frequent problem? I think it is Part L from memory.

Mr Raynsford: Part L is the one that has probably had the most concern because it was recently issued and there was a real problem with the relatively late issue of the supporting guidance and documents, but that is the area where there is probably the greatest scope for giving advance notice with the steps towards the 2016 target.

Q91 Chairman: So what can government do? Keep out of the silos and be more timely is the summary answer.

Mr Raynsford: Very good; absolutely right.

Chairman: Anne Moffat.

Q92 Anne Moffat: I must say, I have really enjoyed this session, I have learnt an awful lot today and thank you all for participating. I am going to ask you: if you could implement one piece of industry best practice from any country, what would it be?

Mr Colley: Perhaps it is a question of how wide I am allowed to have this wish really.

Q93 Anne Moffat: This is a huge session, so go for it.

Mr Colley: Much of shall we say the regulation which affects the construction industry does really emanate from Europe these days. My own feeling is we are not influential enough there in the construction and the creation of this regulation in the first place. I think some of it may be things like funding issues with BSI, these sort of areas, but I think it is something that we need to be much better at, and if that was a wish, that is the area we would have more influence.

Mr Raynsford: If I can start by saying that the professional side of construction is in many respects seen as a model internationally by other countries, and we are not just achieving two and a half billion pounds worth of overseas sales designing all sorts of things. Eco-towns are now part of the agenda here, but British consultants are doing eco-cities for China already. So, this is an industry which at its best is world-class and what my concern is that we extend that capability, that world-class performance, much more widely through the industry, and I do think better integration through the supply chain as part of the process is vital to that.

Mr Fison: I would reintegrate parts of the industry if I had a magic wand; I would start putting back what I consider has been a series of salami cuts and try to cut out the waste that occurs between each of those different parts, and that might well result in some bigger players in the industry and those bigger players I think would then suck the rest of the industry along, not only in the UK but as a worldwide resource. So I would reintegrate and allow some consolidation.

Q94 Mr Bone: Can I go back to your answer, Mr Colley. I find it hard to believe that it is not that the Government is not trying hard enough to get the regulations from Europe right for this country; I think it might be more that our European colleagues are not listening to us. I find it hard to believe that the Government would not have the expertise or would wish to get the things right but are having problems on the other side of the channel. Do you think that would be a fairer way of putting it?

Mr Colley: Yes, I suspect it is. For instance, waste regulation coming in from Europe, they can sometimes hit the industry in quite unexpected ways in that products can be defined as waste which are

not waste. We have had a whole series of these. If they are defined as waste, then you are put to enormous expense in terms of things you have to do in terms of dealing with them and covering them and these sort of issues, and so I think sometimes there are issues there which can perhaps be resolved but which originally were, if you like, created through European legislation which if perhaps the way it was constructed in the first place would have perhaps avoided some of these issues.

Q95 Mr Bone: If it had been a local decision here, of course we would be able to go back and correct that, but it is much more difficult if it is emanating from the European Union.

Mr Colley: That is right, because there is always an element of interpretation as to what Europe intended, what they want and what is going on in other countries.

Q96 Chairman: Gentlemen, this was very much an introductory session. I hope we have tried to reflect the issues that you gave us in your written evidence as being important to you, but before I bring things to a conclusion, just one or two last points. Is there anything you would like to add or qualify before we finish that you feel we have missed out that you have not done justice to? No. Excellent. I will give you chance to reflect on your notes for a second. While you are doing that, this inquiry will run until late January; so further clarification, written submissions from you or any other witnesses are welcome through the whole process. If there is nothing else you want to add, I have one problem always. When we come to publish our report some time probably in February or at Easter the press always want a headline in the report because they are only going to have one story. We have dealt with a bewildering range of stories today, so following on from Anne's question, if you were now writing the press release for our report what headline would you like to see on it? In other words, what is the most important thing you have told us today?

Mr Colley: Construction industry found to be efficient.

Chairman: Shock horror!

Mark Hunter: Can I suggest: can we fix it? Yes, we can.

Q97 Chairman: That is *The Sun* headline. I am thinking more *Financial Times*? Mr Fison has not got an idea.

Mr Fison: I was not going for the *Financial Times*. I would have had: a great place to work. I think we need to improve the quality of the people entering the industry and we need more of them.

Mr Raynsford: My ambition would be: the product is great, the people who make it are also great—that point about negative perception of the industry and a positive perception about the product and countering that.

Chairman: Excellent. Thank you very much indeed, gentlemen. You have been, if I may say, as I expect of you, Mr Raynsford in particular, model

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witnesses. You have trained your colleagues very well indeed. We have really enjoyed the session. You have been informative, useful and commendably brief in your answers. We will expect to meet again on 13 November, if the House of Commons concedes to reforming our Committee over the prorogation, when we will continue our investigation with a new list of witnesses. Thank you very much indeed.

Tuesday 27 November 2007

Members present

Peter Luff, in the Chair

Mr Adrian Bailey
 Roger Berry
 Mr Brian Binley
 Mr Michael Clapham
 Mr Lindsay Hoyle

Mark Hunter
 Anne Moffat
 Mr Mike Weir
 Mr Anthony Wright

Witnesses: **Mr Alan Ritchie**, General Secretary, **Mr Jim Kennedy** and **Mr Barckley Sumner**, Union of Construction, Allied Trades and Technicians (UCATT), gave evidence.

Q98 Chairman: Good morning, Mr Ritchie, welcome to this evidence session on the Committee's inquiry into the construction industry. We are very grateful to you for giving us the time and for what you have contributed in advance. You have a couple of colleagues who I think will whisper in your ear but, just in case they contribute to our proceedings, could you introduce them?

Mr Ritchie: Jim Kennedy and Barckley Sumner.

Q99 Chairman: Can you help me by explaining exactly what your role is as a union in the construction industry, and how you relate to the new Unite union?

Mr Ritchie: We are the biggest trade union in the construction industry; I am the general secretary. The agreement that covers the majority of construction workers is called the Working Rule Agreement; I am the joint trade union secretary for that and we are the biggest trade union that deals with that and that is in the private sector. In the public sector we are the biggest trade union dealing with local authorities, DLOs (Direct Labour Organisations), et cetera. So we cover two strands of industry, public and private.

Q100 Chairman: And my understanding is you tend to have certain specialties in certain sectors and the types of workers and Unite tends to have people from other sectors, is that right?

Mr Ritchie: Yes. We look after the biblical trades, the craftsmen like the joiners, the painters, the bricklayers, the scaffolders, and our agreement covers that and labourers. The Unite union looks after mainly electricians and plumbers.

Q101 Mr Clapham: I recall that some time ago, probably two years back, you commissioned a report from Mr Harvey, an academic who is now, I understand, at Sussex on this whole concept of bogus self-employment. Could you say just how problematic it is in the industry?

Mr Ritchie: You are right. We commissioned Professor Mark Harvey over six years ago and he highlighted the major problems of bogus self-employment then. The problem we have with bogus self-employment is that you do not have a contract of employment, you do not have any rights, you do not have any sick pay, there is no pension scheme, and basically it is very hard to deal with health and

safety as you do not have an organised workforce, you have no safety reps, and so basically you have no rights when you are classed as self-employed, and that is the biggest problem. Self-employment has a number of knock-on effects in the industry. We have an industry at present time which is top of the league table of deaths in all industries in the UK. The second highest is agriculture and we are twice as high as them. Just under two people are being killed every week in our industry, and there is a high number of injuries on top of that. So the problem with workers being classed as self-employed is inherent within that, but also it goes on to issues such as training and other areas that we have in the construction industry.

Q102 Mr Clapham: Is it correct that the bogus self-employed actually have their tax stopped at source? In other words, unlike a legitimate self-employed person who pays their own tax, in this situation of bogus self-employment, I understand that tax is deducted at source just as a PAYE man would have his tax deducted.

Mr Ritchie: That is correct, but not only that, it is what we have at the present time. In Europe in the construction industry, we are members of the European Federation of Building workers, and just under 5% of Northern European construction workers are classed as self-employed. In the UK at the present time we have over 50% in the industry classed as self-employed, and they are not really self-employed. You are right—they get tax deducted at source, they go on site, they clock a card, they take their orders from a foreman, the company supplies the material and the tools—by all measures they are employees, there is no question they are allegedly self-employed, hence the term “bogus self-employment”.

Q103 Mr Clapham: So there is an element here where the Government is missing out because the tax system means that the Government is not receiving the tax from bogus self-employed who are able to manipulate their way around, is that correct? What kind of a cost would it be to Government?

Mr Ritchie: Well, the Government got Manchester University to do a conservative estimate and it was 700,000; we estimate it is about a million. On National Insurance contributions alone you would be looking at £2.5 billion. If you took the rest of the

knock-on effect to that that are not paying, you are estimating about £5 billion, which could be equivalent to maybe 20 new hospitals and 250 new schools, so yes, that is the problem we have in industry at the present time.

Q104 Mr Clapham: In terms of where the bogus self-employed actually work, what kind of jobs are the bogus self-employed involved in? Is there any particular sector of construction that there are more bogus self-employed people employed in, or is it right across the piece in the construction industry?

Mr Ritchie: It is straight across the piece. I think it would be legitimate to say, if you go to any site in London where you see big hoardings you will see people being classed as self-employed. The Construction Industry Training Board estimate in London alone, painters and decorators, for example, 94% in London are classed as self-employed, but it is inherent throughout the industry. As I am saying, this scheme was brought in in the late 70s to deal with people who are in the black economy, who were signing on the Labour Exchange and working in the industry. The problem was under 100,000, easily within that, and, as you know, companies started to see this loophole and started to then employ the labour force in that manner; then other companies could not win contracts and suddenly had to go down that road as well, so there has been a knock-on effect. So yes, the situation is that self-employment goes into all parts of the industry, but mainly major contracts you can see, like the Holyrood Parliament and areas like that.

Q105 Mr Clapham: And is it an aspect that undermines, for example, health and safety in construction?

Mr Ritchie: Yes. The Health and Safety Executive has already indicated that where you have safety reps on site there are less deaths and less injuries. The problem is if you are classed as self-employed you do not have any safety reps and it is very hard to organise any health and safety within self-employment, so it has a major knock-on effect to health and safety in the industry, and that is one of the reasons we have been raising it. Another problem as well is workers do not get any choice. I am a carpenter by trade. If you were going for a job on a site and the site agent says to you: "Look, you have to be self-employed, go down to the Inland Revenue and get your CIS card", the lad is not self-employed and never has been in his life but he will go down and get his card, come back and start, but the major problem is if that worker is killed on site, and I have already told you about the horrific deaths that you have in the industry, then that family goes on the breadline because there is no back-up. He is classed as self-employed. Then we have to find a way of trying to recoup to the family, and if he is a member of UCATT then we take up trying to get some legal services, but it is very difficult because what happens is they put a substitution clause in the contract; the person could be working for the same company for years with a substitution clause, so it is very difficult

to get compensation for the family. That family is on the breadline for the rest of their life, because usually he is the main bread winner.

Q106 Mr Clapham: So a bogus self-employed person, then, is not covered by employer's liability insurance?

Mr Ritchie: They are expected to get their own insurance. Often it does not happen and then usually the employers shift a lot of the responsibility on to the individual because what they see is a subcontractor and not an employee, and that is a difficulty under law, and because of the CIS card it is giving rise to major problems.

Q107 Mr Bailey: Can I try and tease out an issue that I was not entirely clear on from the responses you gave. First, in the context of bogus self-employment you said that a lot of workers have their tax deducted at source, effectively are not self-employed. Secondly, you talked about the amount of taxation revenue lost to the Government by bogus self-employment. If it is deducted at source I am not entirely clear where this is, or are there some that have tax deducted at source and others that do not?

Mr Ritchie: No. The point I was making was it was National Insurance payments, not tax. The tax would be deducted at 18%.¹ What happens is, and this is the way it is put over to some of the employees, some of the best ways of avoiding things like the Child Support Agency is going self-employed because it does not appear on your tax returns, and what happens is you are deducted 18%,¹ but then you claim, and that is the way the employer pitches it to the individual as well. You can then claim money back for expenses through a tax return and some cases may be paying 9%. I can assure you we have made some agreements where everybody has been directly employed on the site, and I have had workers chasing after me on the site saying: "You are making me pay 23% income tax on the site". And I say "Yes, that is right, that is what everybody should be paying". This is a tax subsidy, a tax fiddle, nothing else other than that.

Q108 Mr Hoyle: Obviously the responsibility should be with the major companies who win the contracts. What we have seen is that they all want to become managing agents and subcontracting all the work you get your first tier of subcontractors, they then subcontract to the second tier, third tier, all down the system so you are getting further away from direct employment all the time. Is that fair?

Mr Ritchie: Yes. What happens is I want these companies to employ anyone, and you are right, they all subcontract, and what happens is they subcontract to a subcontractor to a subcontractor to a subcontractor, with everyone taking their cut, and the guy at the bottom of the pile has then got to deliver the contract and try to make money off it. Now, you will hear some talks about this flexibility we need within the industry, and that flexibility is the guy at the bottom of the pile who is going to fiddle

¹ Footnote by Witness: This should be 20%, as it changed from April this year.

the tax to try and make some profit in the contract. What should happen is that that contractor should also be looking at the subcontractors to make sure that they assess the job correctly and he should be directly employed. We had a meeting with the Minister only recently in the last few weeks and we raised the point of the Inland Revenue in taking these inspections seriously. There are 300 people employed by the Inland Revenue supposed to be checking CIS cards and they are not allowed on site—can you imagine that—to check the work force. You cannot say to a worker: “By the way, how are you employed?”. So what are these 300 people doing? Are they just checking the forms coming in from the main contractors? As I am saying, we have organisers going on sites regularly; we know the abuse going on, and we know what is happening.

Q109 Mr Hoyle: Is it fair to say that some of these so-called subcontractors are stopping the money and then the company disappears so the Inland Revenue never even get the money?

Mr Ritchie: One of the best ways for illegal immigrants to work in this country is you can go on site for 12 weeks not even having a National Insurance number and then you can disappear and you pay nothing. Now you would think that the Government somewhere alarm bells would be ringing to say that is not right, because what we have now witnessed in the construction industry is the gang masters and what they have been doing with that and exploiting it, but yes, the problem is that of course some subcontractors class themselves employed and the lads find there are no wages at the end of the week, and you do not have the provisions as the employee to then pursue it.

Q110 Roger Berry: I was very interested in your written submission to the Committee. You basically are saying that the recent change in the new on-line registration scheme will be a recipe for fraud, confusion and lost payments. Could you say a bit more about that? Does it make the position worse rather than better? Secondly, why on earth is the Government introducing it, if that is the case?

Mr Ritchie: First, you are right, we have been making representations to the Government now for well over 15 years regarding abuses of self-employment and it has inherently got worse, and every time the Government has said: “We want to keep the self-employed”. It was 714/SC60 and they have changed it, given it various names, and we were told that come April there will be further changes. Unfortunately it has made it worse. Previously when you had your self-employed ticket you had your photograph on it. People could then identify you as that individual. That has now been removed. The problem is, as we are now being told, there are over nearly 2 million CIS forms circulating in the construction industry—absolute joke. Total incompetence in the sense that if you really want to tackle this we are really making it worse. In fact what is happening now is we have a major problem with foreign workers, they are catching a plane in Warsaw, they have never been self-employed in their

lives and they are suddenly self-employed, and of course that takes them out of employment practices as well, and if you do not have a photograph it is very hard to know who the individual is, and people can switch these forms about. So yes, the changes have made it worse.

Q111 Roger Berry: I can see that direct employment has many advantages—not least you would not have this bogus form problem, as it were. There is clearly scope for self-employment in the industry. What can the Government do to reduce the bogus form problem, where a form is necessary?

Mr Ritchie: There are a number of ways this could be done. The Inland Revenue should be taking some of these companies and making an example of them; it should take on some of these companies to send a signal. We did have the threat of that a number of years ago, and we had a move away from self-employment to direct employment, but when the Inland Revenue did not carry out what they were threatening to do there was a move back again to self-employment. The situation is we need more inspections; we need people to go on site and to check if these people are self-employed, but the problems of self-employment have given major problems for our industry. The average age of a craftsman in the construction industry is 54. We are estimating we need 87,600 people coming in every year to our industry. There is no training being done. We had 50,000 youngsters last year apply for craft apprenticeships in construction; we could only find 7,000 young people apprenticeships. It seems to be the idea that the way we will cover this problem of craft shortages is to rely on East European labour. This is only short term, and that is because we are one of the few countries that has allowed Eastern European labour in; as the market begins to open—

Q112 Chairman: We want to ask about this later in more detail. What you are saying is very good but what can the Government do to address the real problem without crippling the legitimate sole trader who is self-employed?

Mr Ritchie: I think you have to look at the private sector and what they have done. Look at T5 in Heathrow. They made it, under contract compliance, absolutely clear mainly because of security as well, that they wanted everybody directly employed on the site. They were successful; the job was done on time and under budget. What we need is some form of contract compliance in these contracts. 50% of the contracts are publicly financed, and I do not think you should hear from a trade union that in these contracts you should make it absolutely clear to these contracts “You should be employing people direct”. The Government should be doing that and that would give a lead to the industry about what we want to see in working practices.

Q113 Anne Moffat: Why can the Inland Revenue not get on the site? On what basis can the site people say: “You are not allowed on”?

Mr Ritchie: According to the Inland Revenue they say they have no statutory rights to go on site to check these individuals. That is the reply we got.

Q114 Anne Moffat: So the Inland Revenue in almost every other plant in existence can get there, except in your industry?

Mr Ritchie: Totally correct. If you were fiddling your tax I would tell you the Inland Revenue would find ways of coming into your house and checking your bank account, et cetera, but unfortunately in construction they cannot do that.

Q115 Chairman: Is there a consumer protection issue here as well? My boiler broke this morning in my flat and I have not got any hot water, and I cannot get hold of the guy who installed it because he was self-employed by the company which installed the boiler, and I cannot pin down responsibility for it. Is bogus self-employment an issue for consumer protection as well?

Mr Ritchie: It very much is an issue for consumer protection, because what happens a lot in the construction industry, especially in the home and maintenance work, is if something goes wrong then the company goes into liquidation and then sets up next week as another company. So there is a major problem.

Chairman: That is the other end of the market, of course, but still very important. Thank you very much. We will move on, if we may.

Q116 Mr Bailey: To a certain extent you have really anticipated my question but are there any particular parts of the public sector better than others in contractual terms?

Mr Ritchie: There have been some PFI projects, for example, where the trade union was brought in for consultation, and that has given us a bit of scope to start causing contractors to raise the issue of bogus self-employment. Unfortunately even local authorities do not realise the impact of bogus self-employment. In some PFI hospitals we had some success recently but I do not believe there is any particular section. I think the only one you could say that has been really successful is T5 where it has been clearly laid down, but if you are asking me where is self-employment, it is everywhere in the industry.

Q117 Mark Hunter: I wanted to ask a couple of questions about large infrastructure projects and capacity to deliver. You have already alluded to the first one on my list which is T5. On the Olympics what roles specifically are you playing to ensure delivery of the Olympics is achieved using best practice and employment conditions?

Mr Ritchie: Yes. We have been involved, the joint trade union secretary and my colleagues here from Unite, we have been negotiating with the ODA. It has been a number of months. We did raise the issue and made it absolutely clear we needed the same sort of agreement as in T5 to stop the contractors. The ODA indicated to us that they would have major problems with that. With 10,000 workers they felt as though some of the contractors on site wanted some

form of so-called flexibility, and eventually we got an agreement just to say the ethos in the Olympics would be direct employment, but though we welcome the discussions we have had with the ODA, we still see inherent a number of problems in the Olympics which is not done the same way as T5, and we have concerns about that.

Q118 Mark Hunter: Can you say a little bit more about the nature of the specific problems?

Mr Ritchie: Well, in T5 we had a site rate for every worker on the site. What you are going to have is 10,000 workers here, possibly 7–10 contractors, maybe more, all using different rates which to me is a disaster for industrial relations. You are going to have the bottom of the queue trying to get to the top, and there could be problems from that. What we do believe is we should be sitting down with the ODA negotiating one rate for the whole site so everyone is on the same level playing field. That is one instance. Also, although some of these contractors have agreed to form a joint committee similar to T5 where it was 50% employers/50% trade unions and we would be able to deal with these problems as they arise, I still have some fears regarding East European labour being classed as self-employment coming on the site which could create further industrial problems. So there are these issues that we see that should have been tied up similar to the agreement in T5. I will give an example. If you look to T5 compared with other projects, Holyrood, for example, it started off at £80 million, full of self-employment, final figure £300 odd million, behind time three years; you look at T5, on budget, on time—you know, there are major differences here. You have to get a contract at the start tied up where you are working with the trade union and working for the best of the contract. May I say absolutely clearly UCATT is completely committed to delivering the Olympic Games; it is a strategic project, an advertisement for our industry throughout the world, and we want to see that being a success, and we will go the extra mile to make sure it happens, but there is a problem we see further down the line if this is not ironed out regarding the Olympics.

Q119 Mark Hunter: I appreciate your frankness in flagging up the key problems and challenges you still face, but we also note the force of your closing comment there about your commitment. Finally from me about the Olympics, can I ask you about your own experience of the Olympic Delivery Authority and their progress and your relationship with them and the way in which they are operating? Would you care to make any comments in that regard?

Mr Ritchie: We welcome the negotiations and what has been happening; we believe they brought in CLM to advise them, and there has been some confusion in the negotiations between CLM and ODA, and over a change of Chairman. A new Chairman is coming in and we will be meeting him informally over the next few weeks to have discussions on a way forward. It is important we get

the agreements right from day one, because these large projects can very easily go off their course, first of all with costs and then running out with the timescale. We cannot have a situation like Wembley that is going to turn up a year late; the world will not wait for that, the Olympics have to be delivered on time, so it is important these agreements are done right from day one.

Q120 Mark Hunter: It did not sound like a glowing endorsement of the Olympic Delivery Authority. If I were to just press the point a little bit further about how impressed you have been to date, let's say on a scale of 1–10, your remark before indicated to me that you probably at best are mid level on that scale. Would that be accurate?

Mr Ritchie: The way negotiations are going at the present time you would not be far off the mark.

Mark Hunter: I am being generous, am I?

Q121 Chairman: A five is it, Mr Ritchie?

Mr Ritchie: Maybe six, but I have to say that I am happy to sit and try to negotiate a way forward, but from experience in the construction industry in the UK we know what happens with projects, we know when we are brought in at the end of the project to try to resolve the problem it is too late. As I am saying, we welcome the negotiations and the discussions, but at the end of the day we still see a lot of problems there, especially on industrial relations.

Q122 Mike Weir: You mentioned earlier in one of your answers that one of the reasons T5 seemed to have a direct employment model was security considerations. How often is the direct employment model used in other major projects? You mentioned Wembley as one of the ones where it was not used, and you clearly are having some difficulty in persuading the ODA to use it for Olympics. Is T5 an unusual situation because of the security, or is it one where you feel it has been used in other major projects, and if so, which ones?

Mr Ritchie: Yes. One of the leading contractors in the UK at the present time took a decision to move to direct employment, and he went overnight from two thousand employees to 8,000 and pays National Insurance. The biggest problem he had was from the Child Support Agency once an employee was on the books. And they have been doing a number of major projects on time and on budget, so there have been some successes with direct employment. But it all depends. I could turn round and say that the Government seems to be obsessed on some major projects with getting the cheapest price possible, but that is very short-term because what happens is the cost begins to run away with you. Take Wembley. We got called in to Wembley late on, and it was unfortunate. You asked me about the ODA, and I am glad to say at least the ODA have taken the initiative of bringing us in at the start and are trying to talk about a way forward, but it is still early days. But there are a number of projects in the UK that have direct employment, and they have been a success. T5 was one of the biggest, the biggest in Europe, and so that has been one of the ones where

we turn round and saying it has come to the finish, it is on time, it is on budget. It has been a question of security but I believe that the company, the client especially, has had a lot of returns for that as well.

Q123 Mr Wright: In terms of the migrant worker situation, Alan, you did mention earlier I think specifically Polish workers coming across on the bogus self-employment scheme. Do you know what proportion of them would be encouraged to go on to that self-employment scheme? Has any research been done?

Mr Ritchie: We have had some research, and it is very hard to get figures for migrant labour, as you probably can appreciate, from the Government. What we can go by is what the Polish Government has stated, that 250,000 craftsmen have left the construction industry in Poland and the majority came to the UK. Our research has not found any of them directly employed; they have all been self-employed and classed as self-employed, and that leads to a lot of exploitation because once you are self-employed you do not come under industry agreements. We have come across instances of hot bedding, people with accommodation being deducted, their passports being withheld, and it is very hard to break in. But unfortunately our people in the Union that get about on the sites—and we have got organisers all over the UK—specifically in construction, are coming back and telling us that all these workers have been classed as self-employed.

Q124 Mr Wright: You have mentioned the exploitation. Rather than the fact that they can undercut the construction workers, and indeed other skills, in terms of salaries, is it other areas you cover, for instance accommodation and so on, that is undercutting the British construction workers' jobs?

Mr Ritchie: I am just looking at some of the facts here that we have tried to get, because I do not want to quote any facts that are not true so that they come back to me and say I have told a lie—

Q125 Chairman: Do you want to give that to us in writing later?

Mr Ritchie: Yes. What is happening is, out of these workers that are coming here, they do not have any employment rights; we do find that their accommodation has been abused; we do find there is hot-bedding, which means that one person is in a bed for 8 hours, he is out and the next person is in 3 hours, there is exploitation here, but really we do not blame the individuals as such because when you come into a foreign country you are vulnerable to exploitation. They are promised maybe 10/12-pounds an hour; they come and are paid 6-pounds an hour; but they have borrowed money and various things to get here and they have to pay people back, so yes, there is room for that exploitation and that is what is happening in the construction industry.

Q126 Mr Wright: Is there evidence that there are specific employers that are using migrant workers and really going out to look for them?

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Mr Ritchie: You will never find an employer standing up and saying: “I have done that, I am doing it to get cheap labour”. What you see is employers saying: “We expect them to pay the Working Rule Agreement for the construction industry”. But I must admit that when we have raised it with a number of employers they have got them off the site. We have come across a number of gangmasters, for example, and we have got them off the site when we have raised that.

Q127 Mr Wright: Do you have any statistics about the number of your members that are unemployed at the present time?

Mr Ritchie: Not to hand. The construction industry is obviously booming at the present time, but we do get phone calls and people saying “I have been laid off the site and they have brought these East European workers in our place”, and you try to follow that up, but I do not have the statistics to hand at the present time. The biggest problem is we do have a boom in the industry at the present time and all estimates say it is going to continue for the next few years. What we do know is that the people suffering through this are the young people in this country at the present time who cannot get craft apprenticeships—

Chairman: Can we stick with gangmasters, for a second?

Q128 Anne Moffat: It is extraordinary how you have pre-empted everything we have been going to ask! My question is about the Gangmasters’ Licensing Regulations. Do you think they should be extended to cover your industry?

Mr Ritchie: Yes, according to the Gangmaster Licensing Authority there are 10,000 companies out there, gangmasters, operating outside agricultural food processing, and unfortunately because it is a casualised industry like construction they have moved into construction. We have had some evidence on that. We have also had two officials, organisers, trying to look at that who have been physically assaulted, so yes, we want to see the gangmasters’ legislation extended into construction, because it would give a guarantee of some help to some people who have been exploited at the present time.

Q129 Anne Moffat: But you would not be surprised that the Construction Confederation said that they did not want it extended into the construction industry?

Mr Ritchie: I do not see why not because, if you are operating correctly and you are employing people properly then you have nothing to fear from the gangmasters’ legislation. The only time you have to fear it is if you are operating something that is abusing people, so I do not understand their argument. That is why we need that safety net. I know we talk about all this so-called red tape and we do not want red tape in the industry and that is why we want to stop it, but we look at countries like Dubai in construction who have hundreds of people being killed every year—

Chairman: You are doing it again. You are anticipating Mr Weir’s question now!

Q130 Mike Weir: I was going to ask about what appears to be a large increase in mortalities in the construction industry over the past year. I think in earlier questions you implied at least this was due to the lack of health and safety culture where there is a lot of bogus self-employment on sites. In light of that, do you have any figures and has any research been done to compare the level of fatalities in a direct employment, large project of the likes of T5 with one where there is a lot of self-employment law, like perhaps Wembley? Are there any direct comparisons that can show that one model or other leads to a better outcome as far as fatalities on site are concerned?

Mr Ritchie: I think the HSE have accepted that bogus self-employment makes the industry more dangerous. We do not have any workers’ safety representatives; it reduces the employer’s duty of care to the individual; and what we have seen is that where the number of deaths has increased the inspection and enforcement notices have actually decreased in the industry, and that is a concern for us. If you want to take examples of where you have people directly employed and you are accountable to your labour force, one is the Olympics. We went to Australia and met the CFMU, the Australian trade union, and how they organised the Olympics and how it was done. From day one they sat down with the body, they made sure the workers were directly employed; there was one death in the whole of the Olympics in Australia. You then go to Greece, where it was done by foreign workers, and they did not even keep a register of the foreign workers killed. The only thing they can tell us is that 15 Greek nationals were killed in the construction of the Olympics, and the foreign workers they do not know. So here we have two examples of how projects can be built and where the deaths are and the lack of health and safety, and how you treat your employees and the workers, and so if you do not have that respect and that control over the labour force then deaths will increase. I have heard people turn round and say: “Look, Alan, it is very hard to pin down in the UK the figures for self-employment injuries compared to injuries in direct employment”, but direct employment people will be reported on injuries, self-employed will not. Directly employed people who may have a claim or whatever will report injuries and go through the process; self-employed will not, and that is why you have a decline. That is why the figures are not accurate coming from HSE.

Mike Weir: We are talking here presumably about fatalities, and I presume every fatality, whether it is on a self-employed site or a direct employment site, must be reported and they could not possibly not report it. I take your point about injuries and I fully accept that, I understand what you are saying and I understand the logic behind it, but what I am trying to get at is whether there is concrete evidence that there is a direct correlation between direct employment and a better safety culture in specific large-scale sites, because if you are going into the

Olympics you may be successful at getting direct employment or you may not, but it is a massive project and it could have a huge bearing on the result.

Q131 Chairman: Have you got the figures?

Mr Ritchie: I do not have any figures because one of the problems we have had is, trying to get the figures from the Health and Safety Executive, what they have said is because of a fatality on site they class all workers as employees because it is easier for prosecution. That sometimes gives a disfigurement of the figures. We have asked how many had CIS certificates and the HSE has told us we have to go through the Freedom of Information Act and refused to give us the information, so we have been trying to collate these figures and have had some difficulty.

Chairman: Training questions.

Q132 Mr Bailey: You have already implied that in effect one of the reasons only 7,000 places were offered for apprenticeship was because of the migrant labour. Why do you think employers prefer migrant labour over training labour for the long-term, apart from the obvious reason of cheapness. Is it short-termism? Is it the cyclical nature of the industry, or what?

Mr Ritchie: It is not just down to migrant labour; it is inherent with the CIS certificate within the industry in different parts of the country. If you come up from Scotland, for example, where I was secretary of the Scottish Building Apprenticeship Training Council, they are now training 27% of all craftsmen in the industry in the UK, a population of 6 million—absolute disgrace—and when you come further down the country, the CIS really begins to bite and that is why you will not get the training, because you do not employ anyone. What happens at the present time is that to people who are employed you pay a training levy grant off your wages bill of 2% by law. You avoid it; you do not pay it; because you have no wages bill. They are all self-employed. So the problem we have with apprentices and bringing young people into the industry is inherent in the CIS card, and that includes foreign labour that is coming in. But you are right; there is a short-term approach by a number of employers who think they can use the skills of East European labour, but it is short-termism in our opinion.

Q133 Mr Bailey: What do you think can be done to the CIS levy to change things? Does it need to be changed?

Mr Ritchie: Yes, it has to be changed. I think there have to be more stringent initiatives taken by the Inland Revenue. I am going to make it absolutely clear, we are not opposed to people who are self-employed. I am not going to stop people who are self-employed. We have got people on sites who are self-employed, genuinely self-employed with their own digger, their own company, and we do not have a problem with that. But there is a mass of abuse going on and what the Inland Revenue has got to do is make examples of some of these companies which

are abusing the system, because at the end of the day this is a hidden subsidy to these companies; it is the taxpayers, you and I, and your constituents, paying for it, so there is no excuse and it cannot be acceptable. The Inland Revenue have to do their job, which is to look at the industry and police the industry effectively.

Q134 Mr Bailey: Summing up, in effect what you are saying is that more stringent inspections would deter employers from using bogus self-employment, there would be more legitimate direct employment, and that in turn would improve the level of funding for the skills levy, which we hope would increase the number of placements for apprenticeship?

Mr Ritchie: I think there are a number of issues regarding the skills levy. One is that we want to see it directly just for training of apprentices and financing that but, by that, even increasing the levy will not necessarily mean that we will get more young people on the site. The only way you are going to get young people on the site is if people on the site are directly employed. That is where you will get them trained, so that is where the crunch is going to be. If you are asking me what the Inland Revenue has got to do, they give out these CISs too readily. There has to be a stringent background report of individuals coming forward to say they are self-employed and there should be some sort of evidence to prove they are actually self-employed. Any one can go to the Inland Revenue today and get a CIS certificate. What does that mean? It is too easily given out. Then there have to be checks made by the Inland Revenue once these individuals get them, and that is not happening in the industry either.

Q135 Mr Bailey: So effectively the driver is direct employment rather than the actual levy itself?

Mr Ritchie: Yes.

Q136 Chairman: Just to be clear, why is union membership so low in the construction sector? What you have said today has been very convincing and powerful, you have made a very strong case for your union's position; I think you claim 125,000 members but only sent out something like 65,000 ballot papers to members, so it is low, your membership. Why? What is wrong?

Mr Ritchie: One of the reasons is that we have a high turnover. Unlike other trade unions we are a specialised trade union, not a general one, so we specifically deal with the construction industry. The problem is we organise and get members on the site and then the site closes so we have to reorganise them and recruit them. We have a very high turnover in our union of membership and so it has been very difficult for us, but because of the stringent laws that are there we have to make sure that only people who are in compliance receive a ballot paper, so to go on the side of caution we have stringent rules to make surely those ballot papers go out to make sure people are paid up and have paid at the present time. And when somebody contacts me to make sure they get a ballot paper we do check they are paid up, and we do have very stringent laws. Regarding the two million

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in the industry, we only organise craft workers and labourers, blue collar in a sense, not architects and civil engineers, the staff, and all those sections of the industry, so 30% is self-employed and is all within that sector, and you can be a trade union and

negotiate the wages and conditions and the rights of an employee, but if an employee does not have them to start with then you cannot represent them.

Q137 Chairman: Mr Ritchie, you have done your members proud today and we are very grateful for your evidence. Thank you very much indeed.

Mr Ritchie: Thank you.

Witnesses: **Sir Michael Latham**, Chairman, **Mr Peter Lobban**, Chief Executive, and **Mr Peter Rogerson**, Deputy Chairman, ConstructionSkills, gave evidence.

Q138 Chairman: Gentlemen, welcome. Thank you very much for coming today, and thank you for your evidence. Can you introduce yourselves for the record and also perhaps say a little bit about what ConstructionSkills does to meet the needs of the sector?

Sir Michael Latham: I am Chairman of ConstructionSkills. I have with me Peter Rogerson, Deputy Chairman, we are both non executive, and Peter Lobban, chief executive of ConstructionSkills, who runs the organisation.

Q139 Chairman: Tell us about the organisation.

Sir Michael Latham: We do two things basically. We are an Industry Training Board with statutory levy raising powers and have been so since the Act was passed in 1964 and then revised in 1982, but we are also a sector skills council representing the whole industry including other partners, the Construction Industry Council whom I believe you have already seen, and also the Northern Ireland Construction Industry Training Board, which is a separate body, and as ConstructionSkills we are involved with the whole of the construction industry including professional consultants and so on throughout the whole United Kingdom. but as the Construction Industry Training Board we are only responsible for England, Scotland and Wales.

Q140 Roger Berry: You say in your submission to the Committee that 87,600 new recruits are needed to join the industry every year for the next five years, and you also say that the United Kingdom does not face any skill shortages. How do you explain that?

Mr Rogerson: First, the industry has grown by about 20% over the last five years, so in itself that has created certain issues, and it is forecast to maintain at that level for at least the next five years and beyond from our skills forecasting, but the industry is not facing an individual widespread skill shortage. Clearly there are pinchpoints in certain occupations and areas but generally the recruitment target of 87,000 employees is being met in various ways, through new entrants, people who are upskilling, people already in the industry increasing their skill level, and also by craft recruits and craft occupations. Whilst we through our own managing agency train about 7,000 apprentices a year on a full framework which includes employer engagement, there are a further 20,000 people entering the industry through technical colleges, other education

areas, and through some occupation run colleges, all entering the industry with some form of qualification, including NVQs, so that the 7,000 figure quoted earlier relates only to those coming through our management agency as opposed to those entering the industry. We do have a Construction Skills Network arrangement where we take information from all our partners, from clients, from local authorities, from planning authorities, and also from architects and surveyors, so we are looking all the time at where demand is being created; we are trying to programme that demand and trying as well to look at the skills which will be required, so we are trying to face out and meet the requirements that we can forecast. The biggest problem we have at the moment is a changing skillset in that methods of construction are changing all the time. There is more off-site manufacture, and therefore assembly becomes more important than craft skills in some areas, and obviously that is quite a challenge to us. So the constant upskilling of existing workforce is just as important as claiming new entrants.

Q141 Roger Berry: You did not mention migrant workers. What proportion of the 88,000 annual increase would be met by migrant workers?

Mr Rogerson: It is difficult to say. There is some current research going on, but our view at the moment is that migrant workers represent between 6% and 8% of the workforce in the United Kingdom. That is not necessarily evenly spread, as you might imagine, but that is our best forecast. We should have some more robust information in the next few weeks or months and obviously we will share that with you at that time.

Q142 Roger Berry: Are there particular skill gaps they appear to be filling, or is it too early to say?

Mr Rogerson: I think at the moment it is across the piece. They certainly come with good skills, and I can speak from my own experience as an employer, in that we employ Polish slaters who come with excellent skills and qualifications—who I hasten to add do pay National Insurance and are registered here, and are not in the black economy or employed by a gangmaster. Clearly there are more migrants working in the London area than in other areas and probably they barely exist in Scotland where there is a different full employment, and I very much endorse what the previous speaker said, that the

training is much better in Scotland and the north of England; it dissipates as we get into the Midlands, and formal training, because of self-employment, almost disappears in the South East and London areas. I share that view.

Q143 Roger Berry: You say that long-term reliance on migrant labour is not sustainable. Is that based on the assumption or the evidence that migrant workers return home rather than stay in the United Kingdom?

Mr Rogerson: From my own personal experience most migrant workers do not bring their families; they simply come here as a single occupation. They tend to work in two five-month blocks in that they have a month off for a summer holiday and a month off for Christmas in the United Kingdom. My own experience is that they seem to stay in this country for between two and a half and three years during which time they amass money to send home and many of them go home and create employment in their own country. That is very much my personal experience, I do not know that there is any data, but I have talked to other colleagues who employ immigrant labour and they seem to have a similar view.

Q144 Chairman: That suggests it is going to be difficult to find any of the 87,600 annual increase you require from migrant workers, because the net flow is likely to be diminishing very considerably.

Mr Rogerson: We are not seeing that because those people go back and some other people follow them. Re-recruiting is not a problem.

Q145 Chairman: So we will be seeing more migrant workers coming to the United Kingdom to help plug that 87,600 gap?

Mr Rogerson: I think we have to remember that they are members of the European Union—

Q146 Chairman: I am not making a value judgment; I am trying to pin down your assessment of the organisation of the domestic skills we have to provide to enable the construction sector to flourish in the United Kingdom. I am not asking is it good or bad, but how many of those 87,600 will have to come from United Kingdom born nationals and how many will come from immigrants to the UK?

Mr Rogerson: Given that we are coping at the moment we have to assume that somewhere between 6% and 8% is going to come from immigrants, because the thing is working at the moment and therefore the assumption is that something of that order will follow.

Q147 Chairman: Your working assumption is that the proportions will continue in the future? That is helpful.

Mr Lobban: If I may comment, Chairman, we are producing a new forecast. My colleague referred to the Construction Skills Network; we produce forecasts five years ahead and do them every year, so the new ones will be produced early in the New Year. We try to determine what the training requirement is

in each region, and the training requirement in London would be obviated by people coming down from Scotland or the north of England, but also people coming from abroad, and certainly immigrant labour is a far higher proportion in London and the South East than in the North, and we programme all of that in. My feeling from the early work that I have seen is that we are not assuming that immigrants will add in a big net way; we are seeing it flattening off in terms of the way we are currently producing our projections over the next five years.

Q148 Chairman: So formal figures will be published in January?

Mr Lobban: Early in the New Year, yes.

Q149 Mike Weir: Your memorandum highlights the fact that employers are providing insufficient workbased placements even though they are prepared to have people who have undergone apprenticeships. Is it safe to assume from that the problems industry faces in providing insufficient training lie with employers rather than an insufficient supply of willing workers?

Sir Michael Latham: I think one has to say first very strongly, and I say this regularly, there is no shortage of young people wanting to enter the construction industry—no shortage as all. The shortage is the number of employers prepared to take them on as apprentices, and this is something which we are continually involved in. There is at the moment, as Alan said, a very substantial proportion of apprentices taken on in Scotland because in Scotland there is still an employment/apprenticeship/direct employment culture which is good. The further you go down south the less that is the case. We have found that there are somewhere between seven and a half and 10,000 youngsters who are full-time students at colleges of further education, particularly in the south of England, who have not got an employer. If they have not got an employer then, first, they have not been scrutinised by CITB, by ConstructionSkills, and secondly, if they have not got an employer they will not get any site experience, and if they have not got any site experience they cannot get an NVQ and cannot complete a framework apprenticeship. What we have done, therefore, in conjunction with the Major Contractors' Group of the Construction Confederation and also with the Major Home Builders' Group who are part of the Home Builders' Federation, is arranged with them that they will place a number of these boys and girls who are not getting any site experience with their subcontractors so they will get some site experience at the end, because they are doing at the moment a two-year full-time course at colleges of further education, and as they come to the end of that course they will then be placed with their subcontractors. We were hoping this year to have a thousand youngsters involved; I do not think it will be as much as that, but our intention is to strengthen this and to press it as much as possible. We call them "programme led" apprenticeships and I think this is a very important

step forward. We have not had to do this in Scotland because all the boys and girls up there have been placed with employers.

Q150 Mike Weir: Why is it that they have been, up to now at least, unwilling to provide these placements? Is cost a consideration? Or is there any other reason?

Sir Michael Latham: I think there are a number of reasons. I go round the country a lot talking to builders and I often ask them: "Do you take on apprentices?" and they say "No", and I ask why not, and they say: "Well, we might lose the boy before he finishes his time and he will be poached and go and work for someone else". In which case I normally say to them "How many employees have you got?" "25" or whatever—and I think it is worth mentioning, Mr Chairman, that of the 73,000 firms on our Construction Industry Training Board register, about 93% of them employ less than 10 people, so we are talking about an industry of very small firms—and I say: "How many of them have been with you all the time since they were 16?" "None of them". And I say: "Well, that is what happens in the industry. People move around and have done since the Middle Ages and there is nothing new about that, but what you need to be doing is taking on more people as youngsters, and the way you are likely to keep them is if you pay them properly and see they have a good job and have a chance of moving up through the firm and so on". But there is a lot of resistance to that and the further you come south the more resistance there is. I have also to say, following what Alan said, that there are hundreds of thousands of people now who are working on a self-employed basis, some of them genuinely self-employed, some of them working for labour gangs and those labour gangs do not do any training at all.

Q151 Mike Weir: Are you suggesting there are many people working who are not suitably qualified for the jobs they are doing?

Sir Michael Latham: Yes, and we have something we can do about that, and I will ask Mr Lobban to say something about our on-site assessment and training programme, if I may.

Mr Lobban: The industry has typically recruited in a fairly informal way. The vast majority of the companies are extremely small businesses; the industry is very much run on a subcontract basis, risk of contracts is passed down on the contract, and people have quite often started work on site as a labourer without necessarily doing a formal apprenticeship, and then through the years they have learnt the tools. We have found a way of assessing them and of training them on the job, it is called "on-site assessment and training", and this year we will qualify 50,000 people who are now fully qualified working in the industry who were working in the industry before, and had learnt and become fairly competent but we give them the top-up training to make them fully competent. That programme started about five years ago and it is growing strongly. I have to say it is also reinforced

by the CSCS scheme, where people have to have a card to get on some of the major sites where there are a lot of subcontractors. They also have to take a computerised health and safety test in the same way that people have to take their driving theory test before they get a driving licence, so all of that is beginning to encourage a more formal approach to looking at qualifications and competence within the industry, so we are running with that on sites.

Q152 Mike Weir: Given the concerns we had from the union in an earlier session about the health and safety culture on many sites with a large amount of self-employment, are you working with the unions on this scheme to ensure that the health and safety element is, if you like, engrained in many of these sites?

Sir Michael Latham: There is a health and safety test which is essential in order to getting a construction skills certification scheme card, and at the present time the number of people who have taken the health and safety test is over a million, I think, and if you have not taken the test you cannot get a CSCS card. I am very pleased to say, and you have already had Alan Ritchie and I believe you are hearing Bob Blackman later, that they both sit on CITB's Board, and indeed Bob Blackman is also Chairman of our Health and Safety Committee. So we have the closest possible relationship.

Q153 Mike Weir: And how many of the site operators, or are any of them, prepared to assist on this scheme for people who already have a card to increase the health and safety culture within their sites?

Sir Michael Latham: At the end of the day I believe it is up to the client to assist and monitor. Many clients do. Of course there are very large numbers of sites throughout the country, particularly small ones, where nobody has ever got a CSCS card because nobody has ever asked them for one. But there are a growing number of sites, I am pleased to say, where the client has insisted and often made it a contractual commitment for people on the sites to have a CSCS card, which involves you having done the health and safety test first. I personally am surprised that this has not been a requirement of all public sector contracts, and I hope that it will be.

Q154 Mike Weir: Given the vast majority of workers in the construction industry are white and male, what work is being done to promote diversity in the workforce?

Sir Michael Latham: It has been a long process over many years. Going back 10 years, the industry had quite a poor reputation generally among younger people who might be thinking of coming into the industry, and we did quite a lot of work to try to turn that round. We do a lot of market research, particularly with younger people, and we have seen a very big change in their image of the industry, and there are now many tens of thousands of people seeking to come into the industry every year. That was not the case with females and visible ethnic minorities. We had to do quite a lot more work to

turn their opinions around and do quite a lot of positive image work. We did work with schools and television campaigns, and a lot on the web now, and younger people are very into the web. We have many contacts and hits on our website and we have competitions and encourage them to apply, and I am now pleased to say that we are now in a situation where we also have tens of thousands of females and ethnic minorities who want to join our industry as well, so that is the demand side. We then have to consider how they get into the industry. Arranging training is one thing; getting an employment starter job is another, and that has been particularly difficult in the case of more diverse and perhaps atypical recruits, partly probably to do with the informal nature of recruitment in the industry which has tended to be through family contacts. We introduced a 13-week trial period where we paid for people from diverse backgrounds to start a job with small and medium sized employers so they could get used to them and see that they were of value, and that has been very successful. We have just put 600 people, either females or ethnic minorities, through that programme this year, and that programme is growing. Another area where it is possible to do more is in an area where there are long-term contracts and we have been talking about self-employment. It is not just an issue between direct employment and self-employment but also of long-term employment. If an employer directly employs somebody for a few weeks and then releases them they do not necessarily see them as somebody they want to invest in, but if they believe they are going to have a long-term relationship with the person then they will invest in training and see that they will get that back over the years. Now the area where there has been a huge long-term amount of work has been the social housing refurbishment programme, the government programme, Decent Homes, and we have been able to go in and work with housing associations and registered social landlords where they have a major programme of work ahead, and worked with their framework subcontractors and placed local people, who have tended to be female and more of visible minority background, and that has been also very successful in getting a more diverse recruitment into the industry. We have also been working at the higher education end and we have instituted a shared basis where, if employers are prepared to sponsor someone on a construction-related degree course at university, then we pay half of the sponsorship. That has been very much targeted towards the diversity agenda as well and we have had a much higher pick-up of female and ethnic minorities and that programme has been very successful. As well as encouraging the sponsors, it has also encouraged many other people to apply and, even if they have failed to get sponsorship, we have seen a pick-up in applications to construction-related degree courses, so it has been a push over many years. We are by no means there and it requires a lot more work and it requires a lot more integration with the funding bodies so that we actually take people into initial training and then

ensure they move into employment and they are not trained for unfortunately unemployment, which has been the experience in many cases.

Q155 Mr Hoyle: With different parts of the industry to work with, and we have got self-employment, sub-contracting and supply chain fragmentation, are you lobbying for changes in these areas and do you accept what UCATT have said, that they believe in greater direct employment?

Sir Michael Latham: I have first to say, Mr Chairman, that it is not our role to lobby for change. I am answerable to the Minister at the DIUS and we are a statutory body and that is the reality of the matter. What we do do is we recognise, first of all, that the workforce is highly mobile, that there is this tremendous reliance on sub-contracting, that the supply chain has fragmented, that self-employment levels are high and that major construction contracts are often let solely on cost rather than on quality which is, I think, a shame, but that is the reality. What we do do and what it is our job to do, in my view, rather than lobbying for change in the structure of the industry, is to support employers of all sizes with recruitment and training needs, and it does not matter what the role is of the man or woman on the site, we have to try and help them to upgrade their skills. We are working, as Peter Lobban said a few moments ago, on all sorts of different aspects in this regard, but particularly we are working on the on-site assessment and training programme which has allowed us to upskill a very substantial number of labourers. We are also working on the programme-led apprenticeships, as I mentioned a few moments ago, and indeed we also introduced our new National Skills Academy for Construction by which there will also be substantial numbers of people trained as they go, so all those things we are doing. However, it is not for us, as an impartial body, to be lobbying for change in the workforce of the industry. That is perfectly proper for the unions to do that and it is perfectly proper for the employers to do that if they want to, but not for us.

Q156 Mr Hoyle: Now that you have waffled on and not answered the question, can I just try and pin you down a bit. Do you believe in the greater use of direct employment as a group? Try yes or no.

Sir Michael Latham: It is not our job to decide that.

Q157 Mr Hoyle: So you do not have opinions? Are you in robotics?

Sir Michael Latham: Mr Hoyle, we are bound by our requirements to work for our stakeholders and our stakeholders are both employers and trade unions and they have different opinions.

Q158 Mr Hoyle: Do you think the construction industry will benefit from more direct employment?

Sir Michael Latham: Yes.

Q159 Mr Hoyle: We are beginning to get somewhere. Thank goodness for that!

Sir Michael Latham: But that is my personal view, as an employer.

Mr Hoyle: At least we have managed to get an answer that is more suited to the question.

Q160 Mark Hunter: Can I take us to the issue of the Government, as policy-maker. In your own submission to this inquiry, you have called for real power to deliver employer-led skills and training solutions. Could you perhaps tell us a little bit more about what you mean in this context by the term “real power”?

Mr Rogerson: First of all, we are told by SSDA (Sector Skills Development Agency) that ConstructionSkills is a high-performing sector skills council and understands the needs of its employers and also its employees and, therefore, we have made some significant progress down our sector skills agreement. That includes both awareness, making the industry aware of the changes that we are trying to introduce, and we have certainly increased entry demand, and of course we are looking now at a sound future for employment which sometimes has not been the case for construction which helps our endeavours here. Our difficulty is the sort of plethora of different types of training available and also we have some issues to do with devolution because we have to deliver into different methods in Scotland and in Wales than we do in England. Obviously that causes us some concern, and it causes confusion. Some of our members who come from Scotland or Wales come to meetings and say, “This is all UK-dominated and I have no interest”, and it is quite a task for the Chairman and myself, chairing the Training Committee, to ensure that we get buy-in from all people at present and they do not switch off and we are talking just England, just Scotland or just Wales. Despite the introduction of Train to Gain, the funding arrangements in England are still very complicated and quite difficult for SMEs to understand. As the Chairman has said, the vast majority of our employers are SMEs and they get to do their administration at night after they have done a day’s work on site. If we then have to take them through extremely complicated methods of funding, I am afraid they would probably either just fall asleep or close the book and say, “It’s too difficult for me”, and I am sure that causes many of the problems we have with employer engagement. What we need is the maximum flexibility for us to direct the cash into the areas where people require training, and there are some very specialist areas, and the rigidity of funding regimes works against us. In fact, to train someone to operate a tower crane or a bulldozer, it has to be done one to one, it cannot be done in bulk, it cannot be done with eight candidates and one trainer, and the cost to us for that is something in the order of about £34,000 to deliver an NVQ and we get about £8,000 from the Government for doing that. Consequently, it will come as no surprise that we have no competitors because the other training colleges will not subsidise the industry in the way that we have to do. If we also think about the work we are now

doing in the Skills Academy where we are identifying skills and we are able to talk directly to the employers and to the employees and involve the trade unions, which we do in the Skills Academy, we are going to do significantly better if we have the flexibility of funding ourselves and we did not always have to use pre-determined government funding methods, so the high cost of specialist training is a big, big factor for us. The other thing we have been doing as well is managing to pick up people who have failed to get any formal employment initially. They leave school, they take the highest-paid, unskilled job and then all of a sudden, when their social responsibilities kick in and they have families and homes to support, they are then looking for a trade. The funding for adult apprenticeships is extremely challenging. We have had some very, very interesting pilots where—

Q161 Mark Hunter: I appreciate your giving me a detailed answer, but perhaps I can just paraphrase the real point I am trying to get at. If this Select Committee were able to grant your wish, and I ask you to consider that for a moment, to give you that real power, as you have referred to it, that authority, what would be the key priorities then that you would want to address in that situation? What are the two top issues that you think a lack of real power, as you see it, is holding you back from organising in a better way?

Mr Lobban: I would say specialist, more expensive training would be one area and the other area would be adult training, flexibility around those, and we would not be looking to apply the money to everybody, but we would try to make sure we were going to get a return on the investment.

Q162 Mark Hunter: I would like to press that further, but we do not really have the opportunity just now, so, if you would like to follow it up with any further information that you could perhaps send to us in a memorandum, that would be appreciated. Could you tell us about the National Skills Academy for Construction, what progress you think there has been with the National Skills Academy in the year since its launch and do you actually feel that it is yet meeting the needs of employers and employees?

Mr Lobban: We have made good progress in setting it up. Our target is that we will have it operating in all of the regions of England. We believe that the concept can be picked up also in Scotland and Wales, though perhaps with a slightly different name. We have currently got eight sites up and running as project sites under that umbrella and we have 52 in the pipeline that we are talking to. We have an end target of 30 by the end of 2010 and we believe we are on track. In terms of what it is delivering, it is very early days yet and I think we are learning as we go along. We are appreciating that the key to this is the supply chain that works on this work and that supply chain is not just 100% on that job full-time, but they also do other work and we need to work with the supply chain, and the training route for us is the supply chain.

Q163 Chairman: On the subject of early days, have the machinery-of-government changes so far, the new Department, made any difference, the Department of Universities, Innovation and Skills?

Sir Michael Latham: No, sir. We have had very good relations with the DfES when it was the DfES and we now have very good relations with the DIUS, so it has made no practical difference to us. We also have good relations with your own Department, with BERR, and indeed with the Construction Sector Unit.

Q164 Chairman: So no change really in practice?

Sir Michael Latham: We are dealing basically with the same people.

Q165 Mr Bailey: Earlier, Sir Michael, you mentioned that you thought that public sector contracts could do more to promote skills. What improvements, do you think, might be made through the public procurement process to enhance skills and, secondly, what work are you doing to ensure training and skills are embedded in the delivery of the Olympics in 2012?

Sir Michael Latham: So far as the question about the public sector procurement is concerned, I think back to a major report which I wrote in 1994 which was subsequently implemented both by the Conservative Government and also by the new Labour Government when they brought the Construction Act into effect. I believe very strongly that clients in the end are the ones who drive best practice. I remember once, the day after my report was published in 1994, that I was the guest of the then President of the RICS along with a number of his other guests, and one of the people there was the managing director of a very large construction company and he said, "Michael, I liked your report and all its recommendations about procurement. I want to do it, but I'm worried that, while I'm doing it, my competitors won't be, so they will steal a march on me", so he said, "I'll do it when the Highways Agency tell me to", that is to say, when clients insist on best practice and then it will happen, and I believe that is still very much the case. I have been surprised, speaking as a specialist in this regard, that the Government has not been more insistent on some things. It has not been more insistent, for example, on training taking place in long-term contracts, it has not been more insistent on CSCS cards being required by people on their sites because some private-sector companies have been and so have some local authorities and others, which is really good, so, I have to say, we should be looking all the time, to my mind, to drive forward best practice and the ones who are most likely to do this, to my mind, are the clients in contractual requirements. So far as the Olympics are concerned, I will ask Peter Lobban to say a word about that because we are very heavily involved with them.

Q166 Chairman: We do not want a list of all that you are doing, just a sense of your engagement and whether it is working or not.

Mr Lobban: We are working with the ODA and we are confident that we will be announcing some initiatives with them in the next few months. Certainly they are wanting to do things as the legacy of the Olympics, but the Olympics is much wider than just the Olympic facilities. There is a huge amount of construction around our core footprint and the Gateway and we are working with a lot of employers who want to be seen to be putting a legacy back around a banner of the Olympics, even if it is not specifically on the Olympic facilities.

Q167 Chairman: Mark Hunter asked the last witnesses to score them on a score of one to ten on this issue. Are you in a position to offer us a score yet, one to ten?

Mr Lobban: I think it is probably better to offer the score when we are sure of the initiatives.

Chairman: Encouraging.

Q168 Mr Clapham: In your submission, you call for support to be moved away from training that is below Level 2. Is that an indication that government funding is going towards training that is below the minimum standard and, if so, how do we shift it?

Mr Rogerson: I think there has been a tendency to that and, as far as we are concerned, we would prefer to be training to above Level 2; it is very important. Thousands of young people are on publicly funded, full-time college courses and do not get a qualification at the end of them, and I do not want to repeat that because you have had that in a response once from Sir Michael earlier, but, as far as we are concerned, unless we have practical engagement with employers on site, we cannot get the fully funded framework, we cannot complete an apprenticeship and those people float into employment and probably we pick them up later with on-site assessment and training, so there is double funding going on here and the Government are paying for that double funding by wasting money at the start of the process when people are not fully engaged with industry. That is a fairly short answer and I hope it answers your question.

Q169 Mr Clapham: Has that been raised with government and, if so, what has been their response?

Mr Rogerson: It has been raised with government and I think part of programme-led apprenticeships came from that in trying to pick up those people and take them into our network. When they do not start with us, we are trying to at least pick them up and give them that assistance. I would hope that by the end of next year we would be looking at something in the order of between 15,000 and 18,000 people completing a framework using the supply chain from the major contractors, but they will not start with us, they will not be in our management agency and the CAS (Construction Apprenticeship Scheme) arrangement will still be the 7,000 to 8,000 people going through.

Q170 Mr Clapham: So when you call for apprenticeships to be given to adult workers similar to those that are given to younger people of 16 to 18,

I assume that you are thinking of the development from the on-site training. We heard Mr Lobban say that there are 50,000 who have already gone through on-site training, so when you are thinking of adult apprenticeships, presumably you are thinking of people on site being trained up to a certain level and then moving to apprenticeships?

Mr Lobban: We would not discount that, but we would like to get it right first time. We would prefer people to come in properly qualified, adults as well as youth. In response also to the question that Mr Weir asked, this is part of the control of funding, it is not just a question of saying which qualification at which level. There are starter programmes, there are foundation certificates, and we do not mind any of those things, as long as we see a progression through to the person in employment. Where businesses are just doing a training business and taking money for giving somebody a piece of paper which is not worth anything, we think that should be stopped and we think the focus should be on getting the funding through from training into employment and that "into employment" phrase is really important; that is where the funding has to be tied in.

Q171 Mr Clapham: Is it possible to say what your estimate is of how many adult apprenticeship schemes could be offered?

Mr Lobban: We have never really had the opportunity. I have to confess, they are more difficult because people have got many more family commitments as they become adults and the pay that you offer is not the pay you can offer a 16- or 17-year-old, so it is much more difficult. We would need to have much better co-ordination with other departments, like DWP, and with some of the other government agencies. I believe we could be talking about thousands, but they would have to be very carefully picked and you would have to go for the people who you think could be well-selected and could make the jump quickly.

Q172 Mr Clapham: Would that also mean ensuring that they were not taking up an apprenticeship place that a younger person could take up?

Mr Lobban: Indeed, but I think there are ways we could manage that.

Q173 Chairman: I am always interested when an industry does not seem to make a fuss about something and levies are normally very unpopular, but the Construction Training Board levy seems to have attracted very little comment from the industry. Are you happy with the way it is working?

Sir Michael Latham: Well, let me put it this way, Mr Chairman: that there has been a levy since the Industrial Training Act of 1964 and the position is

that there are about 73,000 firms on our register, of whom about 27,000 actually pay the levy because they have to have a payroll of over £73,000 a year and, if they do that, then they are required to pay the levy. Our surveys show us that about 70–75% of the industry support the levy because they realise that this is the only way that effective training would take place. I am also personally very pleased that every year the Secretary of State has to place an order before Parliament which requires affirmative resolution in both Houses to allow us to have an annual levy, and this can only be achieved if we can show that more than half the industry actually supports continuing with the levy. The new Education Act actually is going to make a requirement of the levy order only coming every three years before Parliament. I have to say, Mr Chairman, that we at no stage asked for that and that was a decision of Parliament and the Government, that we should go down that route. We were perfectly prepared, and more than happy, to continue with an annual accountability to Parliament.

Q174 Chairman: Of course there are two levy rates, are there not? There is 0.5% and 1.5%?

Sir Michael Latham: Yes.

Q175 Chairman: That was a policy decision to encourage use of direct employment?

Sir Michael Latham: It certainly is and those figures have been in place for some years.

Q176 Chairman: What we have heard this morning from the trade union, it suggests there might be scope for widening the levy differential to encourage direct employment more forcibly.

Sir Michael Latham: That is a matter for Parliament.

Q177 Chairman: So you do not have a view on that either? You are our servants in this respect, not our masters.

Sir Michael Latham: Let us put it this way: that we have to continually reinforce it to the employers who actually pay this levy that this is necessary for them and at the moment our surveys show, taken by outside market research companies, that the industry is satisfied that there should be a levy.

Chairman: Well, thank you very much indeed. I am sorry we had to rush you a little bit in some respects. It is always frustrating in the evidence sessions as time is always against us, but you have been very helpful and we are very grateful. If there is anything you think you would have liked to have said at greater length, please do not hesitate to give us a supplementary memorandum after this session. We are very grateful to you and thank you very much indeed.

Witnesses: **Mr Bob Blackman** (National Secretary, Building Construction and Civil Engineering, T&G), and **Mr Tom Hardacre** (National Officer, Construction and Contracting, Amicus) Unite-the Union, gave evidence.

Q178 Chairman: Welcome to this final part of today's evidence session on this inquiry into construction. I think you have sat through the previous evidence sessions because I have already been offered a telephone number to have my boiler repaired, so it is quite clear that you have been here for the earlier sessions and thank you for that, so you have heard what has been said before. I would like to begin, if I may, by asking you, as I have done previous witnesses, to introduce yourselves and just to explain a bit about Unite's role in the construction sector.

Mr Hardacre: I am Tom Hardacre and I am the National Officer for the Amicus section of Unite. My responsibilities are for the electrical contracting industry, otherwise known as the JIB (Joint Industry Board) for Electrical Contracting, the NAEC Agreement, which is the National Agreement for the Engineering Construction Industry, the HV Agreement, which is the Heating and Vent Agreement, and I am also on a number of committees and boards, as you would imagine, but those are principally the agreements that I have a responsibility for in construction, Mr Chairman.

Mr Blackman: I am Bob Blackman and I am the National Secretary of Construction for the T&G section of Unite. I look after building, civil engineering and indeed the supplies and materials sector for the T&G section of Unite. That means that I effectively look after the main working rule agreements for building on the civil side of the industry, which is effectively the Construction Industry Joint Council Agreement which big projects use and a number of other agreements that are sort of specialist areas of the industry.

Q179 Chairman: Do you think your merger has any practical implications for the construction sector? It obviously has implications for you, as the union, but does it have implications for the sector you are working within?

Mr Blackman: Yes, I think it does. What it does is it creates a union that has effectively a role in every sector of the construction process, so it is effectively from the groundworks through to actually fitting out the electrics and plumbing, so in just about every sector of the industry now Unite is a signatory to the national agreement within that sector of the industry.

Q180 Mr Hoyle: What do you think the membership is within construction on both sides of the union?

Mr Hardacre: It is difficult to estimate, but I would say that the Unite section could probably lay claim to something in the order of anywhere between 80,000 and 100,000 across the whole M&E and electrical sectors.

Q181 Mr Hoyle: Chairman, I am a member of Unite and I must just declare that for the record. Can I take you on to bogus self-employment now. What are your estimates of the prevalence of bogus self-employment in the construction sector?

Mr Hardacre: Again it is a difficult one to quantify. I heard a colleague this morning talking about something in excess of 50% across the whole industry, Alan Ritchie, and he is probably correct in that, but I can give you an example of the Emirates Stadium that was built a couple of years ago and it is documented that 77% of the labour that was employed on that site was actually non-direct, which could be considered to be bogusly self-employed people. By the way, when you talk about self-employment and bogus self-employment, there are a number of variations on the theme.

Mr Blackman: A number of speakers have said that, as you get down to the South, the situation gets worse and that is right, but I think if you look at some levels of bogus self-employment in London, for instance, and if you look, for instance, at painters and decorators, in some of the surveys I have seen recently the level of bogus self-employment or self-employment in that sector is over 92%, which is why there is no painting and decorating training in the capital that I am aware of.

Q182 Mr Hoyle: What is also interesting is that in your evidence you state quite clearly that you believe that bogus self-employment presents a particular obstacle to more women and ethnic minorities entering the industry. Why do you think that is? Why do you have a feel for that?

Mr Blackman: I think the whole sort of bogus self-employment culture is one of casualisation. It is about hire and fire. It is about employers who are not prepared to take ownership of, or responsibility for, the workforce. It is about people being employed on a job-to-job basis without any permanency and I think that is something that is alien to a lot of groups, women in particular, I think. I think the other reason is that there is little family-friendly consideration in construction, particularly for women, and you are expected to travel long distances, you work long hours and indeed there are not any sort of family considerations, but I think generally, particularly in terms of visible ethnic minorities, the self-employed culture is about people being recruited casually, by word of mouth usually, and they do not really fit into that and it is difficult to break into that actually.

Mr Hardacre: In terms of women working in the industry, it is very much seen as a masculine industry, and this is not a personal opinion, I do not want to get myself in trouble here, but it is not seen as an industry that is fit for women in terms of the physical nature of the industry and the conditions that apply in the industry.

Q183 Mr Clapham: Could I ask you both, what is your view of this online registration system for self-employment? You heard what UCATT had to say, but do you share the same view, that it is bound to make things worse rather than make them better?

Mr Hardacre: Well, if this is an online registration in terms of it is the individual's responsibility, I do not think that would work, as a simple answer, if that is the nature of the suggestion, if you like.

Mr Blackman: I think the problem is that you set up an online system to make it easier for people to go through that process and I think it will make it much easier for people to become self-employed irrespective of their employment relationship, so I think it is a big mistake. The other thing is that usually on a CIS certificate you have had to have a photograph so that the person you were speaking to was the person in the photograph and that is not going to be required anymore, so what we will find, like we do with all things without a photograph, is that it will be passed around and really you will not know whether the person that you are speaking to is the person who has the certificate. One of the problems of course with so many migrant workers is that somehow the majority of people that arrive in this country and work on major sites become self-employed. When they get on the plane in Eastern Europe, they have never heard of the UK tax system, yet when they come here the overwhelming majority of them become self-employed and it is the ownership thing, and they are directed to do that and they currently would not know about self-employment otherwise.

Q184 Mr Clapham: So bogus self-employment is a real problem. Have you got any practical ideas on how the Government might tackle it to at least sort of bring people into, if you like, the bounds of taxation and at the same time to help to make the industry a safer industry?

Mr Hardacre: I believe, as has already been suggested previously, that what we need is a strict kind of regime where people who are purporting to be genuinely self-employed on sites, and there are people who are genuinely self-employed, I accept that, but there is a strict regime where there is a test for those people and what you need is regular inspections on these sites in order to make sure that the people who are working there who are supposed to be self-employed are genuinely that and they can stand the test. Perhaps there is a responsibility that should be placed also on the client to make sure that the people who are there who are supposed to be self-employed are genuinely self-employed. We also believe that the maintenance of the national agreements is a good way of ensuring that people working on sites are working in compliance with the tax regimes because most of our agreements have a strict provision for direct employment. Now, if we had that in its totality, we would not be sat here today, gentlemen and ladies.

Mr Blackman: Just to add to what Tom has said, it has already been mentioned that the largest client is the Government and really they could set standards here in terms of an employment culture and requirement. There is not any reason that they could not do what BAA did at Terminal 5 and say, "If you're going to work on our project, you're going to

be properly employed". There is no reason at all why they could not do that and that could be part of a procurement process.

Q185 Chairman: How do you explain to me, and this is not a partisan question, why it is that a government that the trade unions have the ear of and which is committed to closing tax loopholes and committed rightly to all those things, the noble objectives of the workforce, has moved in a direction which makes the issues you are addressing more difficult to solve rather than easier? I am genuinely a bit puzzled by this.

Mr Blackman: It is difficult to understand, but I think, if I am really honest, somebody is saying to the Government, "Do you realise, if you go down the road of direct employment, you will increase the costs and any cost, whether it be an NI contribution from an employer, will cut back to you because you are the paymaster. As the client, you will meet the bill". I think that what happens is that people are given two-tier information, "If you do it like the industry normally does it with the majority of people self-employed, you won't pay any redundancy pay, you won't give any notice pay, you won't have to pay sick pay, you won't have to pay NI contributions, or you can do it in a strategic way and a proper way with proper, bona fide employment, but that will have a cost to it", and I think there is almost a two-tier price and you can see that. We could pick that up when we are talking to people on the Olympics.

Q186 Chairman: So the Treasury is prepared to take some loss on National Insurance income to get lower costs for construction projects in the public sector?

Mr Blackman: I think they believe that there will be a cost and it will be passed back on to them.

Mr Hardacre: I think that is a fair statement. Also, of course you have got the experts in the industry who are looking for ways and means in order to get cheap labour through tax avoidance and things of that nature who are mainly, I think, providing agencies with this kind of information. We had the situation last year with the composite arrangements which we were able to do something about, but straightaway, having done something about that, then you get other ideas beginning to surface, so it is a continual battle, Mr Chairman.

Q187 Mr Bailey: I just want to try and tease out some of the public finance implications of this put-together approach. Earlier, we had UCATT pointing out that Terminal 5 was, if you like, an object lesson of how to go about a major procurement process and that compares in terms of delivering much more favourably than others, Wembley being just one example. Has any work been done by either yourselves or any other body on the financial implications to the Government of these different projects?

Mr Blackman: I think there has been some work done in a number of organisations. I know in my organisation we worked quite closely at the time with UCATT and there was an estimate that the loss to the Treasury was about £2.5 billion in terms of NI

contributions that they are not receiving that they would receive if the self-employed were actually contributing.

Q188 Mr Bailey: So in effect it is a false economy?

Mr Blackman: It is, yes.

Mr Hardacre: And the Amicus section of Unite have done similar exercises, but these are estimates and there is no fairly exact kind of information, so they are estimated, yes.

Q189 Mr Bailey: But it would seem to me that there is an area that would be worthy of a detailed academic investigation to provide robust statistics rather than those that might be interpreted as being related to an organisation's vested interests.

Mr Hardacre: Yes.

Q190 Mr Bailey: This again is on skills and training and we have heard UCATT's observations beforehand. Why do you think so few employers are willing to offer places to young apprentices?

Mr Hardacre: Well, the culture of the industry over the past 20/30 years has changed. Most employers in the construction industry would regularly take on apprentices, but the culture has changed in that a lot of employers, major companies, now do not hire a lot of labour. They hire labour from agencies and agencies do not train. It is not their function, so they do not train. That is one of the major reasons why I believe that we have not got the apprentices in the industry that we need.

Q191 Mr Bailey: Is it that there are not the apprentices or that there are and they cannot find employment?

Mr Hardacre: There are enough applications, but there is not the take-up for those applications, and I will give you an example. I think it was probably as recent as five years ago, and my research will tell me afterwards whether I am right in this or not, but as recent as five years ago the JIB for the electrical contracting industry was taking on board something over 5,000 apprentices a year. Now, you have got just over 2,000 being taken on and that is because, I believe, of its development towards not employing people, but to resource labour from agencies.

Mr Blackman: The other thing is that there is a culture which has come about in the last few years that you can buy skills off the peg and you do not have to train people. You can actually get them by getting people from Eastern Europe and indeed, if you look at the number of applications to the industry this year, we have probably turned away, certainly in the building and construction side of the industry, more than 40,000 applicants who have been through an entry test to the industry, but those places, those skills are being filled by people from Eastern Europe.

Chairman: Perhaps I can interrupt your flow a second because it may help the questioning to flow logically to have Mike Weir's question come in here.

Q192 Mr Weir: To follow that up, you specifically say in your memorandum to the Committee that the UK's dependence on migrant labour undermines the training culture of the construction industry and is eroding its skills base. Do you have any evidence you can give us on that point?

Mr Blackman: If you look at the numbers of people employed in the industry and you look at the numbers of people that are applying to the industry and being turned away, those places are being filled and they are being filled in the main by, I think, people from Eastern Europe, but that is a temporary situation. All that does, the effect of using migrant workers on the scale that exists in the industry at the moment, is give you a window of opportunity to address the lack of the training culture and it is temporary because the overwhelming majority of those people will return. One of the reasons that will accelerate that is that all we have done is transferred our own skill shortages to Eastern Europe because in Poland they have skill shortages in the building industry, so the rates of pay will go up because, like here, you are dealing with a market and that will make it more attractive for people who have come here to return home perhaps quicker than they would have done if that had not happened.

Q193 Mr Weir: ConstructionSkills, our previous witnesses, told us about the scheme they were involved in with getting young people on to sites and giving a card, and I forget what it is called now, but are you involved in that? Do you think that is a way that will help fill the gap in skills once migrant labour starts to move off?

Mr Blackman: Sorry, I did not hear that.

Q194 Mr Weir: The previous witnesses, ConstructionSkills, were telling us about the scheme they have to place more young people into apprenticeships on sites with major employers and sub-contractors. I was asking if you were involved in that and do you think it is a way of dealing with the skill shortages when migrant labour starts to return home?

Mr Blackman: I think it will improve the situation, but I think the biggest difficulty that certainly CITB are going to have is to actually establish a situation in the industry without a requirement that employers take on apprentices and train people. Without a requirement for that and while it is optional, that is always going to be an uphill struggle and you can waste a lot of resources which should be given to training in just trying to persuade people to give opportunities to people that we need to come into the industry.

Chairman: I brought Mr Weir in then because his question logically followed what you had just said, but I interrupted Mr Bailey's flow.

Q195 Mr Bailey: I think you were just about to touch on this issue. Given the problems with young people in employment and migrant labour, what potential is there for attracting older workers back into the construction sector? What do you think could be done?

Mr Blackman: I think there is considerable potential. I think there are a lot of older workers that would like to train in the construction industry in all different craft skills. I think the difficulty is, however, that there is not funding for adult trainees and of course there are not grants available that there would be to young people in most areas, so I think it is a question of cost and funding and I think that, in order to do that in sufficient numbers to be meaningful, there would have to be a change in the funding that is available to actually train those workers.

Q196 Mr Bailey: Do you think that funding should come from the Government or within the industry?

Mr Blackman: I think it is probably going to come from both directions really. I think it will come from the Government and I think that the industry is going to have to accept that it is going to have to train a lot of people and that there is going to be a cost to that, and that is the same in every industry.

Q197 Mr Bailey: So you are saying that in effect there is a gap in training provision which, if filled, would enable older workers to come back or to come into the industry, they may be first-time construction workers, and that this needs to be addressed by both the industry and the Government?

Mr Blackman: I think that is right. You are giving people a second chance to learn a trade and, secondly, you are giving people a chance who are in the industry perhaps as a general operative or a labourer to upskill.

Mr Hardacre: In the M and E sector, I have found anyway that a lot of workers now are continuing to work beyond what is traditionally the retirement age of 65 and I think that is primarily due to the fact that there is this genuine shortage of skilled labour in the industry. I also think it is a tragedy that a lot of mature workers, maybe older workers, in the manufacturing industry may have been made redundant through closures, and I will give the example of Rover some years ago, where they had excellent skills which could have been transferred into potentially the construction industry, but, for reasons that I do not really know, those skills have been lost and I feel that that was a tragedy.

Q198 Mr Weir: We have heard a lot about exploitation perhaps of migrant workers in the industry. What more, do you think, could be done to eradicate employer exploitation of migrant workers?

Mr Blackman: I think it is very difficult because when people come here from another country, particularly if they do not have good language skills or even basic language skills, they are easy to exploit. The reality is, if we are honest, that there is not any employment protection for people for the first year of service with any employer, so you can be dismissed and you do not really have any recourse as a UK worker to an unfair dismissal claim until you have got a year's continuous service, so anybody that is coming into that is going to find it difficult. The other thing is that very often people do not know their rights. I was talking to some bricklayers a couple of weeks ago and they were being paid £4.50 an hour for working in Seaford, and they

are now not working for £4.50 an hour, but the reality is that an awful lot of people like to exploit people in construction, particularly in the informal and the illegal end of the industry and that is the experience. There is very little, in reality, protection for migrant workers, unless they belong to a trade union and there is somebody there to look after them. If they are working for certain employers and certain agencies, as Tom said, within the industry, they are extremely vulnerable. I think that, if you are going to bring people here in the numbers we have seen, then you have to make provision to look after them and that has not really happened. I looked at some stuff in terms of homeless people in London and I think one in six of the people sleeping rough in London in this survey were from Poland and those are people who have come here, been dismissed, lost their accommodation and are in real difficulty, so I think it is extremely difficult. On a number of occasions, I have heard people say, "We want to make sure that, when you come here, you're not exploited. You're going to get your rights, you're going to get everything that you're entitled to", but that is not always the case actually. There are a number of areas in the industry which operate an illegal economy and a lot of people we see sort of sinking into that.

Q199 Mr Weir: But do you, as a union, find it difficult to make contact with these workers on sites to be able to advise them of their rights? Do you find that you are prevented from doing so in any way or is it that they themselves particularly are not seeking out help?

Mr Blackman: Some of them are told not to talk to you if you get an officer go on to a site and if there are groups of Eastern European workers. Normally, if there is an agency providing people from Lithuania, they will all be from Lithuania and, if they are from Poland, they will all be from Poland, it is not a mixture, and usually there will be somebody there who has told them not to talk to you when you walk up to them and that is the culture of the industry. Usually, if you look further, you will often find malpractice, people being charged administration charges, and we have seen situations where people have been charged employer costs and that is deducted from their wages, all sorts of abuses. It is extremely difficult actually and there is no policing and that is the problem.

Q200 Chairman: Poland has quite a proud history of trade unionism, so I am surprised you cannot get a Pole to join.

Mr Blackman: Many of them do actually, but, if they come over and they are working for an agency or a gangmaster, it is much more difficult than if they are working for a sub-contractor.

Q201 Chairman: Presumably if we asked you about gangmasters, and we asked UCATT about gangmasters, you would agree that extending the Gangmaster Licensing Regulations to them would be helpful?

Mr Blackman: Very much so.

Mr Hardacre: If I can just come back to the question, we have had experiences of exploitation of migrant workers within the engineering construction industry and, because the client has agreed to use the national agreement on that particular project, we have been able to sort those problems out for those migrant workers who have been extremely appreciative and there has been a development of a relationship between the migrant workers and the domicile workers which has been really good.

Q202 Mr Weir: From that, is it the case that the ultimate employer on the site either does not know or perhaps does not want to know how the migrant workers are being treated by sub-contractors or agency employers or is it that they know perfectly well what is going on and are just turning a blind eye to it?

Mr Blackman: Main contractors are in charge usually of who is coming on to sites, so they should know who is there and who they are working for. I think probably they choose to turn a blind eye in many cases. They are managing agents, they are not builders. They do not have a workforce, they have a supply chain that has a workforce and perhaps at the end of the day, when you have abdicated your responsibilities as an employer, you want to abdicate all the responsibilities that would have previously gone with that and, therefore, it gets diluted as you go down.

Q203 Chairman: I do not need an answer to this unless you disagree with it, but one of the big contractors we spoke to said that actually migrant labour is a mixed blessing for the construction sector because it actually enabled them to carry on old-fashioned working practices and productivity was not increasing as fast as it might because they could rely on people doing the old things the old-fashioned way, so the sector had not moved with the times which it might have done in the UK. Do you have any views on that?

Mr Blackman: I think certainly the initial wave of skilled workers from Eastern Europe, and Poland in particular because I think that 60% of them come from Poland, they still are in a training culture that we had 30 years ago where people are serving five-, six- and seven-year apprenticeships, so obviously they are very, very skilled in terms of our skills and there is a lot to learn from those people. I do not really see that it is very much to do with production. I think that the reality is that, if a job is well organised, well managed and well supervised, that is what will make a difference.

Q204 Chairman: It made contractors lazy, I think was the point, that they were not looking to manage things as well as they might have done because they could rely on cheap and large volumes of labour.

Mr Blackman: I think that is probably true.

Q205 Chairman: A last, very important area is health and safety performance. It does not seem to be what it used to be, it seems to be getting worse, so what should be done about it?

Mr Blackman: I think the difficulty is that you are seeing a situation where, perhaps if you went back 15 years, the majority of people that were killed on site, the fatalities, because the statistics outside fatalities are pretty meaningless, only 5% of serious accidents or reportable accidents amongst the self-employed in construction are actually reported, so the statistics are not of much use.

Q206 Chairman: The record may not actually be getting worse, it may just be a statistical --

Mr Blackman: That is right. Well, they would not occur. Because the majority of migrant labourers are self-employed, it would not show, but I think in terms of fatalities, what you are seeing is the serious accidents move from the big, main contractor sites where all hazards once existed and that probably accounted for 70% of the people killed in the industry, that 70% now has moved across to repair, refurbishment, small jobs and the housing sector where the numbers of people killed last year have doubled, and those are the sectors of the industry that are most casualised, there is more self-employment and less regulation. If you speak to the Inland Revenue or the HSE, they will tell you that that is the most difficult part of the industry to engage with, and that is the real difficulty, but they can learn because they can see what the main contractor did that brought down the statistics within the industry and they can use some of those good practices and initiatives that the industry use from the Safety Summit in 2001.

Q207 Mr Hoyle: In your evidence, you quite rightly point out that there has been a reduction of 388 HSE inspectors and that does not do any good for health and safety at all. Just as one quick, final question, obviously UCATT quite rightly and yourselves have made great play of Terminal 5, but is there anything you would like to add on the Terminal 5 contract that has not come out?

Mr Hardacre: I think that it was fairly well addressed in terms of the benefits of the agreement on Terminal 5 by the previous speaker, Alan Ritchie, but it really highlights and kind of shows the benefit of a client who is prepared to accept the national agreements and make sure that those national agreements are strictly adhered to, and I believe that that was a success. There is a report that was done by Baker Mallett, the auditors, which I think kind of sets out what I am saying admirably, that that agreement really contributed to the success of that particular project, and we are hoping, by the way, that a similar arrangement can be put in place on the Olympics project. I just had to get that one in!

Mr Blackman: I think the difference at Terminal 5 is that from the very beginning, two years before the project started, the client decided, and it was the client, to make the trade unions part of the project, so we have been involved at every stage and that is the reason that we have the experience that we have had at T5.

Chairman: Well, gentlemen, thank you very much. You have given a very good account of yourselves again and we are very grateful. If you think there are

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things which you wish you had said, please do not hesitate to drop us a supplementary memorandum or if you think there is something you want to correct, which I am sure there will not be. We are extremely grateful for your co-operation and your evidence today. Thank you very much indeed.

Tuesday 4 December 2007

Members present

Mr Peter Luff, in the Chair

Mr Brian Binley
Mr Michael Clapham
Mr Lindsay Hoyle
Mark Hunter

Miss Julie Kirkbride
Anne Moffat
Mr Mike Weir
Mr Anthony Wright

Witnesses: **Mr Don Ward**, Chief Executive, Constructing Excellence; and **Mr Paul Morrell**, Deputy Chairman and CABE Commissioner, Commission for Architecture and the Built Environment, gave evidence.

Q208 Chairman: Gentlemen, welcome to this session of the Committee's inquiry into the UK's construction industry. This marks the halfway point of our oral evidence today so you are the midpoint in our investigations. We are finding it absolutely fascinating. We are changing gear a bit today and looking at slightly different issues. What I would like to do, as always, is ask you to introduce yourselves but as you do so perhaps you could explain a bit about your respective organisations. I think many of us are finding the plethora of organisations in the construction industry a little difficult to wrestle with, so a clear explanation of how you complement each other and do not overlap each other, if you do not, would be greatly appreciated by the Committee.

Mr Morrell: My name is Paul Morrell and I am here as Deputy Chair of CABE, which is the Commission for Architecture and the Built Environment. CABE's principal concern perhaps as distinct from Constructing Excellence is what is built rather than how it is built and it is the quality of what is built and its social, economic and environmental impact, so the extent to which good design in buildings can produce social, economic and environmental good is our principal objective.

Q209 Mr Hoyle: No carbuncles?

Mr Morrell: No, no carbuncles. The avoidance of carbuncles is a specific part of our brief.

Q210 Chairman: We have not asked the Prince of Wales to give evidence to this Committee! Perhaps we should. And Mr Ward?

Mr Ward: Good morning, I am Don Ward and I am Chief Executive of Constructing Excellence. We exist to improve industry performance. Actually we are increasingly taking an interest in the product of the sector not just the process of it. The key difference is that we are independently funded, we are a membership-led, membership-funded organisation now. We do receive some government commissions particularly with some of the client departments, and we do have a niche consultancy business. It is fair to say that we have evolved since we were a DTI-funded best practice organisation and we have inherited probably 10 years' worth of DTI-funded research and best practice activity.

Q211 Chairman: We will be looking at some of that research in our next evidence session after you.

Mr Ward: I will be sure to stay then.

Chairman: Thank you very much. Mick Clapham?

Q212 Mr Clapham: I think this would be more directed towards Mr Morrell but in your respective memoranda you have both referred to the "whole life cycle" of a building. Could you tell us what you actually mean by the whole life cycle of a building and elaborate on how you think that may be used for future design?

Mr Morrell: Life cycle cost takes a view on the total expenditure on and in a building over the whole of its life so it is as distinct from the cost of bringing that asset into being in the first place. Its importance is that over quite a short life of a building, you will very quickly spend more running it, operating it, maintaining it, consuming energy in it, and so on than you will in its first creation. Its importance is because most of us are set short-term targets in our lives. We concentrate too much on initial capital cost and too frequently save money in creating a facility which then starts to consume more than it should once it is in use. If there was one single change we would like to see made in the way that everybody—public and private—looks at investment in construction, it is that they will take a view over the whole life cycle of the building, first of all looking at what the costs will be over the whole of that life. Broadly, if you owned a building for 25 years, you would spend between one and a half and two times as much running it as you spent building it, so it quickly comes back. If you then added into that the cost of people working in that building—and they are much the same if it is a serviced building whether it is a hospital or an office—something like 80% of the cost over that time is in the salaries. If you also look not just at the whole life cost but the whole life value and how you could get money invested in capital back, quite small saving in capital costs is written off almost instantly by a tiny saving in staff costs, so we need to change the way we look at the building, not at the cost of the inputs but at how much is consumed/spent in running the facility thereafter and, beyond that, how much value is created by the facility over the whole of its life. It would change quite fundamentally what we build and probably how we build it.

Q213 Mr Clapham: Given that there is obviously a value added by looking at the life cycle, does the industry seem to be responding to your endeavours?

Mr Morrell: I think the industry can, I think the tools are there and we have quite spectacular programmes for calculating life cycle cost, but it is genuinely difficult to get people, both in the public and the private sector, to look at it in that way because, as I say, most of us are judged on fairly short-term targets. You set a budget for something and it is then difficult to go back and say more money would produce more value long term, because the person that you are saying that to is probably being judged by his board or his committee or wherever he functions as to whether he hits a capex budget. It needs a change of thinking. Probably the industry needs to be better at saying just how spectacular the gains can be. I think we have the tools. I think it is also our job now to work with the client side so they increasingly look at that and demand more of the industry to deliver against that objective rather than a short-term one.

Q214 Mr Clapham: Clearly government could be of great help here and many of the government buildings could be built within that concept of life cycle. Has there been any kind of communication with government and, if so, what has been the response?

Mr Morrell: Yes, all government departments, all those who enjoy public money are meant to appraise buildings over the whole life cycle. I think too rarely however does that actually become the driver. There is too inadequate an understanding of where best value lies looking over the whole life cycle and too frequently, I guess, the issue of affordability cannot be ignored and becomes the overriding factor. "You may be right in saying if I spent £10 million I would be better off than if I spent £9 million but I only have £9 million," is too frequently the response so affordability overtakes the long-term value.

Mr Ward: I do think it is worth saying that PFI in theory ought to be better at doing this. In theory, PFI is trying to buy the service not the initial building, but it is horribly disintegrated as a process and in practice ends up being much more about the cost of the money rather than about the facility that people are buying, so they still compromise on this up-front time and expenditure in order to get the design better in order to make a saving downstream.

Q215 Mr Clapham: Which is sad given that PFI, particularly in relation to education, is really driving in my particular constituency a whole new plank of primary schools, and one would have thought that given the savings that can be made within this concept of the life cycle that the Government would be thinking along those lines and pushing for PFI to build schools based on that concept.

Mr Ward: I would not necessarily wish to push PFI as the only way of doing it but certainly pushing the integrated capex/opex whole life expenditure, absolutely right, and anything that we can do to get the Government to take a lead in that respect is undoubtedly going to deliver a better built environment.

Q216 Mark Hunter: I would like to say first of all that I am a big enthusiast for the work that CABE in particular does. I am not as familiar with your own organisation, Mr Ward, but certainly my personal feelings about CABE are more power to your elbow because I think you are attempting to do a much needed job of work. I just wonder about the evidence to show whether or not you are actually winning the battle of hearts and minds given that so many public buildings are still turned out that are, frankly, dull, boring, and I will not use the term that was referred to earlier. Do you think that you are starting to succeed or is this really going to be drip-drip over many, many years before you finally turn this around?

Mr Morrell: I am quite sure that we are starting to see it, yes, and I think the first thing, and probably CABE's first objective when I got involved with it seven years ago or so ago, was to get the idea of good design as an instrument of social good onto the agenda. I think it is. You no longer need to argue as to whether good design is a good thing, which might sound too obvious to state, but I am astonished when I go overseas, as I do in my day job a lot, how envious people are of the existence of a constituency here for good design and it gets that as a topic of conversation. The important thing then is the extent to which that good design does lead genuinely to social value.

Q217 Mark Hunter: I am struck that your remarks even in this very early part of this session have been about design and yet the key word in the name of your organisation is "architecture" which to me as the uninitiated is not quite the same thing. Design implies a functionality but is architecture not about something more than that?

Mr Morrell: Yes, so is design.

Q218 Mark Hunter: Tell us a bit more about that.

Mr Morrell: Let me go one step back. What we are interested in is all three corners of what makes good design: that a building should be functional, that it should do its job, and I think most of us would start there; that a building should show build quality, it should be durable and sustainable, and we see all those as part of the same thing; and, thirdly, that it should have a beneficial impact, which when we are not feeling too shy we call beauty, the very opposite of the carbuncle. Something should actually lift the spirits somewhat. I only distinguish design from architecture because it takes more people than an architect to make it, but either word will do for me. Good architecture and good design should finish in the same place. It combines all of those things and the more that you get those three spheres of criteria to overlap the greater the value. You are looking for something which gets the best balance between impact, build quality and functionality.

Q219 Mark Hunter: The evidence memorandum that you have submitted to us cites research conducted by yourself showing the poor design quality of many newly built schools and in particular much new private housing. Could you tell us a little

more about those two areas in particular and what your views are and the ability of the private and public sector to take into account in a practical way what you mean by whole life cycle when procuring new build?

Mr Morrell: Yes. I think they are dancing to slightly different tunes. Let me start with the schools. Reviewing schools is a fairly new thing for CABE. As you will know from the memorandum, we have a service level agreement to review every school now when it comes forward in this huge programme, for fear of making mistakes or, more particularly, knowing that we will make mistakes but the importance of making sure that we do not repeat too many of them. In the first batches of schools that have come through, it is true that more than half of them are rated as “poor” or “mediocre”. I think this is principally about skills and knowing the question to ask on the client side. I think there is an issue that we might come back to about the skill in the public sector as a client for specifying what they want.

Q220 Chairman: We will come back to that.

Mr Morrell: I think also that it is perhaps significant that the better schools that have been reviewed have been the more recently built. I think it is early days bearing in mind the gestation period of a construction project to say that we are off on an inevitable rising trend, but I think the signs are that we are, and CABE is happy to be judged on the extent to which that review process continues to increase the quality of schools. You mention the word “sustainability” and we do not see sustainability as a separate thing. Design is not good if it lacks sustainability. We see it as part of a whole definition of what good design is and good architecture therefore. Housing is different, housing is about the market I think, and you may have seen some of the headlines from John Calcutt’s review last week. You cannot expect house builders, any more than you can expect a PFI contractor, to answer a question if they are not asked and they are not forced to ask by the market. It is a fact that because we have an under-supply, driven I would suggest principally by constraints on planning, it is a sellers’ market—at the moment anyway it is a sellers’ market—and if their first duty is to their shareholders, and that is how they will see their life, and there is no value attached to increasing the quality of housing, then they will not increase quality. This raises a separate issue for the public sector with the concerns for quality of housing; if the market is not producing it, it needs to be regulated for. I do not think the same is true in schools where it is a case of knowing what good is and demanding it and having the skills to supply it. Housing is quite different and I would not expect to see a fundamental change in the overall quality of housing until there is a change in that market condition.

Mr Hoyle: Can I just come in on that because I think the problem when I look at some of the statistics on public and private sector is the sheer difference where there is not the investment in public sector housing. I do not know whether you have got a view on that. The biggest cases I am picking up at the

moment are around the fact there is no public housing available and yet what we are being driven by is four-bedroomed detached which is creating “commuter lands” and local people cannot get onto the housing market. I do not know whether you have any views on that?

Q221 Chairman: I happen to agree with Mr Hoyle very strongly but we must not spend too long on this because it goes off our main subject.

Mr Morrell: I think the problem at the moment is that most affordable housing is being provided through section 106 agreements, in other words they become part of a trade-off by a developer with a commercial purpose—

Mr Hoyle: Can I just ask you about that. I understand about 106 agreements and the trade-off could be 15% or 30% or 50%, I am never quite sure, it depends on the developer and how hard or how desperate he is to get his planning permission—

Chairman: I am going to rule Mr Hoyle’s out of order. This is a matter for the Communities and Local Government Department; not ours.

Q222 Mr Hoyle: Chairman, if I could just ask the final bit; what do you think would be a fair assessment, 30% or 50%, on the section 106 agreements?

Mr Morrell: For affordable housing? It depends entirely on the market. Industry, which complains usually at any kind of regulation or demand, has taken in its stride a proportion of housing of up to 50% because of two things; market and density.

Mr Hoyle: That is fine, that is what I wanted to use.

Q223 Mark Hunter: Anyway, as I was saying, the final part of my question is directed at the two of you. Constructing Excellence has talked in their submission about “post-occupancy evaluation” while CABE have described the need for a comprehensive “living” database to inform the design the future buildings. Can you tell us a little more about the work that you are currently undertaking to make the construction industry more aware of the need to consider the whole life cycle?

Mr Ward: Post-occupancy evaluation is a weird phrase. Basically it means looking at the use of the building and trying to relate that back to the design and construction and the criteria that you had when you originally invested in the building. One of the snags is that you sometimes see it done straightaway after you have got the building occupied but you do not see it done on an on-going basis over 20 years or 40 years, or whatever, and still relating back, so you rarely get the investment case verified for the design and construction teams next time to have learnt. We have looked at different techniques for doing this. One of the problems is that everyone does it differently so you do not have a standard approach. Whole life costing similarly has suffered a little bit from that as well. We are coming up with standard methodologies for doing it. People like the British Council for Offices have a good methodology for offices just released and we have gone back to our

own demonstration projects. Over the last 10 years we have had 500 demonstration projects seeking to prove that some of the new ideas coming out of Latham and Egan work. Would it not be a good idea now because they were good projects for us to go back and see how they perform in use? We are trying to set an example in doing that. It is early days but Defence Estates are working with us particularly on verifying how some of their investments have delivered good value for them.

Q224 Mr Binley: I want to move Mr Ward's mind to the whole question of integrated and collaborative working. I was really quite shocked by two points that you made. The first is that Constructing Excellence argues that considerable cost savings can be made from contractors adopting ways of working, the six-point programme and so forth. "Considerable" is a pretty heavy word and when I note that some processes the industry are using are 95% wasteful, that suggests, at very best, that the practice is poor, quite frankly. Is that a fair starting point?

Mr Ward: Yes, it is somewhat misleading, is it not? I think the car manufacturer Toyota, which is reckoned to be world class as a manufacturer, would reckon they still had 90% waste in their process, so we should be careful about the use of the word. If I used "contractors" in the submission I was wrong; I meant to say the whole construction team. This is not just about contractors, this is about the design team. We have got examples of 10%–20%. I could list examples of working with local authorities where we have got programmes of work that have delivered audited savings of 10%–20% on cost saving and delivered more build for that money—the London Borough of Hillingdon, Barnet, Ealing, Isle of Wight Schools, Suffolk Schools, Kent Highways, West Sussex Highways—so there are really good examples out there of getting rid of some of that waste.

Q225 Mr Binley: I was a local council portfolio holder for finance up until May this year and one of the areas that most concerned me was the waste that I noticed between the council and its contractors, quite frankly, and I think it is massive and I think we have got a real public problem here. I am happy to see that you are trying to do something about it. I am immensely unhappy that the industry itself is not doing what it should about it, recognising that this is public money (and sometimes public money is the easiest money of all to spend). How would you react to that statement?

Mr Ward: Bear in mind that my stakeholders come from the client side, the public provider side, and the supplier side, so I think I have a reasonable view of both sides of this. I would say that the construction industry of course does not want to waste your money, of course it wants to deliver better, but it wants to be allowed to deliver better. If you go down the same old road of lowest price tendering every job on a job-by-job basis and then picking a different team the next time and then a different team and then a different team, they cannot implement the

whole life cost or the sort of cost and time savings that I am talking about. The industry has lobbied as hard as the client side to implement frameworks for example to start to bring together programmes of work that make it more efficient for them to deliver, that make it possible for them to learn from one job and move onto the next job as a team and deliver the sort of cost savings that you and I both want to see from the investment of taxpayers' money.

Q226 Mr Binley: If I told you that monitoring and policing on behalf of the authority was so weak and so poor that it created a situation where the contractors did not bother very much, would that statement shock you?

Mr Ward: It would. I recognise that from years ago. I know that I can genuinely point to tens of local authorities that have changed their standing orders not to buy on lowest price but to make sure they buy on best value. However, there is a long way to go in that respect.

Q227 Mr Binley: Thank you. There are some 400 local authorities tens is not much.

Mr Ward: Indeed but it is a start.

Q228 Mr Binley: Can we move on. Can you give me some examples of the quantifiable benefits that we might get from improved supply chain integration?

Mr Ward: We have got several hundred demonstration projects each of which is—

Q229 Mr Binley: Could you send us a note on some of those because I think it would be useful to us.

Mr Ward: I would be delighted to send you the latest report on that subject. I quoted some of the local authorities earlier and as you have got a particular interest in local authorities would you like me to pick out some of those examples in that submission? I am very happy to do that.

Q230 Mr Binley: And add to that and give us slightly more detail in truth. Can I finally—because I think I have been slightly harsh with you because I wanted to probe—ask you about what approaches clients and contractors are taking to shared project risk? Can I tell you that I believe "risk management" is becoming the fashionable phrase of the industry and we can overstate risk management and it can be taken too far, but I just wonder what approaches contractors are taking to share project risk with their supply chain and with others.

Mr Ward: The most important thing about risk is to have a discussion about it. The most important thing is to be open about what the risks are and then to try and get rid of them and try and design them out. If you cannot do that we must work together on it. If you cannot do that we must finally insure it. What too many people in this industry try and do is dump risk, "That's your problem, I do not care," but it is not your problem. If you look at some of the innovative approaches to risk now, if you look at what Terminal Five, for example, with the project insurance approach, BAA realised that it did not matter how much they dumped risk onto the supply

chain, the risk was going to come back on them anyway. It is their problem, it is their terminal that is late or whatever so they put in place an overall project insurance which covered all the parties. What you have otherwise is lots of different insurances that can conflict and almost encourage, as it does in motor car insurance, the attitude that you cannot possibly admit blame let alone be seen to start to try and solve it. That is a good one. We have published with the Joint Contracts Tribunal a new collaborative form of contract. It has an upfront approach to risk, a risk register as it is known, in the contract, again forcing a dialogue about risk early in the procurement process. That is very novel. You have got integrated project insurance, a new class of insurance just beginning to be pushed, and we have a series of demonstration projects which BERR is funding the monitoring of to look at that new class of insurance and to see whether that will help with managing risks collaboratively.

Mr Morrell: Can I add one thing on the issue of waste which is a massive issue in the industry. I have worked for all of my life on the client side advising clients, and I feel entitled therefore to say that the great majority of waste that occurs on site starts with the client and his team. I am not holding the clients responsible for the performance of the industry, but inadequate preparation as to what you want; clarity as to what you want, settling that; choosing a highly competent team that can deliver that; not undoing work on site because it was not clearly thought about. My dad was a builder and he taught me that by the time you get to site this is all the guys have got to make their living, and if you let them build something and then kick it over and say, "I have changed my mind", it makes them get bloody-minded and so you will get waste out of that. Clarity about what you want to build; reality about the ability to do it; and accountability by the team that they will do their bit for it will eliminate waste. It is never going to be eliminated just by shouting at the industry to do better.

Chairman: We are going to move on to government as a client which touches on those areas as well but before that Lindsay wants one quick point.

Q231 Mr Hoyle: Two quick points. Do you know what the cost is in the supply chain through failure to deliver on time? What is the cost to the construction industry of late supply?

Mr Ward: Failure to deliver on time?

Q232 Mr Hoyle: Say you ordered the steel and then there is a failure on two jobs and the steel slips and the whole of the construction industry is held up because the steel did not arrive on time. Have you any costs as to what effect late supply has on the industry? The second question is: what effect do monopolies within the supply chain have on costs? In the past it has been stated that whether it is stone for the site, whether it is sand, aggregates or concrete the price is ring-fenced and you really do not get best value because monopolists seem to be operating. Do you feel that is still the case in the construction industry?

Mr Morrell: On the waste issue, if a job goes into free fall, the worst thing on a nightmare project is you have a dislocation between information being produced and its need on site. It is not unusual for a job to go 25% or 30% over budget and that probably happens to a quarter or a third of the projects. Very unscientifically, around 10% goes in that issue alone on the industry, so three times the contractor's profit margin. As far as the impact of cartels is concerned, tacit or otherwise, that entirely depends on the ability to import and then whether the international market is a cartel as well. It would be impossible to know what the cost of that is because if you have not got a fair market you have no way of testing. The more likely consequence of a cartel is that it will wipe our own industries out because they cease to be competitive. That has happened in our windows industry for example. I feel perfectly comfortable about saying that was a cartel and as a consequence of that none of our window manufacturers are major players internationally now because they had no need to be efficient and they had no need to win jobs competitively.

Q233 Mr Hoyle: It is hard to ship in concrete from abroad without it setting.

Mr Ward: Yes.

Q234 Mr Hoyle: That is the difference.

Mr Morrell: Astonishingly, huge amounts of our stone are imported and of course the impact of that is the sustainability one because we are shipping massive quantities of granite from China in stone miles, or whatever they are, and the impact must be enormous.

Q235 Mr Wright: What would you say is the key determinant of a good client?

Mr Morrell: Having a clear understanding of what value means to him, what he wants that facility to do, and therefore being able to lay down clearly the requirements on how a building generates value for him. He will do that with a good adviser who has been that way before. He must know fundamentally what the building wants to do and define that purpose. One of my favourite examples of that of prisons, which might surprise you. If you were to say that the purpose of prison is principally containment and security, you would get you a design very much like the ones you are getting now. If you said the purpose of prison is to rehabilitate and to avoid re-offending, then you would look at those things that avoid re-offending and you would design for them, so you would design for education, keeping people near their communities; how you address offending behaviour. Policy influences design in that way. You need to say what it is that your objective is. Then organise yourselves to overcome the schizophrenias that exist within client bodies. Every user wants what he has now plus something and no exchequer can afford that. Often a lack of resolving that schizophrenia in a client organisation is a big cause of tension later on because those who are briefing are asking for more and more and more and then the shock comes, so organise yourself for that. Then

organise yourself for a detailed briefing process with a well-chosen team. The team is huge. In the audit of schools quality, it was significant I think that there was very little variability in the quality of schools produced by the same design team. They were either good or bad with different contractors with different clients all over the place, so the choice of a skilled team. Choose your team as you would choose your job really.

Q236 Mr Wright: You mentioned prisons and schools. Do you think that there is any difference between the performance of the private sector and the public sector when it comes to the procurement of construction projects?

Mr Morrell: I think there are some inevitable differences. The private sector tends to work with the same people over and over again and the most successful clients in the private sector do that. In my own life I have worked with quite a small number of clients over and over again. Conversations about fees are usually late because they know they will get a good deal and they know what they should pay and so on and they exercise a huge amount of discretion. I think the public sector needs to be very wary of the same kind of discretion because discretion is the immediate neighbour of corruption. I think the biggest challenge for the public sector is how it finds a way of replicating success in the industry, which is a good team, whilst maintaining visible, transparent propriety in the way that it is procured, and demonstrating value for money, so I think an intelligent selection process that mixes price and quality is the answer for both sectors but more particularly for the public sector.

Mr Ward: I think there is a clue in what Paul said there that is helpful. It is less the difference between public and private sector—although of course the public sector is a bit more systematic and some would say bureaucratic—it is about frequent clients versus infrequent clients. A frequent client, whether it is public or private sector, would tend to set up arrangements where you can work with similar teams. Frameworks is an example that we mentioned earlier. The difficulty comes with a one-off client who has never worked with the industry before. It does not matter whether that is in the public or the private sector. The public sector could easily be a health trust for example where you have devolved expenditure so the Department of Health is not in control of that. Those people are just as exposed as is the one-off client in the private sector, and I think it is frequent versus infrequent clients which is perhaps a more valuable distinction to understand because you have got to tackle them in getting best practice information, in our case, which is a completely different sort of challenge, to thousands of one-off clients out there, but we probably could get all the big repeat clients into one room, perhaps even into this room, and sit and talk to them and share ideas with them.

Q237 Mr Wright: You did mention briefly the question of framework contracts and public sector clients now have these long-term framework

contracts to deliver a series of projects. Are you satisfied with the Government's use of these contracts and do you think it could do better?

Mr Ward: I think Mr Binley rather put me in my place when he pointed out that I only had 40 or 50 examples of local authorities rather than 400, so in that sense there is always room for improvement, there is more that can be done. There are some cracking examples of the use of frameworks in the public sector. The trouble is that people go through the procurement process to set up the framework so they have realised they do not want to tender every job, they have bought the procurement upfront, done all the hard work, and then they manage it just like they used to manage other contracts, so they forget that the clever bit is actually in the performance management of that framework over four years. They are going to do lots of jobs, maybe 20 or 30 jobs together and want to properly manage that, and they do not do that so they are losing out on the big savings to be had and just making the little savings.

Q238 Mr Wright: So what you are saying is that there could be huge improvements in these contracts?

Mr Ward: Yes, there could be huge improvement in the way in which framework contracts are managed downstream.

Q239 Mr Wright: Do you feed that through into the Department?

Mr Ward: We do feed it in. We published a report on it under the banner of the Local Government Taskforce fairly recently. Speaking at the Strategic Forum last week there was a report on integration at which both the OGC and DBERR were present and we very much made that point in that discussion.

Q240 Mr Wright: Do you feel as though you are gaining momentum in this particular area?

Mr Ward: It could do with some help!

Q241 Mr Wright: It might be useful for us to have a copy of the report that you actually gave on this.

Mr Ward: Thank you. We are happy to supply that, Chairman.

Chairman: I had wanted to ask you about the OGC's Gateway process but I am not going to because of the time constraints we are under. I might ask you, gentlemen, if we could have a written note about any figures on take-up of the Gateway process in your experience. Mike Weir?

Q242 Mr Weir: In both of your memoranda you have referred to the "triple bottom line" of environmental, social and economic sustainability. Can you tell us what your understanding is of the triple bottom line and is there any conflict between the three legs of the stool so to speak?

Mr Morrell: Potentially, but the whole point is that all three of them have to be served. This brings us straight back to the idea of value as well. A bit like that three-cornered definition of design quality I described. You try to get the maximum overlap

between all three things. Just to explain briefly, you are trying to find a building which produces its desired social or commercial outcome, so that is the economics and social bit, but also which is sustainable, that does no harm to the planet and addresses this massive agenda of climate change that we are facing. You are trying to do all three things. A building is not good if it is socially successful, economically successful but damaging to the climate. In each of those things you are setting benchmarks and normally you resolve conflict by saying that there is a lowest level of acceptable performance environmentally that you must achieve, which would almost certainly need to be set by a combination of regulation and incentives, mostly by regulation.

Q243 Mr Weir: Do you think the contractors still see environmental sustainability as a costly added extra rather than an integral part of the building?

Mr Morrell: Less and less I think.

Q244 Mr Weir: Does it tend to lose out to economic considerations or is it becoming more important?

Mr Morrell: The market is not delivering it. The market will not deliver it because the demand for it is inadequate; it has to be regulated. It is a bit like my point on housing quality. Markets do what markets do and they do it very well. They will not deliver things that are outside the commercial question you ask.

Q245 Mr Weir: But is there pressure from the client for environmental sustainability built in? Is that the way forward? Does the Government need to do more by actually saying you must do this?

Mr Morrell: Yes. I would link this back to your first question about life cycle costs. If government in its own appraisals priced carbon, you do not need the IMF, you do not need the United Nations, you do not need the World Bank, just in your own requirement for appraising projects price carbon, it would have a fundamental effect on the decisions we make about buildings and it would set a very fine example.

Q246 Mr Weir: So you do not think the Government is doing enough in that area?

Mr Morrell: I think it would be helpful if it did that thing as well. There are places where this conversation has been had but it has not come back to me as a supplier to say that is how you must appraise our buildings.

Q247 Mr Weir: In light of that, do you think the contractors themselves have the skills to deliver the Government's environmental sustainability agenda?

Mr Ward: One of the most important set of skills there is about stakeholders. It is about the ability to have the conversations with the right people, whether it is the socially sustainable side or the environmental side, and to be able to listen and take account of that, so I think consulting skills are probably a little bit lacking. The other factor is that

what too often happens when you are talking about add-on cost is they have done a design for a building and then they think "perhaps we had better add in some sustainability". Of course that is going to add extra cost. If you start from the premise of "we are going to make this more sustainable", which they could given the right brief, then the add-on cost is going to be significantly less.

Q248 Mr Weir: You think it has to be addressed at the design stage rather than when it gets to the stage of the contractor?

Mr Ward: Absolutely right.

Mr Morrell: Before that, at the briefing stage. The industry will answer the question it is asked and usually answer it quite well. If you want a smarter answer you have to ask a smarter question and that is absolutely true about the environment.

Mr Ward: My point about stakeholders is about briefing. The industry needs to be better at getting the client to ask the right questions. Briefing is a two-way process, it is a dialogue.

Q249 Mr Weir: When you discussed with Mr Binley earlier you mentioned best value as opposed to cheapest.

Mr Ward: Absolutely right.

Q250 Mr Weir: Do you think that many clients understand the difference between what is perhaps best value and what is necessarily the cheapest or are they looking at the bottom line?

Mr Ward: Absolutely not. They are too focused on capital expenditure instead of capex/opex, which is whole life. As Paul said, if we left you with one message it is can we please have a joined-up whole life approach to looking at the cost and value.

Q251 Chairman: This has been a slightly frustrating session because you have a lot to tell us and your written evidence is some months old—our fault, not yours, because we have taken so long to get round to it—so if on reflection you think there are things that you would have liked to have told us but you did not have an opportunity to do today or things you want to refresh your evidence with, feel free. We have very much enjoyed this rush around some very important themes and by way of a concluding question from the chair I will give you an opportunity to cover some missed ground. I think that we are very bad at learning from international experiences in this country, not just in construction but generally across a whole range of issues, so from your vast experience could you tell us of one example of industry good practice somewhere else in the world which we would do well to copy in the UK?

Mr Ward: His experience is vaster than mine so I will go first! We have just had 20 of our members come back from Japan, which is a good example. There is unbelievable use of site briefings on a day-by-day basis. 400 people will be on the site lining up for ten minutes to be told what it is that is going to happen that day, which is an incredible contribution to health and safety. That was very

striking. If I may just add one other example, given that we have focused on this whole life thing, if you look at how Finland for example works using object-oriented modelling and computer-aided design they do all the work up-front on a single model, they do the whole life value, so they are able to think about it because it has all been done in the computer—

Q252 Chairman: When you say the Finnish, who do you mean by the Finnish?

Mr Ward: The Finland construction industry generally.

Q253 Chairman: Who does that work?

Mr Ward: There is a very strong VTT research organisation there who are best known for communicating this information but it is particularly some of their PFI work where they have done some terrific stuff because that model forces integration on the team.

Mr Morrell: I am going to give a slightly different answer: I would look to America and to the overpowering sense of personal and corporate accountability that exists there. I deliberately choose a behavioural thing rather than a bit of process, or innovation or novelty because I think

both the experience here and internationally, and as Don says, I work a lot internationally, I think we know how to do. Over and over again what goes wrong in projects is not the absence of some kind of imaginative innovation; it is simply not doing the basics right, making up our mind what we want, being clear about that, choosing a good team, allowing enough time at the right time to design it. CABE has done a pretty good guide on this. We put everything into it that we could. If people followed that, and something like the OGC Gateway process was operating to make sure that you had reached that stage before you moved on, we need to look nowhere overseas to find out how to do this work; we have it all here. However, the problem is that every generation insists on its right to repeat the mistakes of the last one.

Q254 Chairman: On that philosophical note, can I express our gratitude to you for a very fascinating three-quarters of an hour. We really appreciate your time and trouble. I repeat things that you think we ought to have gone over and you feel you have not been allowed to, or if you want to in any way update your evidence to us, please feel free to give us additional written information. Thank you very much.

Mr Ward: Thank you very much.

Witnesses: **Dr Martin Wyatt**, Chief Executive, Building Research Establishment; **Mr Andrew Eastwell**, Chief Executive, Building Services Research and Information Association; and **Mr Bill Healy**, Construction Industry Research and Information Association, gave evidence.

Q255 Chairman: Thank you, gentlemen, for coming today and thank you for the written evidence that jointly and severally you have provided the Committee with. As you heard me say to our last witnesses, I think many of us are finding the bewildering array of acronyms and organisations in the construction sector particularly challenging. BSRIA, you are particularly interesting—you sound like a punishment posting in the Foreign Office to an obscure Middle Eastern country and then CIRIA of course is not obscure at all! I think the Building Research Establishment is not BRE, is that right, the character off *Desperate Housewives*?

Dr Wyatt: Wrong coloured hair!

Q256 Chairman: I used to watch *Desperate Housewives*; I have given it up. I should not have mentioned that, I apologise! Again the same plea to you all, as you introduce yourselves for the record I would ask you to explain your distinct roles within the sector that you serve.

Dr Wyatt: First of all, there are over 1,200 representative organisations in the industry and that probably tells you something about us. I am Dr Martin Wyatt, I am Chief Executive of the BRE Trust and the BRE. The Trust owns the BRE. Until 19 March 1997, the day before the Election was called, we were an agency of the then Department of Environment and we were privatised on that Sunday. Our history goes back to the 1860s but we were basically formed after the Great War. We are

one of the three largest multi-disciplinary leading centres of excellence for construction in the world. Our focus is primarily on buildings and that is what makes us distinctly different from my colleagues.

Mr Eastwell: Good morning. I am Andrew Eastwell, Chief Executive of BSRIA, I apologise for the name but the difficulty of the acronym makes it memorable, I hope. We were formed after the Second World War when government was attempting to get industry to work collaboratively both as an industry and also between industry and government. We have always been a private organisation and remain so. Our specialism is in mechanical and electrical systems, the engineering services within the built environment structures.

Mr Healy: Good morning. I am Bill Healy, Chief Executive of CIRIA, which is the Construction Industry Research and Information Association. We were formed about the same period as BSRIA with the same spirit in the industry. We are focused on performance, improvement and innovation in construction generally. What differentiates us is our focus on infrastructure. Although we do get involved with our colleagues in some pan-industry things, it is infrastructure-focused.

Q257 Chairman: Could you explain about infrastructure which covers a multitude of not sins but areas?

Mr Healy: It is everything that connects to and the buildings sit upon, so it is everything from coastal defences through to transport systems, power and water facilities, and heavy civil engineering, bridges, tunnels, and the like.

Chairman: Thank you very much. Brian Binley?

Q258 Mr Binley: Three very quick facts: up until 2003 government invested £23 million in R&I for your industry; that ceased in 2004; and the industry has not picked up that shortfall. That is the plain and simple truth of the matter and as a capitalist I think you ought to, so can you tell me why you are investing such a small amount?

Dr Wyatt: I will try. This was first looked at in 1919 in a report by the Department of Industrial and Scientific Research, believe it or not, and the interesting thing is that the economic analysis they did of market failure in the industry is pretty unchanged now.

Q259 Chairman: That was 1919?

Dr Wyatt: 1919. If you want a copy I can provide one. The things which make us fundamentally different—and you find this not just in the UK, this is not something specific to do with the way in which construction works in the UK—are several-fold and together they add up to a very fundamental difference to, say, manufacturing industry. If you are a manufacturer, you carry out R&D where you can get benefit in the market-place—higher prices, larger market share, better margins, et cetera—and that is very difficult in our industry. The reasons really are several-fold, as I said. The first is that clients buy projects, they do not buy products. It is not like going to a car showroom and test-driving and saying, “I will have one of those. It is the most technologically advanced; it has got the best warranty; I will go with that.” The second thing is that most clients are unable to differentiate or even specify an advanced model versus a standard model. That is not unreasonable. Many clients only buy one building in their lifetime so why should they know what state-of-the-art in a building is and what they should buy? The third reason is that it is almost impossible to protect the intellectual property that you generate in that industry. Patents are almost unknown. Basically anything you invent in terms of advanced process, new integration, a new way of doing things will be copied the next day by anybody who visits your site, and thus you cannot make that investment and protect it. Clients are very conservative in our industry. Very often the first conversation a client has with his design team is “How much insurance have you got?” The last thing a client wants to do is be experimented on so they want a good quality building but they do not want to be the test bed for new thinking. Finally, the risk of getting it wrong in our industry hugely exceeds the commercial benefit of innovating. If I introduce an innovation into the foundations of your building and that innovation goes wrong, I am out of business because the cost of putting it right will be in the millions and the benefit I might have had in terms of my design theme might be a few thousand pounds.

If you take all these things together and look virtually anywhere in the world you will see the same low level of industry investment in R&D.

Q260 Mr Binley: But Britain is a particularly low level at 0.5%. What you have just told me is a total cop-out surely?

Dr Wyatt: No, I do not believe it is.

Q261 Chairman: Mr Binley has obviously had something for breakfast this morning that has upset him!

Dr Wyatt: I gave you a nice table on the back of the map of the world.

Q262 Mr Binley: I saw that.

Dr Wyatt: Those percentages are total R&D expenditure, they are not of the industry, they are everything, so they are the universities, government, research associations, agencies and the industry. The second thing to bear in mind is that what we have not seen and we do not have the data for, and I do not believe the Government has the data for, is a breakout of what proportion of that is private sector. My view is that the private sector contribution across these countries is probably not hugely different, except in Japan. If you multiply these figures up by the actual GDP, you get a slightly different picture. I can very quickly give you that—the UK is £43 million; the US is £215 million; the Netherlands is £28 million; France, which is probably the nearest comparator, is £206 million; Denmark is £23 million; Japan is £750 million; and tiny Finland is £58 million, but the majority of that in each of those cases where it is higher than here is government expenditure; it is not private sector expenditure, except in Japan.

Q263 Mr Binley: Thank you, I am grateful for that. You have talked about variations between countries and I am happy with that. Can I move on to hidden innovation. Could you tell us more about so-called hidden innovation and could you tell me what you are doing to capture it and to build upon it, to use a pun?

Mr Eastwell: The recent NESTA report on Hidden Innovation is a very useful reference point, and I am sure you have access to that. It really put a lie to the fact that the construction industry is not innovative. It has been accused of not being innovative largely because its R&D spend is so low and innovation has traditionally been attached to R&D spend. What NESTA identified is that there is a great deal of problem-solving innovation done per project on site. There are no industry widespread methods of capturing that innovation—and why would there be—but there are some very, very strong individual examples of it. I would take industrial clients such as Tesco’s, Land Securities, and BAA has already been mentioned once today, as being examples of repeat clients who have embedded in their businesses processes which capture lessons learned. They also capture how the building operates subsequently so that they can identify good innovations or not so good innovations and they will reuse that

information with their partners. All of those use framework partnerships and that information is exchanged very freely up and down the partnership but not necessarily outside of it. There is no incentive for them to spread that information outside their partnership because it is part of their business process and part of creating value in their business. It is less obvious in the public sector but there are some sporadic examples of where it is done. There is another report that I would recommend to you—Building Schools for the Future—and I will pass these references on to the Clerk after the meeting so that you have them, which looked at 12 schools in detail as part of a post-occupancy evaluation to see whether or not the structures met the aspirations. I am delighted to say that they are good places to be at school but very poor energetically, which covers something that was said earlier on today. The problem with hidden innovation is that where it is done, it is part of the company's crown jewels, it is part of their business USP, and they will retain it within their business.

Q264 Mr Binley: Everything has got its price. How can we create incentives to spread innovation?

Mr Eastwell: My own view is that government needs to beef up its own knowledge of its own estate so they themselves can become this client rich in knowledge of what it is that they are buying, owning and operating. Being 40% of the value of the construction industry both in repair and maintenance and in capital, it is hard to imagine that that rich data source would not be a very valuable resource for the rest of industry. Indeed, it used to exist many years ago when there were other agencies around like the PSA (Property Services Agency) and NHS Estates and so forth. They were very good at that kind of effort and that is how you capture hidden innovation.

Q265 Chairman: We have been told that the Highways Agency is a very good client in the public sector in the infrastructure area. Is the hidden innovation that is developing there being captured and shared, do you think?

Mr Healy: Certainly they are getting better at that. There is an exercise on-going at the moment within their framework to try and share that information between departments, but I think that is still early days in moving onto the type of process that we envisage here, but, yes, it is good start.

Q266 Chairman: Before I bring in Mr Clapham, we were told on a visit to a London hospital site, not in formal evidence, by Skanska that they thought one of the reasons that R&D and R&I were so much lower in the British building system was the lack of vertical integration and the smaller sized companies and contractors whereas in Scandinavia they have large shares in the market and it is actually worth their while investing to innovate in that market place.

Dr Wyatt: I think there is an element of truth in that and the classic example of that is Japan. If you take the largest British company, I think it has 3.5% of the

UK market, and that is Balfour Beatty, but it would not register in the world top 20. If you look at the largest companies they are mostly Japanese and that is no mistake. They have a very different structure to us in the sense that these companies are vertically integrated so they will quarry the materials, they will own the factories which produce the products, they will construct them into buildings and they will then operate the buildings. It is sort of "super PFI". When you get mega businesses which control their entire supply chain from beginning to end and you get a culture like you do in Japan where big companies strut their stuff in terms of R&D expenditure, then you will get major engagement of private companies in research expenditure.

Chairman: I thought you might have the answer to that and I am also not surprised that Mr Hoyle has a supplementary as a result.

Q267 Mr Hoyle: It is interesting though, is it not, because we have built up companies like that. If you look in the past at our quarries they were used in the construction industry. Then they get broken up and what we see is pension funds come in—Amec has been a good example where we had the cross-section of the Twin Towers, who was behind it, Amec, a vintage company, but it has all been sold off. Is that part of our problem that what we see is pension funds and other people buying, splitting up and breaking up all the companies? Is that the reason why we have no construction companies?

Dr Wyatt: I cannot answer that question because I cannot speak for the pension funds.

Q268 Mr Hoyle: Whoever, people who want to make a quick buck so they buy a construction company out and then start selling it off piecemeal.

Dr Wyatt: I think the difference is fundamentally that our contractors tend to stick to contracting because they can borrow other people's capital to operate and they do not have to raise capital of their own. If you look at the capitalisation of the entire construction industry in this country as quoted on the Stock Exchange, it is less than Sainsbury's. They are eminently purchasable and they have a very low capital value because most of them are basically just super project managers. They do not have vast quantities of capital or estate or factories that they own and there are very, very low barriers to entry. Anybody can set up as a contractor and anybody can become a big contractor by buying more projects than the next contractor and so on. One of the characteristics of the UK scene is that there are rapid changes as to who the big contractors are, the big ones wax and wane and the situation changes.

Q269 Mr Hoyle: Can I say I do not quite agree with that because we have seen companies in the construction industry like John Laing disappear, who were on the stock market purely as construction companies. The idea was to get out of being listed as the construction industry and be put into the service industry to ensure that shares fly through the roof. Hence Amec went from £2 odd to £10, I think it was. It is the complete opposite of what you have said.

Dr Wyatt: It is true that a lot of contractors have tried to have themselves reclassified as service industries and they have tried to give up doing contracting. They want to be facilities managers, they want long-term contracts with government to maintain things. They do not want the danger and the risk of building individual buildings. That comes back to this business about risk. Laing's went under fundamentally because they made a series of technical mistakes which made them worthless and then a white knight came in and bought the business because it was worth very little, so a huge business changed hands for a pound or something very similar.

Q270 Mr Clapham: Given what you have just said about the industry, and the difficulties that the industry has, we still need to realise that it is an enormous industry, employing more than two million people and that in terms of GDP about 10% of UK GDP comes from construction, so it still is a very important industry. Given that fact, is it possible to say how much support research and innovation gets from government? Could you put a figure on it?

Mr Eastwell: I will try and answer that. The last authoritative figures were provided at a similar event to this in the House of Lords showing that in 2001 it was £18 million; and in 2005 it was £5.5 million. There is no analysis, as I understand it, for the present time. The best estimates that I have are that it is between £5 and £10 million, but it should be understood that that funding is principally from the Technology Programme that was with DTI and is now with DIUS and does not really address the gaps that we are concerned with here. They address the high technology end, not the processes—stem cell research and things like that. The construction industry does benefit from that but it is not the gap that we think is at issue. For co-funding, the sort of thing that we were talking about earlier, it is hard to identify any funding at the moment other than a very small amount covering things like the Knowledge Transfer Network, for which we are extremely grateful I should say.

Q271 Mr Clapham: Why do you think that dramatic reduction has come about in the funding?

Dr Wyatt: I do not think there has been a major policy change. I think it was broadly a mistaken circumstance. Immediately after the 2004 Election responsibility for the industry was transferred from the DETR to the then DTI and with it that funding. The DTI had been going through a period of criticism and change and had decided that it was not going to support any sectorally based research funding mechanisms, so this money and this industry was transferred into the DTI just as they were coming to that decision and thus it was wholly unwelcome that we were discussing and saying this needed to continue, so basically the money, to quote the Minister at the time, was “snaffled” into the central coffers of the DTI and probably reappeared in the Technology Programme. That still remains

the case today that DTI policy is not to have sector-specific programmes at all. Having talked to senior civil servants and others, the difficulty is that even though they may intellectually accept that the mistake has been made and it has been dropped down the cracks, they believe that to essentially do anything within BERR to support the construction industry specifically would re-open the discussions with aerospace and everybody else about whether they should have specialist support. It has been put to me that it is very much more difficult to put this back together than to let it fall apart because it would require two ministers who were interested, two senior civil servants who wanted to do it, and somebody who was willing to put their hand into their ministry's pocket to fund it, and that is almost impossible. It is very difficult and it will need a very powerful interest from somewhere to boot-strap that process again, even though it is accepted intellectually that we lost something we should not have done.

Q272 Mr Clapham: Given what you have just said, is the building of the Olympics stadium likely to have the impact that it may well bring a focus from government with regards to innovation? Do you think that could be the driver?

Dr Wyatt: I think government has a lot of short-term interests and even in terms of the construction industry 2012 is relatively short term. It is undoubtedly true that a lot of good work is being done by the Olympic Delivery Authority in terms of sustainability and other matters. The problem is that most departments now seem to have become used to picking up the phone and calling us up and us saying, “We do not know because you ceased funding us five years ago,” and then increasingly using focus groups and steering groups and heaven knows what else—people who will give an opinion which is no real substitute for empirical evidence, if you like, and so there is a culture of dealing with all of these issues as if they can be solved in five minutes by a quick question rather than needing proper research over a period of time to come up with a proper answer.

Mr Healy: I think the overriding focus of the Olympics is one of delivery on time, from all of the discussions that I have had, rather than one of innovation or even necessarily the best way of doing things. I have to say the driver is on-time delivery. There is the issue of ownership as well now and because the interest in construction is spread amongst so many government departments there is no clear home for a focus in how to address this issue. It is now spread broadly across. I think most people are aware that there is an issue on-going but there is not the wherewithal to respond to that issue in any meaningful and co-ordinated way.

Mr Eastwell: We have been accused of being a very fractured industry and indeed it is true. We are dealing with a very fractured sponsorship/intellectual input from government and that is also true.

Chairman: We will return to that issue later.

Q273 Mr Clapham: All three of you have contact with BERR and the civil servants in BERR. Have you been able to get the message over to them that the UK is one of the few advanced countries that does not have a dedicated research and innovation programme for building?

Mr Healy: I think again BERR would recognise that and they are very sympathetic to the position. Again, as the major funding has now moved across to DIUS and the Technology Strategy Board for R&D as opposed to applied research, which is the area that we are particularly focused on, they no longer have the wherewithal to address that. Their funding certainly in their construction sector unit has been cut dramatically, nearly all of their staffing. There is no clear home for construction there although I know that the “Minister for Construction” is represented through that Department. As I say, the big spends, particularly where we are looking to government as a client, are in new schools, prisons, infrastructure, investments, which are spread around many different departments. Again, I think people are aware of what is actually happening but no-one is in the right position with the right centre of gravity to say, “We can address this issue.”

Mr Clapham: Given that, what do you consider ought to be one of the main messages that comes from the Committee’s report on construction?

Q274 Chairman: I think that is called leading the witness but I am very happy for the witness to be led.

Mr Healy: It is putting that focus back in now and there is a number of elements in how this could be achieved. I do think construction has now been spread across so many people’s remits that there is no-one who can address these issues of really seriously moving the industry forward. The Government is ideally placed to do it. As referred to earlier, it has 40% of the construction spend of £120 billion, which I think it is currently running at, which the government is client for. That is a very powerful position to be in and they really need to have the wherewithal to behave as an intelligent client as best they can and be a leader in that which I believe they can achieve if we get the right focal point. That needs to exist somewhere within the government mechanism. We have views as to where potentially it might be best placed. It has been tried amongst a number of departments. The problem is that now it has evaporated to a large extent.

Q275 Mark Hunter: Can I ask a couple of questions about current research and innovation performance. I was very interested to read in the evidence you have put before us about the drop-off in public sector support for construction. You say that this is reflected in the number of new publications of technical guidance and standards produced by the sector and in fact report that between 2000 and 2005, the number of new titles averaged 173 per annum whereas in 2006 that figure had fallen to just 63. Do you think that the decline in these titles can be

directly attributed to the drop-off in public sector co-funding for construction R&I and even if it is why has it not been picked up by the private sector?

Mr Healy: I was reminded of this again last night and I will come back on that. Yes, I think it certainly can be directly related to the drop-off of public sector funding. Each of the new publications, of which CIRIA has produced the larger number over recent years, typically cost something of the order of £100,000 to produce. They are fairly considered pieces of work, drawing on the best expertise in the industry and the experience of what has happened, and in fact many of them go on to be reference documents that are used by the broader industry going forward, so they are very valuable. At that kind of cost, the resale value is not much more than the printing costs of the book to distribute them, so we do not have the wherewithal to fund the large number of reports that we would like to produce. The reason I was reminded of it last night (I do not know if any of you saw it) is there was a *Dispatches* programme on Channel 4 called *Submerging Britain* about the flooding issues that had gone on in the summer. I was reminded that CIRIA had been trying to fundraise for a report last year, would you believe, which was about the flood resilience of infrastructure, which chimed a lot last night as we were seeing the issue of trying to protect a sub-station that was coming under threat and in fact a water treatment plant was submerged and people were left without water. At the time we were talking with our colleagues in the infrastructure industry about this there was interest but it was very hard to get sufficient of them lined up with their cheque books to actually make this report become a reality. Of course, post the flooding there is increased interest but I have to say that as of today I do not have agreed funding in place to actually move that report forward. With government funding in the past, the seed corn, the pump-priming—they would not have paid for the complete report—a 40% or 50% contribution to the cost to get that report moving would have enabled it to have been available in time for those events, so that was a very timely reminder to me of how things have slowed down.

Q276 Mark Hunter: I was going to ask you for some examples of the way in which the drop-off in new titles is affecting the sector and you have just given us one.

Mr Healy: I am sure my colleagues can help.

Q277 Mark Hunter: Could you offer us a couple more as to how this has impacted?

Dr Wyatt: Perhaps I can give you a very topical one and that is around the deployment of small-scale wind turbines in homes, a very hot topic. Lots of people are saying you need to use renewable forms of energy and this is one of the solutions. In fact, you have got things like the Merton rule, et cetera, encouraging and BERR themselves encouraging the adoption of these new technologies, but we actually know very little about these technologies and how effective they are. If we take the Code for Sustainable Homes as an example, in there there is

encouragement to deploy microwind turbines on your house and you get a higher sustainability score if you do. However, I was very concerned and a lot of people are very concerned that these windmills absorb more carbon in their manufacture and maintenance than they ever produce—

Q278 Mark Hunter: You had better tell Dave to take his down!

Dr Wyatt: I am trying to avoid political comment! Quite a lot of us are concerned that they emit more CO₂ than they save in a lifetime and thus the deployment of them actually brings global warming forward, it actually accelerates global warming. We discussed this and this is a classic example of why it is all going wrong. We raised this with DCLG whilst we were working on the Code for Sustainable Homes and they put together a tripartite meeting between Defra, DCLG and the then DTI to discuss this. The DTI took the view they were the sponsor of this small industry and that their job was to help manufacturers in new areas of commerce to get going and be world-class, so it was not really their job to carry out some research which might show it does not work. Defra said, “We are in charge of sustainability but actually it is about buildings so it is DCLG,” and DCLG said, “We have not got any money,” so at that point we all gave up. I managed to scratch together enough money from the Trust who owns us to do a small piece of work which has demonstrated that basically in a large number of cases you should not employ this technology.

Q279 Chairman: Should not?

Dr Wyatt: Should not. What I am unable to do through my own funding (and why should the manufacturers do it?) is produce a comprehensive design guide for specifiers and individuals in order that they can choose intelligently whether or not and what sort of windmill to use. This is classically the area where the industry in a broad sense worked with the Government in a co-operative way to produce that sort of guidance, and that mechanism no longer exists so I do not know what is going to happen there.

Q280 Chairman: Notting Hill must wait with bated breath.

Mr Eastwell: There is an interesting codicil to that that it also transpires that the planners prefer the windmills to be below the roof line and this is not the best place for windmills!

Chairman: You have made your point extremely well.

Q281 Mark Hunter: Obviously because it is in your evidence you must be concerned about the long-term implication of the investment in research and innovation activity. What do you think is the long-term implication if this current trend continues? What is the bottom line here for you?

Mr Eastwell: I would refer you to Lord Sainsbury’s report *The Race to the Top* which was published since we gave our evidence and in it he says: “Increasing R&D spend by research councils

matched by decreasing departmental funding, the MoD in particular”—and I quote—“this is a cause for concern for our public policy-making.” We would agree entirely with that. The problem is that the focus has been on the high-tech industries—stem cell research, grid computing and nanotechnologies—from which the construction industry will ultimately benefit. There is no question and we would not say that this is the wrong thing to do. Unfortunately, the baby has been thrown out with the bathwater and what we have lost is the practical implementation of how this can work for our sector. I think the long-term implications are quite serious. We were talking earlier about the value of the construction industry. It is nice to be able to say that we are number two in the world, number two only to the USA, in the export of intellectual design. This is why we have the Reichstag building and some wonderful buildings around the world generated by UK expertise. If we do not invest in the sort of work that allows companies to develop that—and some of them were quite small when they started, the SMEs—if we do not provide an infrastructure that allows that to continue, then I would submit that that £3 billion is at risk in the long term. It will not be tomorrow, it will not be next year, it will not be the year after. We describe this as a “slow crisis”. None of the documents that we have cited as examples and we have here are broken; they are just wearing out. That is the way I would try to describe it as being a long-term problem. It is a problem of evidence-based design. As we lose that evidence base whilst our competitors invest in it—and I am thinking of France in particular here and Finland as a wonderful example of investment in object-oriented technology, of which you are going to hear a great deal more in the future I am sure—if we do not invest at the same rate then our dinner frankly is at risk to those countries that do.

Q282 Miss Kirkbride: That leads on to the obvious next question which is where is the money going to come from? If we do need to spend more money, and presumably some of that is going to be public money, what suggestions do you have? In your memorandum you talk about the Landfill Tax Levy, the Carbon Levy or the Aggregates Levy.

Dr Wyatt: Shall I expand a little on that. Obviously we did not want to come to you and say raise taxes as we thought that might not be very popular, so what we did was we looked at and identified research and programme-related streams of expenditure within government which are related to this industry in terms of either that they derive from this industry or they have a major bearing on the efficiency of what we do. We identified the three which are quite easy to find. The first one is Landfill Tax Credits and within Landfill Tax Credits £75 million a year goes to fund research. This is through a mechanism called BRU (Business Resource Efficiency and Waste Programme) within Defra and, basically it is sprinkled across a load of quangos at the moment, people like WRAP (Waste & Resource Action Programme), and 30% of those Landfill Tax Credits

are generated directly by the construction industry, about 30% of landfill comes directly from the construction industry, something again we would like to do a lot better on but are unable really to do the research on that. The second one is the Aggregates Levy. There is a levy on aggregate extraction which of course is 100% related to our industry and that is very substantial, and that Levy is supposed to be for research in support of the aggregates industry. Then there is the Climate Change Levy, about 10% of which goes to the Carbon Trust. The Carbon Trust is an interesting body. It spends about £80 million a year. Ostensibly if you ask people in government about this expenditure they will point to the Carbon Trust, but the Carbon Trust principally receives a levy from the manufacturing industries and sees its job primarily as supporting lower carbon in the manufacturing industries, so if you look at the board of the Carbon Trust there is not a single person from the construction industry but it is used as the reason why we do not fund work in the energy area of the built environment. If you add these three streams together there is £169 million currently, some of which does trickle down and find its way into the industry but not for the improvement of the industry and not in any co-ordinated way which allows us to move forward effectively, so we would say that this can be achieved by some changes in priorities and getting more joined-up across government without further taxation.

Q283 Miss Kirkbride: If you were to use those three pots to do what you want to do what would we then lose from what they are doing already? Where is it going?

Dr Wyatt: By definition you would lose some other things. Nothing comes for free; we accept that. What we would say is that if you take for instance the Landfill Tax Credits that go to WRAP, WRAP's brief is to increase the use of recycled materials, so whilst they receive the levy they cannot sponsor the industry reducing the amount which goes to landfill. We can go to them for research funding on recycling materials but we cannot go to them for research funding on actually reducing the amount that goes to landfill in the first place so, yes, you would have to spend a little less on the techniques and technologies around recycling materials, which they are spending about £80 million a year on, and spend a little more on producing less stuff to go in to be recycled in the first place. Why is it that we are spending £80 million on something as focused and as narrow as recyclable materials and less than £5 million on the whole of the construction industry which is 10% of GDP? I do not think these priorities are logically thought through in a coherent way.

Q284 Miss Kirkbride: Do you think there is any appetite in the sector for something akin to a construction industry skills levy? You laugh?

Mr Healy: Sorry, it just reminded me of let us not talk taxes here because I am sure that is the industry's view. I am not long from the pointed end of the industry and they would certainly view that as

another unhelpful tax and not a good direction. I am thinking of the CITB Levy which I know from talking to people in the industry is not broadly very popular in itself. I would think, no, there is no appetite for that. I would say that if we are going to use a mechanism such as Martin has just suggested, and the Fairclough Report suggested what we had in place was working, and indeed how he said that should be ring-fenced and indeed built upon, clearly that has not happened, but the mechanism of allowing government to have funding to help give direction and pump-priming to the type of activities that the industry can then join in is a far more positive way of taking it forward, and has been demonstrated to work in the past. Certainly from my point of view we are trying to fix something that has only recently broken here. I think if we can move back to that position it would be much better supported by the industry as a whole.

Q285 Miss Kirkbride: The Latham Review proposed a levy on industry insurance premiums for the same benefit and I suspect that you would give the same answer presumably?

Dr Wyatt: That is an insurance premium. Latham's logic there was simply that the insurers have to pick up the cost when things go wrong and fewer things would go wrong if we researched things better and thus we did things with full knowledge of the consequences. There is certainly an attractive logic in what he is saying in that it would be to the benefit of the insurers and thus it would not be unreasonable to take a bit of their premium to fund this, but I think in all honesty at the end of the day if you look at a lot of the topics and subjects they are for the good of society, not necessarily for the good of the industry. This is why no one individual company would fund them. What the industry is very good at doing is even if you put to them, "This is not for the good of any one of you but if you all work together as an industry we could produce a better product," what they will do is give very freely of their time, their materials and intellectual weight, but they quite rightly say, "Why should I spend this on the part of my shareholders; it is not my job to fund this?" In the past, the idea that the Government provided the cash for research to be done but the industry put in a lot of time for free on things that were for the good of society had been a model which worked extremely well. I think in that sense the industry did rise to the occasion historically and I very much believe that they would do so again.

Mr Eastwell: Different countries have different models. In Belgium they have a well-developed model there for using project insurance as opposed to individual insurance particularly for part players. In that instance, the insurers use a third party to assess design quality and that is part of the R&D. It is one way of collecting that experience and avoiding mistakes. In France in my sector the H&V (Heating & Ventilation) sector they maintain a thing called Centre Technique which is funded from a small VAT supplement on products which are sold. Last year it raised about €4.3 billion and that money is spent within the Centre Technique to produce test

methods and test cells. That is one reason why the UK has a very low number of test cells for H&V equipment. Between us we are it and it is very small. We did in fact poll my company membership some months ago prior to knowing about this question that you have just given us, and there was no appetite for a levy. You should be aware that the H&V sector chose not to be part of the CITB levy process and they maintain that very strong opinion on levies in general.

Q286 Miss Kirkbride: The whole of the thrust of the questioning has clearly been about a voice in government and co-ordination of your industry. Mr Healy said he had ideas about what we should do about the structure of government to give your industry a voice; what should it be?

Dr Wyatt: There was great debate about this question and we carefully avoided the words “Minister of Construction” because we did want this to become a discussion about whether or not we have a Minister of Construction and thus if we do not have one the whole debate falls to one side. We do not want to be lost in that debate. However, one has to say on a personal basis I think that all three of us would say that government is so fragmented at the moment on all issues to do with construction, and it is so huge. You have a Minister for Agriculture with 1% of GDP and you have got a completely fragmented mess when it comes to construction at approaching 10% of GDP and £40 billion per year being spent by government. It is astonishing and what we would say constructively is that if you cannot effect that, which you might not be able to effect of course, one organisation to build on might be the OGC. The OGC does not currently have this role and it sits there as part of Treasury which is not a bad place to be if you want to influence behaviour across government. I believe a place to think of to put the industry sponsorship, particularly given the potential conflicts within BERR, would be to strengthen the OGC’s role to become the champion within government of construction and the organiser of the necessary research across government to see that government money is expended more wisely than it is currently being expended now.

Chairman: We are getting very short of time but we have one more important question to raise which Mike Weir wants to raise.

Q287 Mr Weir: In BSRIA’s memorandum you talked about the need for more construction clients to set aside a proportion of their contract values for what you call a “soft landing” approach to handover. Can you tell us a bit more what you mean by a soft landing approach and how this idea is going down with the contractors?

Mr Eastwell: In short, there is a disconnect between delivering a building and using it. In general, a building is built, handed over to the client and then the parties depart. The problem with that is that the client is usually poorly placed, particularly in a building which has got a high innovation content, to make those innovations actually work. There are a

number of examples of things like woodchip boilers which were installed in schools and the caretaker switches the gas boiler on because that is what he has always done. Once you have got into that mindset the building does not work properly pretty much for the rest of its life. Soft landings attempt to blur that process between completing the structure and putting it to work with the people in it that are going to have to live with it. Is it taken up? No, there is only one firm example of it and that is at Cambridge University, who implemented this process precisely. They put aside a proportion of the prime sum in order to have a handover team work with them for a period of 12 months. The point about it—and we have heard the words “post-occupancy evaluation” used a couple of times—soft landings really is post-occupancy evaluation but at a particular handover period rather than at some time later in the building’s life.

Q288 Mr Weir: Given that you have cited only one example at present which is Cambridge University, if the idea is to provide a better building for the client, why is it not being used more widely? For example, is there resistance from contractors to it because they are not getting all their money at once? Is there a specific reason or are clients not demanding this in the original contracts?

Mr Eastwell: It is both. Clients generally—and we were talking about capital sums earlier—if they have to shave their budgets, which of course they do, are they going to shave what appears to them to be a low-value activity for something which is perhaps a little more tangible in terms of what they can see, marble floors or whatever? I think they would choose to shave something which is intangible so that is from the client’s perspective. From the contractor’s perspective or the designer’s perspective, he is raising the possibility of identifying defects that would otherwise not be visible, so the motivation for him to do it is fairly low as well unless he can see that he is going to continue in a longer term relationship with that client. I think the multiple builder, the serial builder and the one-off builder argument comes quite strongly into play here. Again I would refer to companies like Tesco’s. They do have that long-term relationship with their client and they do understand how their buildings work so in that instance it is not formally soft landings but it is very similar.

Q289 Mr Weir: Do Tesco’s have a policy then for retaining some of the money where this is done or is it purely because they are so big and the builder does not want to fall out with them?

Mr Eastwell: I cannot answer for Tesco’s but what I can answer for is Building Schools for the Future. We recently held a conference at which Tim Byles, who is charge of the Building Schools for the Future programme, stood up and said that, “We want to learn from our buildings and we will be carrying out post-occupancy evaluation of every BSF school.” In a later question from the floor somebody said, “Who is going to pay for this?” and he said, “I am open to offers from the floor as to who would like to join me

in paying for this.” I think this illustrates the disconnect. He wants to do it, he recognises the value but the processes are not in place because of capexing to allow him to do it. It is a very good example that I think should and could be addressed.

Mr Weir: It does not sound like he has much of a future.

Chairman: There are many issues that you have raised which I fear we would like to explore at greater length but we are already over time so we are

going to have to stop here. If there are other issues that you would like to have raised with us in more detail, please feel free to give us a note about that. I think we asked for some information from you as well which we will confirm with you. We must make sure that that reference to the 1919 report is right. Apparently Network Rail are blaming Brunel for under-designing Reading station at present, which is rather the same tradition I think, but thank you very much indeed; we really appreciate your time.

Witnesses: **Mr Richard Diment**, Director General, Federation of Master Builders, and **Mr Brian Berry**, Director of External Affairs, gave evidence.

Q290 Chairman: Gentlemen, welcome to the final part of this halfway point in the Committee’s inquiry into the construction industry in the UK. Can I ask, as I always do, for you to introduce yourselves and explain a little bit about the role of your organisation and why a trade association focused on small and medium-sized firms is needed. We are getting rather overwhelmed by the number of organisations. Yours is clearly one we have heard of before, unlike some of them, but it would be helpful to understand exactly why we need you and not the Construction Confederation or the National Specialists Contractors Council, or whatever it is.

Mr Diment: I am Richard Diment and I am the Director General of the Federation of Master Builders. My colleague is Brian Berry who is our Director of External Affairs. As you said in your introduction Chairman, the FMB represents SMEs in the building sector. We have about 13,000 of them as our members. We are an organisation that was set up back in 1941, which might seem an odd year to set up a new organisation but we developed very much here in London and some of the other big cities where the smaller builders felt that they were being squeezed out of the market for repairs and work that needed to be doing following the initial stages of the Blitz. Our members are still very much the smaller companies. We have, as I said, 13,000 of them. Typically they are companies with a turnover of round about £100,000 to £500,000, mostly employing 1–5 people. They work mainly in the domestic sector on general building though they do a little bit of work for the commercial and the public sector. A small number of them do build houses but only relatively small numbers, so we think we have a fairly unique niche within the sector. We obviously work very closely with our colleagues in the Construction Confederation, which tends to represent larger organisations and we have already talked about some of them today. We also work closely with the specialist contractors but they are by their nature more specialist organisations, we are a more generalist one, and our membership does represent something like twice the number of those two organisations’ memberships combined.

Q291 Chairman: Presumably you would advise us always to use a member of your organisation.

Mr Diment: I would certainly hope you do.

Q292 Chairman: I thought you probably would. Can I thank your Richard Hislop for his email this morning on “The Federation of Master Builders takes up the green challenge” which arrived in my inbox this morning. I am sure this Committee’s report will deal with those issues so thank you for that, I will pass it to the Clerk. Your very first point was about the appointment of a dedicated Construction Minister. You have just heard our last witnesses, you were in the room, about this extraordinary problem of co-ordination. Everyone wants a minister to do their thing. Your members pay their taxes, I know they hate the burden of regulation and taxation, and everyone wants a minister, which means more government because if we give it to you then manufacturing will want it, aerospace will want it, pharmaceuticals will want it, they will all want it, and other special interest groups within the Department of Health, the Department of Communities and Local Government will want their ministers doing their thing. We already know that there are too many ministers so we will be about 400 ministers and no backbenchers in the Government—which I suppose some of my colleagues on the Labour side might like the prospect of—but is a Minister for Construction really the only way? I think we all understand there is a problem about overlap. Is that the only answer or if we come up with something more imaginative might we be able to sell that to you as an idea instead?

Mr Diment: The problem at the moment is the diversification and the number of areas of government that deal with this, as we have already heard from your previous witnesses. The responsibilities for different parts of the industry probably spread over seven or eight different government departments. Even within the post of Minister for Construction—and I am sure he will be a very good Minister for Construction—I think if you read through, it is one of 22 responsibilities that are actually listed on the official BERR website section on what the minister does. It does cause confusion when we need to speak and others need to speak, particularly those who are less familiar with the structures of government, in never being quite certain where you need to go if you are talking about construction regulations or you are talking about

health and safety in the construction industry or training in the construction industry. Indeed, training is now of course split depending whether it is still going on at school or whether it has moved into the further education sector. There is a whole plethora of your colleagues who are responsible for this and we think it would be better to have a smaller number, hopefully a single minister, but certainly much greater co-ordination.

Chairman: This is a negotiating position rather than a bottom line? That is very helpful, thank you very much. Mick Clapham?

Q293 Mr Clapham: Before I turn to health and safety in the industry, could I just ask on the back of your introduction you said that most of your members were concentrated in London at the time that the organisation was founded. Is that still the case or are they spread across the country?

Mr Diment: They are literally spread across the four countries of the United Kingdom now and fairly evenly spread.

Q294 Mr Clapham: Turning to health and safety, we have seen a deterioration in health and safety over the last two years in the industry generally. Have your members reported that they too are experiencing a fall in health and safety standards?

Mr Berry: The first thing we want to say is that all deaths in the construction sector are deplorable and the FMB is committed to improving health and safety in the construction industry. We have not noticed any deterioration amongst our own members. Any accidents and deaths would be reported under RIDDOR—the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995, but certainly the evidence we have got from our insurance company Aon is that our companies are less of a risk than others in the construction sector.

Q295 Mr Clapham: The reason I ask is because you do make the point in your memorandum about the fall in the number of HSE inspectors. As you will know, there has been quite a dramatic fall, we are talking perhaps by 2008, by next year, of a 17% fall in the staff of the HSE. Do you think that it is the fall in the number of inspectors in the field that is contributing to that deterioration in health and safety standards in construction?

Mr Berry: We do not have specific evidence to support that, but what it does give is the impression that the Government is introducing new legislation, such as the CDM regulations and then we have the Corporate Manslaughter Bill coming but it is not putting the resources in to enforce the legislation that it has passed. We are very concerned that, as you have said, since 2002 there has been a 17% cut in the number of staff at the HSE, and we understand in the review announced last year that between 250 and 350 staff will be lost to the HSE by next year. An employer has a one in 13 years chance of receiving a visit from an HSE inspector so we feel that it is a contributory factor. It is also the message it gives out to the construction sector that the Government

takes it seriously and, if you are imposing more legislation, the very least the Government could do is make sure that it is properly enforced.

Q296 Mr Clapham: Given that your members are spread across the country and of course migrant labour in the UK is also being used quite widely, are there any reports from your members on the use of migrant labour? Does migrant labour within your sector add to the greater vulnerability to the risk of accident?

Mr Berry: The use of migrant labour has been voiced as a concern in terms of the language barrier and familiarity with health and safety legislation. It is interesting that yesterday a report came out from the ICE, the Migrant Workers Task Force, which has looked at this issue. I have not had a chance to look at it in detail but it does flag up the issue of different cultural backgrounds and the language problem but also the lack of communication between employers and employees. I think this is an interesting area to investigate. Also the HSE was asked by the Secretary of State for Work and Pensions to break down the figures for accidents and deaths on construction sites to find out what role migrant workers were having on the 28% escalation over the last year.

Q297 Mr Clapham: Do you feel that there is the potential within your membership to perhaps try to bring the insurance industry together with the employer to work out, particularly where you have got sub-contractors being used, a policy for a given site, for example if one could reach an arrangement with the insurance industry that a good health and safety record would result in lower premiums? Do you think that kind of approach would help to tackle health and safety?

Mr Berry: Lower premiums would be very attractive to good employers who actually instil health and safety because one of the key issues with health and safety is the cultural issue, how do we change culture on construction sites. Good employers—and we hope most of them are FMB members—who take these issues very seriously if they are going to be rewarded with lower premiums, that is something that we would like to investigate, yes.

Q298 Mr Clapham: Can I just go back to the HSE, they charge your members for their Code of Practice. Can you say what the charges are? Do you feel that charging for the Code of Practice is a disincentive to buy it and so therefore members are not knowledgeable of the Code of Practice that is required?

Mr Berry: The Approved Code of Practice costs £15, which is not a high cost in itself but at a time when the Government is taking health and safety very seriously, it is an extra cost which has to be paid and we feel it is wrong to restrict information which could help to save lives and certainly reduce the number of accidents.

Q299 Mr Clapham: So you do feel that it constitutes a barrier to good health and safety standards?

Mr Berry: Barrier is quite a strong word. It is another handicap and it is another cost to employers. What we would like is to be able to download the information free of charge rather than have to pay extra postage because if you want to receive a hard copy free of charge it takes ten days but if you are willing to pay £10 you can have it within one working day. That is two-thirds of the cost of the Approved Code of Practice. It would be far better if at the touch of a button you could receive it free of charge and have the information immediately, which I think would certainly be a helpful way to disseminate the information.

Q300 Mr Clapham: Has that view been put to the HSE and, if so, what has been their response?

Mr Berry: We certainly put it to the Secretary of State for Work and Pensions when we attended the Construction Safety Forum as one of our main concerns and we are talking to the HSE about making this information more widely available. I think there is also a role there for the construction sector particularly large contractors which have a lot more information than the small ones to actually share the information across the sector. I think it goes right across the construction sector in addition to the HSE.

Q301 Mr Hoyle: It is interesting that the Government which is meant to be e-government is failing when you need information, so I think it is something we must take that on board. Part of the evidence suggests that the major construction sites are much safer places to work in, that they are not the problem any more, and it is the small construction sites and small builders where you are more likely to have an accident. Do you think that is fair?

Mr Berry: I think one of the factors is the size of the private domestic repair, maintenance and improvement sector which has increased from £12.8 billion in 2002 to £15.8 billion in 2006, and part of the reason for the number of accidents is clients undertaking work themselves and not employing professionals such as those that belong to a trade body like the FMB. We think that accounts for some of the increase in the number of accidents.

Q302 Mr Hoyle: The second part is how do you qualify to become a member of the FMB?

Mr Diment: Anyone can apply. We then have a vetting procedure that we go through to admit them which involves them demonstrating to us that they have a successful trading record, we would look at their credit references, we would expect to see evidence of their professional indemnity insurance and, if they employ staff, their employer's liability insurance. We then ask them to provide a series of references which will be taken up so that we can talk to the client about quality and their satisfaction of the work. We have introduced, starting about six months ago now which we will eventually roll out over a much wider basis, inspections and actually sending out representatives of the British Board of Agrément, who we are employing as our inspectors,

to go out and look on site at one of the jobs that a potential member has done within the last 12 months to see the quality of it and to talk it through with the clients. We do have a process which we use if we are not satisfied with how our members have behaved in talking to them and we have powers which we do sometimes use to expel members.

Chairman: That is a good answer, thank you very much. Brian Binley?

Mr Binley: Good morning, gentlemen, it is nice to see you.

Chairman: He is in a better mood!

Q303 Mr Binley: Can I say how nice it is to see the craftsmen's body present. There is a concern about the continuation of that craft within the building profession and particularly within your organisation. Last year we hear that 50,000 young people applied to be apprentices and only 7,000 were placed. I know there would be some wastage but that seems to be quite a lot of wastage to me. Is the record of your members as bad as the rest of the sector when it comes to taking apprentices or can you give us evidence that it might be better, and I am hopeful that you will be able to?

Mr Diment: We certainly share your concern that there are not enough placements for the number of people who want to come into the industry. Having said that, we think that amongst our members there is a fairly good record. We have just done our annual membership survey and of our 13,000 members just over a fifth (22%) said they are currently employing apprentices. When you look at the broader figures produced by Construction Skills something like 70% of apprentices currently being trained in the construction industry are being trained through SMEs, so we think the smaller end of the sector is doing a lot, but there is no degree of complacency and we would like to see more being done if possible.

Q304 Mr Binley: Can you elaborate on what more you might do as the Federation of Master Builders?

Mr Diment: We have been working very closely for a long time now with Construction Skills to make sure that the support that is available to smaller businesses is made aware to those businesses. We have just launched a major initiative, in fact it was launched yesterday by our national President alongside David Lammy, the Minister for Skills, which is a cross-industry taskforce which is designed to encourage those who do not yet train apprentices to take them on and those who do to consider taking on more. We are certainly aware that we need to increase two to three-fold the number of apprentices that are going through the industry as an absolute minimum if we are going to have the sort of numbers of skilled craftsmen for the construction industry as we move on beyond the turn of this decade. Not just because the industry needs them but because I think socially the country needs them, with all the evidence we have about young people who are drifting rather aimlessly through life, and to ensure that they have got some skills which will enable them to support themselves and their families for the rest of their working lives.

Q305 Mr Binley: There was a time when young, would-be professional footballers were told to get a trade first, but those days have gone! We heard last week from ConstructionSkills that there is a north-south divide in respect of provision of training by employers and this is one of the areas where the north excels, quite frankly. Is this the experience with your membership? Again, why is that the case? And if you find the reasons why, can you tell us how we might put it right?

Mr Diment: It certainly is. I mentioned a few moments ago the survey which we have recently done which showed that just over 20% of our members currently have apprentices. Of our members in Scotland it is 60%; in the north of England, Wales and Northern Ireland it is about one in three; in Yorkshire, in the North West and the South West it is one in four; in London and the South East it is somewhere between one in eight and one in ten.

Q306 Mr Binley: A real problem.

Mr Diment: So there is certainly a problem as you move further south and further east. Why has that happened? I think we are still struggling to try to understand it. I think there are some issues around the impact of the recession on the construction industry 15 years ago in which the traditions of training were maintained far more strongly in the north of the country. There are clearly issues probably felt more strongly down here in the south of the country about the relative perceptions of vocational and academic education. All of these I think need to be overcome.

Q307 Mr Binley: Richard, if you have got any more information on this could you send it to us because it is an important subject?

Mr Diment: Certainly.

Q308 Mr Binley: We are talking, oddly enough, about the area that is going to see some of the largest construction projects in the country. I know that is not your bag really as an organisation but you do support those people and so it is pretty important.

Mr Diment: Very much so, yes.

Q309 Mr Weir: You mention in your memorandum the Government's climate change agenda and particularly the fact that it seems to be concentrating on new build rather than retrofit. You have called for a 5% VAT rate on all retrofits and refurbishment work to encourage home owners to make their homes more energy efficient. Do you think this can be implemented without the risk of such a system being abused by those simply wishing to avoid VAT?

Mr Berry: Yes we do because we have looked at the evidence from the European Commission 2003 which looked at the experiment on the Isle of Man and that revealed where VAT was reduced, 96.4% of the cut in price was actually passed on to the client. At the same time there was a 96.4% (the same percentage) increase in business activity. That

reflects that the market is very price sensitive and the construction sector is very keen to pass on price, particularly in the domestic sector, to clients.

Q310 Mr Weir: Are you able to estimate the proportion of work currently undertaken by the sector that could be classified as retrofit or refurbishment?

Mr Berry: We have looked at the DTI construction figures for 2006 and in terms of RMI (Repair, Maintenance and Improvement), the market is worth £49 billion, which would have meant that the Government collected about £8.6 billion in VAT. If you were to reduce it, as we are recommending, from 17.5% to 5%, that is a shortfall of about £6.5 billion. At the same time you have to factor in that a lot of businesses who operate in the black economy would probably be more inclined to register. That was certainly the example in Italy where they reduced the VAT and 35,000 extra firms suddenly reappeared and were registered, so the tax intake would increase in that way.

Q311 Mr Weir: You said earlier that most of the work of your members is not building new houses but retrofitting and refurbishment. Of the overall market is that the largest share of the market? Irrespective of tax-take, do you see that as the largest share of the market within the UK given that there is also a large-scale programme of new build? How do you see the balance between the two?

Mr Berry: I think it will continue to be the case that people will want improvements to their homes either because they want to expand them, they want a bit more living space, or they feel they have got to repair to continue to make the place habitable. Clearly there is a massive programme the Government have announced of new build but our view is that most of the homes that we have today are still going to be around in 50, 60 or maybe 100 years' time and there will be a continuing great requirement to ensure that those are kept to the highest possible standards. I have no scientific evidence for it, I think it is just intuitive, but I think with the costs of moving these days, people are more inclined to make the best of what they have got rather than go through the agonies and the cost of moving to a new property, although undoubtedly we do need extra properties because of the growth in the number of households.

Q312 Mr Weir: Are your members finding that people who are doing retrofits or refurbishments are looking to make them more energy efficient or is this being driven by building standards? Is there a real appetite for it?

Mr Berry: I think it is being driven by building standards to a great extent, as again your witnesses were saying earlier on. The customer base is not being very demanding on this at the moment and again from our survey that we have just done, our members were telling us this is not at the top of the list of priorities of the clients they are working for. Possibly more than in any other part of the industry,

this is an area in which the customer is king; you deliver what the householder is asking you to do or you do not get the work.

Q313 Mr Weir: So in effect price is still the guiding principle for your customer rather than energy efficiency. Do you think that the cut in VAT would have the necessary boost to encourage more energy efficiency and not only reduce the price—and I can understand your point that it will hit the euphemistically called “informal sector” who presumably do not pay any VAT at all—by taking your prices nearer to them but will have the effect of people saying, “Okay, I want to retrofit, I want to make it more energy efficient”? I am not convinced of that fact.

Mr Berry: One of the problems is actually the pay-back period, unless you insulate where you can get your money back fairly quickly. There is growing evidence, particularly among some of the more affluent clients, of them wanting to upgrade their homes so they can make them greener and more energy efficient. It tends to be the top end or in social housing stock where the Government is upgrading the social housing stock, so I think there is a growing willingness amongst householders to upgrade but the tax breaks are not sufficiently attractive. Linked to that, if the Government is very serious about reducing carbon emissions by 60% by 2050 it is going to have to tackle the existing building stock because existing homes contribute 27% of CO₂ emissions.

Q314 Mr Weir: I do not think there is any argument about that. What I am really getting at is what you are saying to us is that it has to be driven by regulation to force people to go down this route otherwise price will continue to be king. Unless the regulations say you must insulate more and you must do more energy efficient, it is not going to happen on a large enough scale. Is that a fair comment?

Mr Diment: I think like most things they need a bit of carrot and a bit of stick.

Q315 Mr Weir: Your memorandum recommended a cross-departmental review of the regulations surrounding waste and arrangements for recycling. Why do you think that is necessary?

Mr Diment: This is an area that our members regard very highly and it was very pleasing to see, again from our recent survey, that well over 90% of them said this was a priority, obviously because they think it is environmentally the right thing but they also see the impact it has on their bottom line. It is getting more and more complicated to understand exactly what the regulations are. There are local variations in interpretation. There are issues about shortage of sites around the country to which our members can take materials where they can be properly recycled. I do not know if there is anybody here from Wales but a particular issue we have from our members in Wales is that there are hardly any suitable sites for hazardous materials of any sort in Wales and you end up undertaking extremely long journeys, burning fuel and creating congestion, to meet the waste regulations, which when you are trying to look at it

from a holistic approach does not make an awful lot of sense, so there is a range of things around that need to be more joined up as far as our members are concerned. I suppose another example would be, because of the problems of defining one man’s waste and somebody else’s material that might be able to be reused in the future, that we have had examples of members who have taken materials back to their yards in the hope that they can either sort them out for reuse or move them on to a proper waste disposal site and then been accused of trying to run a waste sorting station without the necessary permits and licences.

Q316 Mr Weir: Do your members find a difficulty with the regulations to do with disposal of certain types of waste? I did have an experience of one builder saying he would not do a job of retrofitting because of the materials there and it was difficult for them to dispose of and they would have to bring in specialists to deal with it. Is that a problem?

Mr Diment: That is the sort of issue that many are facing as the regulations become more complex. In themselves of course nobody can say these are not right but it is thinking through the consequences of them, the costs they are imposing, the difficulties they are imposing, particularly when for many of these hazardous materials local authorities around the country do not necessarily have to provide local resources where they can be dealt with.

Mr Weir: Thank you very much.

Q317 Mr Clapham: It is in the area of retrofits and refurbishments that you would come into contact with asbestos. Do you give any advice down the line to your members regarding the use of approved contractors for its removal? Are the Asbestos at Work Regulations sufficient to be able to provide you with the necessary guidance for dealing with asbestos?

Mr Diment: Certainly it is not an issue of concern that has been raised in the sense that you are talking about it, Mr Clapham, from our members. We are at the moment running a series of workshops around the country for our members to make sure that they are up-to-date on the various regulations around working with asbestos and of course, more importantly, disposing of it safely. I think they all recognise the dangers of these materials and are looking for as much help and guidance as they can get from an organisation like ours because, as I said, they are very small organisations in general with not a lot of people resource and they are expected to know everything in the same way as if they were a very large company.

Q318 Mark Hunter: I want to move us on to the regulatory burdens issue. In your submission, you make the case of the industry being heavily regulated as it is now. My question to you is: do you think that the Government is making sufficient progress in simplifying the regulations that impact on the construction industry or do you think the system is in danger of becoming even more complex?

Mr Diment: No, I do not think it is becoming much simpler. The evidence certainly from our members and I think the wider SME community is that whereas there has been some simplification it is being overtaken by additional requirements being added as new regulations come through. I think it is the sheer complexity, the quantity of them, the cost, the constant changes which are causing problems. People can rarely argue per se with a particular regulation but it is the sheer volume of them coming through. I suppose a classic example for our members would be the changes in the Building Regulations. There are 14 parts to the Building Regulations, ten of which have virtually been rewritten within the last five years. There is often not enough time to get used to it. For Part L of the Building Regs published last year the documents were published on 15 March and people were expected to operate them with effect from 6 April. If you have a big compliance unit in your company that may just about be possible. If you are a five, six, ten-man company that is very, very difficult.

Q319 Mark Hunter: So you would agree with my latter comment then that it is becoming more burdensome?

Mr Diment: It is becoming more burdensome without any doubt at all.

Q320 Mark Hunter: I am going to move onto a question about standards setting. The Federation, as I understand it, is an approved scheme operator for the Government's TrustMark?

Mr Diment: It is.

Q321 Mark Hunter: Which is at least in theory designed to help protect people from rogue traders. Could you tell us in your opinion why consumer awareness of the TrustMark scheme is so low and also what your organisation is doing to tackle that problem, if anything?

Mr Berry: The FMB was instrumental in helping to set up TrustMark because we think it is a very good thing to help advise clients. The problem that we are picking up from our members is that TrustMark is not widely known amongst the general public and particularly the clients of FMB builders and that is probably because of poor marketing of TrustMark. We are trying to do our bit by promoting TrustMark in the promotion of material, and certainly in terms of our trade magazines wherever we can we refer to TrustMark. Government funding for TrustMark was cut earlier this year and members are saying there is very little business advantage at the moment in the TrustMark, and so what is needed is a robust marketing and consumer plan for TrustMark so that everyone in the industry is familiar with TrustMark and would know what it means and who to go to if they want any work done in their house.

Q322 Mark Hunter: How many members at the moment are accredited?

Mr Berry: 2,774.

Q323 Mark Hunter: Out of how many?

Mr Berry: Out of 13,000, but that is the largest number within the TrustMark scheme by far.

Q324 Mark Hunter: But there is still some way to go?

Mr Berry: We need to encourage more members to do so and we are trying to do that.

Q325 Mark Hunter: What do you do as an organisation to encourage more of your own members to sign up?

Mr Berry: We are trying actively to promote it to our members but the problem is that all the feedback we are getting is they cannot see the business advantage. Clients are not asking for the TrustMark kite symbol and so until they can see the added business advantage it becomes very difficult.

Q326 Mark Hunter: So you think Government needs to give a lead on this and do more to promote what the scheme is about?

Mr Berry: It was a commitment in the Government's Manifesto and now it has taken away the money. If you are going to promote a scheme like TrustMark you do need to put the money behind the marketing to make sure that everyone knows about it.

Q327 Chairman: How much money is involved in TrustMark?

Mr Diment: There was an initial grant, if my memory serves me right, of about £2 million for the first 18 months of its operation but direct government support for TrustMark ceased at the end of March this year and it is now reliant only on the subscriptions that are paid by the individual companies that are prepared to get themselves licensed through TrustMark.

Q328 Chairman: This comes under the consumer affairs part of BERR, does it?

Mr Diment: No, the construction division.

Q329 Chairman: That leads me to the last question I want to ask you before we let you go, because bogus self employment is an issue that we spent a lot of time discussing at the last evidence session and my domestic boiler featured in that earlier session because I realised I had a bogus self-employed plumber who was very difficult to call to account afterwards for the quality of his work. Is it a matter of concern and also does it have consumer implications? Do your members use self-employed labour or are they typically small teams of builders and craftsmen who go round and do the work on a fully employed basis?

Mr Diment: Certainly a substantial proportion of our members operate entirely with their own employees most of the time but, equally, a large number of them do occasionally have to bring in specialist staff either to cope with short-term peaks or a particular craft that they do not have within their existing workforce. I think it is almost impossible for us to put an estimate on the number who might be employed. We like to

think, and I am reasonably confident, that the vast majority are employed legitimately, but I do not think anybody can put their hand on their heart and say there are none at all.

Q330 Chairman: The business model which actually says a company entirely uses self-employed labour would not meet the approval of your organisation. I am thinking of systematic, well-planned large businesses. Thames Water referred me to this plumbing company and it turned out that the plumbing company was using entirely self-employed people and had no employed staff at all and the responsibility therefore was shuffled between the two.

Mr Diment: When we look at the turnover of a company we would like to see that equate somehow to the declared workforce of the company, and if there was a great inconsistency we would be asking more questions.

Q331 Chairman: Because there are consumer implications for extensive use of the self employed at your level?

Mr Diment: Yes.

Q332 Chairman: And they are different implications to the ones of big businesses who might have other reasons for using bogusly self-employed labour?

Mr Diment: Yes.

Chairman: Okay, I think that concludes our evidence session. Your written evidence came to us some months ago because of our delay in launching this inquiry because we thought we might be about to be abolished, so if there are things that you have not been able to say today that you would like to give us further written submissions, please feel free to do that; otherwise thank you very much indeed.

Monday 10 December 2007

Members present

Peter Luff, in the Chair

Mr Adrian Bailey
Mr Lindsay Hoyle
Mark Hunter

Miss Julie Kirkbride
Mr Mike Weir

Witnesses: **Mr Graham Wren**, National Specialist Contractors Council, and **Mr Trevor Hursthouse**, Specialist Engineering Contractors' Group, gave evidence.

Q333 Chairman: Gentlemen, thank you very much indeed and welcome to this evidence session of the Committee's inquiry into the UK construction industry. For reasons best known to someone else in the room, I have to be on my very best behaviour today, because I have a very fierce judge in the room, I see. Can I begin by asking you to introduce yourselves for the record, and perhaps, as I have asked previous witnesses, if you could explain exactly what your organisations do, because there are quite a lot of organisations in the construction sector, and the Committee is coming to terms with them slowly.

Mr Hursthouse: Trevor Hursthouse, I am in fact chairman of a company Goodmarriott & Hursthouse, an SME operating in the mechanical and electrical services field in Nottingham where it has been since 1913; more recently, part of the European and UK Imtech Group. Our business currently does £30 million a year turnover and we employ 250 people. We operate in the Midlands and North East, and throughout the UK. As far as the industry sector is concerned, I am also chairman of the Specialist Engineering Contractors Group, that is a group of associations which is the electrical sector, heating and ventilating sector, structural steel sector, lifts and escalators, and also plumbing and heating. The electrical sector in Scotland are also members. We represent 8,500 member firms, I believe more like 60,000 firms are involved in our activities, which I suppose I would describe as high level engineering associated with construction projects, so heating, lighting, building management systems, lifts, escalators and the like. The specialist element of individual projects can be as much as 50% of the total value of the project. Overall our sector accounts for in the region of £30 billion per annum. I hope that helps.

Q334 Chairman: It certainly does, thank you. Mr Wren?

Mr Wren: Yes, thank you, my name is Graham Wren, my day job is as executive director of Balfour Beatty Ground Engineering. Whilst Balfour Beatty is a very large company, Ground Engineering actually operates in the sub-contract sector, so all of our work is done under sub-contract. Our turnover is at around £90 million, we employ approximately 600 people. I am also immediate past president of the National Specialist Contractors Council. That is an organisation which represents some 28 other trade associations, and these in turn represent SMEs,

approximately 7,000 specialist contractors who are operating in the building industry mainly, so anything from piling right through to the roofing, these would be the trade associations that would be represented by NSCC. I hope that is helpful.

Chairman: That is very helpful, thank you very much indeed. We will get straight into some detailed questioning built on your memoranda, if I may, for which we are very grateful. Adrian Bailey?

Q335 Mr Bailey: Just on the supply chain integration that you have referred to in your memoranda, basically progress has been slow in obtaining an integrated approach. Why do you think this is so?

Mr Wren: I think the central issue for the industry is that the various parties who go to make up a contract essentially have different business drivers, so we have a client, we then have a major contractor, we then have a professional team, and then below the main contractor we will have a number of specialist contractors who are on site doing the work. The principal business driver for a main contractor is essentially cash, it is making sure that cash is coming in. One of his central drivers should be getting cash down to the supply chain, but unfortunately that does not happen as it should happen. Failure in the supply of cash to the specialist contractors really does undermine the whole principle of integration. If the cash does not flow from the client right the way through the supply chain in a timely manner, then you do not have any principle on which to base good successful integration. The other area I would say is that in terms of the professional team, you have a consulting engineer who is paid on a fee basis for his design. Any value engineering that the specialist businesses can bring to that design process actually goes against often the fee structure of the consultant. Why should he redesign it on the basis of a specialist contractor coming in and offering an alternative? So that could be one of the other areas which legislate against good integration.

Mr Hursthouse: Yes, I will perhaps add to that. It is interesting that Graham says that the principal concern maybe of the main contractor is cash and the flow of cash. It is worth remembering that the industry has changed, and effectively main contractors are managers, and the reality is that the work is done by the specialists. Our staff screw things on walls and make buildings work and actually build them. So we have, if you want, the outlay the

specialists carry out the construction activity. I think also sometimes there is a misunderstanding about what integration really is. It is interesting that you hear it said that because there has been progress made towards achieving the 50% by the end of 2007 target that was in the Egan “*Accelerating Change*” report, to achieve 50% of jobs using integrated project teams: you can have a client and a consultant, a designer and a main contractor, saying, “We are integrated”; well, maybe they are. That is not really an integrated team, but it is from their perception. If you ask them, they may say 20% of projects are integrated. If you ask the specialists, they may say probably 5%.

Q336 Mr Bailey: That is interesting, because what it amounts to is the main contractor has no financial incentive for getting, if you like, an integrated and more cost-effective team together. In the Treasury report on transforming Government procurement which was published earlier this year, it did say the comprehensive spending review should ensure procurement is built on the principles of value for money and sustainability. Do you see any evidence so far from the CSR settlement that the Treasury intends to make procurement funding conditional on the use of an integrated delivery process?

Mr Hursthouse: No.

Mr Bailey: Have you anything else to add?

Q337 Chairman: The Chairman does encourage succinct answers. They are welcomed.

Mr Hursthouse: The answer is no, but I think I find it particularly odd that when you look at the sector—we do not have time to go into all the detail, but report after report, Latham, Egan, NAO reports saying that there is a better way, there is a more cost-effective way of procuring construction. If you take the NAO report, it actually says that £2.6 billion a year can be saved by using a best practice procurement method, and yet the CSR does not refer to it. I suppose as a taxpayer, I object. So why does it not? I do not know the answer to that, perhaps you could enquire into it.

Q338 Mr Bailey: Have you anything to add to that, Graham?

Mr Wren: I fully agree.

Q339 Mr Bailey: Just to add to that, given the fact that the OGC has laid down common minimum standards, this would seem to indicate that Government procurement does not even meet those standards; is that correct?

Mr Hursthouse: Again, I am sure Graham will have a view on this, but it would indicate that they do not keep to those standards, and that is again something I do not understand. OGC have put a tremendous amount of work into producing standards, into enquiring into best practice, into giving guidance on how best practice should be executed. Forgive me, both of us are practitioners, so we perhaps sometimes are not as in tune with these things as maybe we should be, but I understood that the common minimum standards, which are a clearly

defined document, anyone can understand them who knows the sector, were mandatory, but they are not, or if they are, what is the sanction for not complying with them? Because they are not complied with. Certainly if you take local authority work, where there is an enormous amount of Government-funded work done, there is no indication that those minimum standards are applying or will be.

Q340 Mr Bailey: So there is no monitoring of them to see that they are?

Mr Hursthouse: Others may tell you different. If there is, with respect to whoever does it, it is not working.

Q341 Mr Hunter: Can I invite you to stay for a moment on these issues of supply chain integration? You made a number of recommendations in the evidence that you placed before the Select Committee specifically dealing with integrated project teams. One of the notions you advanced was the one about appointing a champion, as you refer to it, to promote the integrated project teams in public sector construction, and various other things. Could you just tell us a little bit more about this champion concept? What form would this champion of integrated delivery take in your view? Are you talking about a single official or perhaps a Ministerial role, or do you actually envisage a whole new Government body? What activities would you see this champion being responsible for carrying out?

Mr Wren: I would like to think of a champion in the sense of—the analogy being a client, and the best integration happens when that client or champion takes a very central role in the procurement of his project, his or her project, through the supply chain. So good practice in terms of payment, no retention, is driven from the top rather than driven down to what I would call tier one, which is the main contractors. Because if it is just driven down to that level, then all of the other business drivers that I talked about earlier, in terms of the contractor makes money out of cash, the supply chain makes money out of doing things, all that is lost, so all of the best integrated projects are on the basis of a very clear direction given by the client or champion about how that project is going to be delivered in terms of good practice.

Q342 Mr Hunter: So that is the function and purpose, but who or what is the champion, as you see it?

Mr Wren: Well, if you take public procurement, it would be very nice to think, at the very highest level, in terms of a construction minister. A construction minister could set down the rules and good practice by which all public procurement is to take place. I think the problem we have at the moment is that there is a growing commitment to best practice, to good payment practices, to nil retention, but there is no enforcement.

Q343 Mr Hunter: I think we accept that the case is there for this kind of thing. It seems to me you make a fairly logical case for it, but is it your contention that this job ought to be at ministerial level? Is that what you are actually advocating, or did you have in mind somebody else who is an expert in the sector being brought in specifically to do it? I am just trying to understand how it would work in practice if the Select Committee were able to say, “Your wish is granted, we are going to set up this champion”, what exactly is it?

Mr Hursthouse: The minister perhaps might be an obvious person to be the champion, to have a level of authority.

Q344 Mr Hunter: It might be the obvious one, but is it the one that you would personally want to see?

Mr Hursthouse: Ideally, but I think as an alternative, it would be a high profile individual who was briefed with the task—perhaps with a small staff driving these benefits into public procurement.

Q345 Mr Hunter: Okay, that is helpful. Just on the same thing, my final point is: could you perhaps give us your views on whether or not private sector clients are any better at stipulating the use of integrated teams when procuring projects? If they are, why that might be the case?

Mr Wren: Generally, yes. It is not as widespread even in the private sector as we would all hope, sitting at the specialist sector level, but generally, where it does work in the private sector, it is very successful, and what I think distinguishes them is that they do take a very active role, as I have described earlier, in terms of determining the agenda for their project. We are often talking about a discrete and single project, it may be quite large, but nevertheless it is just one project, and they pay very close attention to the risks associated with their project, so who is in the supply chain, and the competence of the people within their project. Some of the best clients that actually I have worked for in my company are the ones that actually sit at the table with all of the team associated with their project and run through risk assessments; they actively allocate risk to those people who are best placed to deal with that risk, and they understand, most importantly, the differentiation between value and price. That is something which is still not appreciated in our industry, and there is still a tendency to fall back to lowest price. The good clients are the ones that understand the best value.

Q346 Mr Hunter: Your case is that there is clear evidence that the problem is much more in the public sector than private sector?

Mr Wren: In my experience, yes.

Mr Hursthouse: I would say I have shared that experience.

Q347 Chairman: Just give me an example of good practice in the private sector—not Terminal 5, we have heard enough about Terminal 5. Another good case history in practice.

Mr Wren: I can give you a personal one, if that would help. Around about seven years ago, a private developer in London determined that he was going to not take the traditional approach of just appointing a contractor to let that contractor get on with it, he was not going to just appoint a designer to design the work, he chose upfront his supply chain, he did a lot of homework in terms of who that supply chain would be, and brought them in on a single action basis to work up the design with his professional team. Then as the chairman, almost, of the group around a table, he decided how he was going to allocate the risk associated with the project. The most important aspect of this is that the supply chain, because they were locked into the project, were willing to share all of the risks and opportunities associated with the project with the client. The client was then able to see not only the risk but the opportunity he might have to improve upon the project, and the philosophy was simple. By involving early, he understood in a lot greater detail all of the risks and opportunities associated with his project, and he had much greater certainty of time and money, to the point where he was able to negotiate with his whole supply chain credits if we all went quicker. We actually paid back to the client some money at the end of our project, almost unheard of. That was some time before integration really was taking off.

Chairman: Thank you, that is a very helpful illustration of the point. Before I bring in Mike Weir, Adrian Bailey has one last question.

Q348 Mr Bailey: Very interesting. On the surface, it would appear that you are almost calling for more regulation. Is it an issue of more regulation or better enforcement of existing regulation to achieve this?

Mr Hursthouse: If we are talking about the public sector client, which I think we are particularly, then I think better enforcement of current knowledge. It just seems, well, almost bizarre, the fact that there is a wealth of information out there which everybody agrees—there is nothing wrong with it. I do not see reports saying that “Egan is nonsense, Latham is nonsense, the 2012 commitments are nonsense”, nobody is saying that. Even OGC set out, as I said earlier, clear guidelines, directions, support as to how to carry these things out. Yet there is a break, there is a link missing, that when people come to do the work, they do not use it. If a respected Government department like OGC gives advice on best practice, why would you not use it? Why do you say, “Well, I have heard all that, I have read all that, but I am just not going to do it”?

Q349 Mr Bailey: Just ignore it.

Mr Hursthouse: It seems odd.

Chairman: We are going to dig a little deeper now with some questions from Mike Weir.

Q350 Mr Weir: Mr Hursthouse, in your memorandum you stated that project bank accounts would help facilitate integrated working; you also suggest these could equate to a 2.5% saving on project costs. Could you tell us first of all how it

would create savings for clients, and given what you say, why have main contractors and clients not sought to use project bank accounts to date?

Mr Hursthouse: Well, how does it save money for clients: there are costs associated with acquiring credit in the industry generally, and if you do not receive prompt payment, those costs have to go somewhere. At the end of the day, the client pays all the costs, that is inevitable. We will perhaps talk about it in due course, but if you have an industry which has a problem with late payment, then it has to cope with that by paying for credit. One of the issues about which there is most dispute on any project, and I am afraid there is sometimes too much dispute in construction projects, is about payment. Perhaps we will discuss them in a little while, but project bank accounts can solve a lot of those issues. The money is directed into the supply chain simultaneously, rather than cascading down and being delayed for good or bad reason. I think there is money saved, because people have to spend a lot of money collecting cash when there are payment issues. Another issue that is not necessarily recognised is insolvency. There is a case where because cash has not reached people on time and in the right amount, insolvency occurs in the supply chain, and that can be very, very disruptive, and very, very costly, and there are examples of that. There is another further hidden issue, which is that if people in the construction supply chain are not paid on time, and not able therefore to discharge their responsibilities and debts, the thing begins to stack up down the system. There can be difficulties with suppliers created because of that, and again, that is disruptive to the supply chain team and again that becomes disruptive to the project. So all of those are costs which can impact on the project and therefore ultimately on the client. As to why main contractors and clients do not use them, Graham spoke earlier about the main contractors' access to cash, and cashflow management, and the extent to which he has large sums of cash, very often, which are being disbursed to other parties in the project team. The current mechanism is that all the money arrives with the main contractor and then it is disbursed. You hear us referring to main contractors here; I would not want to give completely the wrong impression. Not every main contractor is doing every bad thing that every main contractor would ever do, there are some perfectly respectable main contractors in the industry who are champions of the industry and behave in a very different way. So why would those sort of people, who are using that cash to perhaps rob Peter to pay Paul, or whatever, keep their business going with the cash in hand, and being able to hold it back a little while, bear in mind these are relatively large sums of money. So if you have the wages to pay on Friday and somebody owes you half a million pounds on Wednesday, and it does not turn up by Thursday night, you can have a very sleepless night.

Q351 Mr Weir: I understand all that, and I can see from your explanation why a main contractor may not want to go down this route, because he would

not have the use of that money, but surely it is in the client's interest for the smooth running of a contract to go down that route, so where is the logjam for imposing it? Do clients have the power to say to main contractors, "I want to do this so my contract runs smoothly"?

Mr Hursthouse: Yes, they do, and you would expect they would want to, although sometimes, because of the reasons we were talking about earlier, the client has a relationship with the main contractor and a small team at the head of the project, not with the specialists, and does not necessarily recognise the extent to which those specialists are carrying out the work, and rely on an appropriate flow of cash to allow them to be able to deliver the service that he is looking for. I think that is sometimes just not appreciated that the client can say, "We will have a project bank account".

Q352 Mr Weir: So basically the contractor that Mr Wren told us about, his approach would probably push him towards doing that perhaps, but your average client would just say to contractors, "Here is a job, get on with it", and not really be interested in the nuts and bolts.

Mr Hursthouse: Just that, without looking at the bigger picture. Very often, if you were contracting a large construction job and you know that to complete that job, you need a group of people, specialists—

Q353 Mr Weir: Then the question is: how do you get clients to take more of an interest and to insist upon doing this?

Mr Wren: It just goes back to the central issue of the client understanding what best value means. I have some sympathy with clients because why should the client have to get involved through the supply chain? You know, I have appointed a contractor, I have appointed my professional team, and if I am a one-off client in the construction industry, why do I have to go through the whole supply chain, and also make sure that I understand all of their issues and their payments as well? Well, the reality of the situation as it is currently structured is that unless the client does that, there is a very real risk his project will go wrong, it will go over budget, it will go over time, simply because of all the business drivers which we described earlier. The contractor makes money out of his cash, the supply chain need the cash to do the work, and as soon as those two fundamentals go out of kilter a lot, that is when you get the disputes coming through your project.

Q354 Mr Weir: It does not sound to me like there is an awful lot of drivers for anybody to actually push this forward in any way, the contractors or the clients, from your explanations.

Mr Wren: Sorry, the problem we have is we have lots and lots of good practice in our industry, you know, in my own business, I am sure in Trevor's business, we can point to lots and lots of good practice. We are not joining it up.

Q355 Mr Weir: I think we had better move on. You also mentioned collaborative contracts; can you tell us what the key features are of a collaborative contract and whether there are any good examples from the public sector of such contracts in operation?

Mr Wren: Yes, there are some key features, I think, of a good collaborative contract. Not in any particular order of importance, but I think early supply chain involvement, that is where you will realise best value in your project; an understanding that actually the supply chain also do quite a lot of design; contrary to what you might think, probably most of the design in a project is carried out by the supply chain and not actually by maybe a consulting engineer or a structural engineer, and payment for that, I think, should be recognised, and it is not currently; a clear identification, I think, of how risks are to be handled on a project; fair payment mechanisms; no retention; and a clear path that escalates disputes with the courts being last resort. I think for me, those would be the key features.

Mr Hursthouse: Yes, sharing risk is the thing, collaboration, as it is defined; I think one of the troubles we have is people arrive and become a party to the contract, progressively, too late. We arrive as the electrical engineer for the job and somebody tells me, "This is the design and this is our target costs". Well, if you say they are both wrong, it is a bit late to be doing anything about that, and thereafter, everyone has a problem. But if you buy into it at the very beginning and say, "We agree this is the right design, we agree this is the right target cost", we are not in a very good position to start saying later on, "Well, the price has all gone terribly wrong", because the client understandably says, "Well, you bought into it, you had better put it right", so it is a shared risk.

Q356 Mr Weir: And an example in the public sector? Have you got any good examples from the public sector?

Mr Hursthouse: From the public sector?

Mr Wren: I think the NEC contract?

Mr Hursthouse: Well, the contracts themselves; the project I thought you were referring to. Yes, the new engineering contract is something which is being used by ODA, for example, on the Olympics, and I think it is the recommended contract by OGC, it should be the contract of choice but I do not think I have ever seen it used on a public contract.

Q357 Mr Weir: You also say in your memorandum that different Government departments are using different types of contract. Do you think the Government are making sufficient progress into standardising contracts across departments, and indeed to what extent is it possible to achieve such standardisation?

Mr Hursthouse: Again, forgive me, but the straight answer to your first question is no. It is not as simple as that. There are a plethora of contracts, I suppose, because they have been built up by, with respect, this sort of unjoined-up construction procurement that has gone on across Government, so they have really

been almost in silos, creating the contractual arrangements. Now is the opportunity for OGC and others—I am sorry to keep referring back to it, but you would expect me to—to say, "Look, this is how you should procure construction and this is the contractual arrangement you should have". I suppose thereafter, you say, well, why do they not get on with it and do it?

Q358 Mr Weir: That one does not seem terribly hopeful either, so I will try your third mention of project insurance. Can you tell us what progress, if any, has been made towards widescale adoption of integrated project insurance?

Mr Hursthouse: Well, not necessarily widescale adoption, but it is a new concept for the industry, and one that has enormous potential value, and some pilot projects have been identified. I think the intention was that there would be ten public sector trial projects with a value of about £250 million, and that is actually coming to fruition now. There is a project, I believe, which has been identified for the purpose, at Southport General Infirmary, where this will be trialled, and on the rest of the 10 projects, to see whether the theory—well, not the whole theory, because elements of it have already been applied successfully—will turn into practice. But inevitably when you are doing it with construction, these things take time to be implemented, for the outcome to be seen.

Q359 Mr Weir: Are insurers generally willing to offer such insurance, in your experience?

Mr Hursthouse: There is a group of insurers who have agreed in principle to collaborate in developing the concept on the pilot projects. This is an initiative that SEC Group and OGC in particular have been involved in, in bringing the whole idea together, and bringing the right people together to insure projects. It is one of those concepts that is, I suppose, almost, you would think, quite obvious. Everybody in a design team has to pay professional indemnity, everybody on site has all risks insurance and so on, so the insurer looks at the project collectively rather than looking at each party's business and thinking of all the things that might happen to it in any given year which it cannot really control, and in doing that, it is looking at the competence of the construction team, who of course can take risks away from the insurer. But it does go a stage further, and the real opportunity out of it is it will in fact then insure the project itself, in terms of its outturn, both cost and time, but again, to do that, there is a bigger emphasis on the project team, because the insurer is saying, "Can these people deliver? Will I insure them?" In a way, it is a catalyst, I guess, for integrated project teams to be put in place.

Q360 Mr Weir: Finally, the problem of retentions has always been one within the industry. Has it improved any since the Committee last looked at the issue five years ago, and if not, why not?

Mr Wren: I am tempted to say no. I would say not really. There have certainly been some improvements but it is not the pace which we really

need to see. I think it just goes back again, without wishing to sound like a cracked record, to the central issue of the key business drivers being the parties involved, the issue of cashflow. What you have to appreciate, I think, is as a specialist, my business has a high capital cost, it invests in a lot of equipment, direct employees, training, all of those sorts of issues, I am what I call a capital user. It is absolutely fundamental to my business that my return on that capital is adequate and that I am getting cash through my business as well. Now the major contractors—and as Trevor has said, there are some great ones out there, really good for the industry, but a primary business driver is their cash that they hold in the business. That cash is cash which is generated on a project and should be going through the supply chain. The longer you hold on to that cash, the more you can make from it. Therefore, retentions is one element of that. If I make 3% profit and I have 3% held in retention for two, three, four years, then how do I invest? I cannot invest in equipment, I cannot invest in training; and that is where the problem lies.

Q361 Mr Weir: Given that, is there any difference about the way it is dealt with in the private sector as opposed to the public sector?

Mr Hursthouse: I think there is, yes. There are enlightened clients in the private sector who engage with people in a way where they do not feel it necessary to take retentions. There is an issue here which comes up time and again: trust. Graham is talking about probably a more enlightened approach to integrated project teams, to working closely with a full project team. If you engage somebody and say, “Well, I would not engage you unless you were reliable”, why would you take the retention? It is rather like saying to somebody, “I am going to employ you but I actually think you are going to do a lousy job so I will just hold your money back”. If it will help you in terms of the scale of the issue, perhaps examples are quite good, in my own company, which is a business which does £30 million a year turnover, the last retentions report had shown a total held of just over £1 million, £525,000 worth of those were overdue. The oldest overdue was November 2005, and over £110,000 of those were due in 2006. We are a business which is very professional when it comes to collecting our money, we employ a lot of resource in collecting our money. Even so that is the position we find ourselves in.

Q362 Mr Weir: And how about the public sector? Who are the worst in the public sector for holding onto retentions?

Mr Wren: It is a bit patchy, but generally, I think, the local authorities are still holding onto quite a lot of retention. Interestingly enough, a lot of Government departments now have a policy of no retention, but it is not enforced with the contractors, so do you know what your contractors are doing actually with the supply chain, in terms of retention down the line? You will find that almost 100% of the contractors are holding retentions on the supply chain that are doing work on Government projects, and this is what goes between commitment and enforcement.

Q363 Chairman: So the taxpayer is funding the profits of the contractors?

Mr Wren: I would have to think about that one.

Mr Hursthouse: Well, insofar as the taxpayer is a client, I suppose—

Q364 Chairman: The taxpayer is paying the contractors’ fees and they are not passing them on down the supply chain, so the taxpayer is creating a huge cash balance for the contractors.

Mr Hursthouse: Yes, but ultimately it gets passed on. It is just that it is often withheld for long periods of time.

Mr Weir: Given your earlier answers and the suggestion that the taxpayer is in effect keeping the main contractor going, in the same way as a private client would be paying him the money he was holding onto to pay his wages, and to stop borrowing more money, so in effect it is an interest-free loan from central Government, if that is what is happening.

Mr Wren: Effectively.

Mr Hursthouse: If you hang on to somebody else’s money, you are, I suppose, getting an interest free loan, yes.

Mr Wren: An inspection of contractors’ balance sheets will show you the difference between the profit and the cash. You will see that there is quite a big imbalance on most of the balance sheets.

Q365 Chairman: The public policy issue is retention is doing harm, you say, to the construction sector, so the Government can say, “Tick the box, no retentions, we are meeting all our objectives.” In fact, in practice, it does not make any damn difference at all, because the sub-contractors are not getting paid.

Mr Hursthouse: I do not think we could say that was universally true, but that is something which happens, that is for sure, yes.

Mr Wren: That is generally true.

Mr Hursthouse: At Government level, with local authorities, they do hold retention and they openly tell you how they make money with it and use it for other purposes. I think in the report you had from either of us, that is defined, I mean, it is a piece of policy.

Chairman: Thank you. Thank you very much, I am very grateful. Lindsay Hoyle?

Q366 Mr Hoyle: Can I just follow on from that a little, because I am a little bit concerned. As contractors, why do you enter into a contract when there is a retention there? Surely it is down to yourselves. You are masters of your own destiny.

Mr Wren: I sometimes ask that question myself.

Mr Hursthouse: It is a very good question. Well, you do not! I mean, of course, all of this seems sometimes bizarre. It is a very good question, Mr Hoyle. Why does not the specialist contractor turn around to the main contractor, whoever it is, and say, “I am not having your contract, clear off”? I take your point, but it is not quite like that. The relationship in the industry is not quite like that. What actually happens, you have a specialist, who is the guy who is

doing the work, he has a number of employees, whether it is 50 or 100, and he needs a workload to keep his business going. Now from time to time, and it is interesting how we were talking about the inconsistency of contract types, people come to you, there is a dialogue to secure work, and basically what you are left with very often is, "Well, here is the work, it is yours because you are the cheapest, but anyway, it is yours, and here is the contract". This is where the power game plays, if you want, of, "Well, if you do not have the retentions, you are not getting the job then". "Hang on a second, I have 50 blokes here, what am I going to do with them?" So there is an element of taking on contractual conditions which either have to be tolerated because it is custom and practice, or you assess the risk, that is not likely to happen anyway. So it is a rather unusual relationship, and whether I have described that sufficiently, I do not know, but the reality is the work flow in a business has to continue.

Q367 Mr Hoyle: Presumably you build in for it as well.

Mr Hursthouse: There is an extent to which you do.

Q368 Mr Hoyle: So it is not quite too many—

Mr Hursthouse: No. But then the cost goes up and the client pays for it.

Q369 Mr Hoyle: That is the reality, is it not? You are not really losing out, everybody is passing it on. Just out of interest, as a specialist contractor, you will also have more specialist contractors supplying you.

Mr Hursthouse: Yes.

Q370 Mr Hoyle: Do you hold back from them?

Mr Hursthouse: That is an interesting question as well, is it not?

Q371 Mr Hoyle: I just wondered—

Mr Hursthouse: I can answer it quite honestly. If there is no retention on us, we do not.

Q372 Mr Hoyle: But if there is—

Mr Hursthouse: We do, except we actually in our business have some thresholds, where we say: if this piece of work that has been carried out is below a certain level, we do not take retention.

Q373 Mr Hoyle: So the food chain, yes.

Mr Wren: Could I just correct one thing? I think you will find in our SME sector, we are not talking about 50 employees, you might be talking about less than five employees. The continuation of work with their clients, ie contractors, is an extremely important issue for them, and therefore, they are willing to let retention flow through on the basis of getting continued work. Whether they should be doing it or not, the realities of the situation are that they need to trade in order to survive.

Q374 Mr Hoyle: Okay, I think we have made our own points, thanks for that. Can I just move you on to the review of the Construction Act? Why does the Construction Act in its current form fail to meet the needs of many parts of the industry?

Mr Hursthouse: I think on two particular points. The two most important points are probably the subject of payment and then of adjudication. In the case of payment, the objective or requirement, probably the objective, I think, was to provide an adequate mechanism to give people certainty in terms of the amount of payment, and when they would receive payment. In other words, there is an agreement to pay this on this date, and we were talking earlier about these cashflow issues, so there was a requirement to achieve that, and there are reasons why that has not been achieved, which we can perhaps go into. In the case of adjudication, there is a scheme which is part of the original legislation, and the intention was that it should be straightforward, simple, a quick, low cost way of immediately resolving a dispute, usually to keep the flow of cash going, and for all sorts of reasons that has been frustrated, manipulated, interfered with, whatever you want to call it, when, to be blunt, the lawyers got their hands on it, no disrespect to any lawyers in the room.

Q375 Mr Hoyle: We always like to blame those. In the case of the SEC Group—I suppose that is the best way to call it?

Mr Hursthouse: Yes, that is fine.

Q376 Mr Hoyle:—they state in their memorandums that the current consultation on the amendments to the Construction Act bears little resemblance to the original review of the area conducted by Sir Michael Latham in 2004. You have touched on it, but could you outline your actual main concerns on BERR's or DTI's proposed amendments to the Construction Act?

Mr Hursthouse: As far as we are concerned we must achieve that objective; that is, certainty in terms of times and quantum. The discussions with BERR are ongoing and they are very open. I personally believe that they can be productive and successful. I do not think at the moment there is certainty that we have achieved that objective, but I believe that we can; and, if I am honest with you I believe we will. I believe there is a will to achieve that requirement. The fact is that if you look at the thing originally there has been an understandable desire to achieve consensus of opinion as to how these things should be resolved. I do not understand the technicalities but there was a regulatory reform order or whatever, and that needed consensus to make it work. The reality is, as I hope we have been explaining, that the parties are in different places in this issue, and there will not be consensus. It is just unlikely that there can be because we have different objectives.

Q377 Mr Hoyle: The Construction Act: four years ago it started: who do you blame for it taking so long to complete?

Mr Wren: I am not sure we are into blame.

Q378 Mr Hoyle: Who do you hold responsible, then? Is that better? We will dress it up!

Mr Wren: I am not going to get drawn into blame.

Q379 Mr Hoyle: Who do you hold responsible?

Mr Wren: The central issue is that, as Trevor described, we need to get consensus in an industry where we have already, many, many times—

Q380 Mr Hoyle: Okay, it is consensus; so another 10 years on, are you still going to say “consensus” or are you going to actually say, “Well, to be honest with you, we believe it is . . . ”?

Mr Hursthouse: The answer to that—no, no, another couple of weeks we will have it cracked, and then on the statute book!

Q381 Mr Hoyle: But if you do not?

Mr Hursthouse: If we do not, we will—

Q382 Mr Hoyle: Do you blame the lawyers?

Mr Hursthouse: No, no. We often do blame the lawyers, and we will! Look, as far as this thing is concerned, as I say, it is absolutely crucial. There are people who do say: “Let us have something that is nearly right and move on.” There is no value in that; it does have to be something that is going to work. I take the view that however many years it is we have been in this review, if you assume the review had a purpose—and I believe it did—then surely it has to be seen through to a proper conclusion? That conclusion has to be something that delivers what we are trying to achieve or what BERR is trying to achieve. I believe it can do; I believe there is a willingness there. In fact we have a meeting with BERR on Thursday for that very purpose.

Mr Wren: Can I add to it? I probably will get drawn into blame now! The central issue is that clearly contractors have a strong lobby, and it relates to cash flow. Those that do not want the cash to flow or to muddy the waters in terms of when that cash will flow clearly have an interest in not making it flow. If we are honest with ourselves, then it is the specialist group, lobbying for fair payment against the contractors’ group, that wants to keep the thing muddy—which is what it is now.

Mr Hursthouse: Five Ministers in four years does not help either.

Q383 Mr Hoyle: So the strong lobby group continues. You are still using those old peers, are you, to lobby for you?

Mr Hursthouse: Yes, very good they are too! I am not so sure about the old!

Mr Hoyle: He has just woken up—we are all right!

Chairman: We are not allowed to—

Mr Hoyle: Can I just move you on to—

Chairman: I think “old” is a bit unfair.

Mr Hoyle: That is why I said it, Chairman!

Q384 Chairman: Can I be clear? You are blaming the industry not the Government largely for the failure to make progress in this area. That is the important—

Mr Wren: No.

Q385 Chairman: Corporately.

Mr Wren: Corporately, yes. The industry has got lots to answer for in terms of the way that we are structured and the way that cash does not flow. There is an opportunity for Government to clarify through this process. In trying to get consensus I think we are going to lose it. That is, in my view, the problem.

Q386 Mr Hoyle: In the case of NSCC, they note that clients in the public and private sectors have committed to only using contractors that hold CSCS (Construction Skills Certification Scheme) carded workforces, but that is not actually happening. Why is it that many of the clients and contractors are still not delivering the commitment on both sides to use the CSCS carded workers?

Mr Wren: I would probably disagree with you. Our experience is that most of the specialists operate a 100% carded workforce, and I think it is the same for SEC Group. There has been a lot of time and investment in making sure that we do go there. I think the main contractors group has a very strong commitment of only using 100% carded workforce on their sites, and clearly in terms of card number uptake it is very good this year and increasing. I think the issue is not the commitment the industry has in getting the carded workforce; in my opinion it is enforcement. When you turn up on site with a card and have spent time and money in getting that card, you want to make sure that that card is checked for your work on that site. Sometimes I think that is not happening.

Mr Hoyle: What worries me is that in some of the evidence that has been provided—and it goes on to say in specialist skills; it says that clients have committed to using contractors with CSCS carded workforces, but this is not yet happening in practice; and this is a concern for those companies that have invested in qualifying their workforces. So they are saying that SMEs have not been able to invest because they are not quite sure where the next job is and where the next contract is coming from, and it is a lot of money to make sure everybody is carded.

Chairman: For a point of clarity, Mr Hoyle has just summarised your own evidence to us, quoting your words to you.

Q387 Mr Hoyle: So if you do not like your words, you should not put them down.

Mr Wren: Well, I understand that. I can only tell you from my own experience and that within the NSCC. The complaints that come back to NSCC are: “I have invested in getting my CSCS card, but I am working on a site where other trades have not got CSCS cards: why should I invest in this card?”

Q388 Mr Hoyle: You just said to me that that is not the case; now you are saying that is the case, but it depends which part of the contracts and which side they are on.

Mr Wren: Well, you have got to view this as to whether—

Q389 Mr Hoyle: It either is or it is not the case.

Mr Wren: Look, it is a big issue in trying to get the whole of this industry moving towards—and it will take time. All I can tell you at the moment is that in terms of uptake and in terms of commitment from major contractors and from clients, they are saying: “We want to see a fully carded, 100% CSCS workforce.”

Q390 Mr Hoyle: I understand that, and I am not trying to corner you a little bit. They are delivering on their commitment but they are not delivering on the number of people who are holding the card—is that fair to say?

Mr Wren: From my own experience there is a delivery on the commitment, and from nowhere it has—

Q391 Mr Hoyle: We wish to see it. That is the objective.

Mr Wren: Absolutely, yes.

Q392 Mr Hoyle: The problem is they cannot put the ball in the net because they have not got the ball!

Mr Wren: Yes, and I think also there is a question of it being mandatory on sites, and it is a question of the client again. It is not all the client; the client is assuming that if he has employed a good contractor and a good set of contractors and specialists, they will all be CSCS. It is not perhaps the right analogy, but if you are not a Corgi registered engineer you cannot go working on gas—it is illegal.

Q393 Mr Hoyle: It does not stop them.

Mr Wren: I know, but can you ever? So they get prosecuted and—

Chairman: We are running a bit short of time. I do not want to flog this to death but there is one point. Can you reflect on what your evidence said to us, and the particular thing at the NSCC here, but can you just clarify—

Mr Hoyle: I would say, please, if you would clarify; but also, is there any help and support that is needed to make sure that everybody carries the card?

Chairman: A supplementary note would be very helpful on those points.

Q394 Miss Kirkbride: The SEC Group has suggested some core criteria for assessing the competency of construction firms. Can you outline what they would be?

Mr Hursthouse: Certainly in terms of health and safety they have been incorporated into the CDM Regulations. I am not going to trawl through all of that or try to list them. The principle, where they

are coming from, is that what currently happens is that there is a plethora of qualification schemes which qualify businesses to carry out work on various projects, whether they are Government schemes where you go through a pre-qualification process for a health sector project or a school sector project—just anywhere—just qualifying schemes all over the place. Some of them are sub-contracted to the private sector to gather this information together. Very often there are costs, often not insubstantial, in qualifying and getting accreditation—“unless you have this accreditation you cannot work on the project”—and if you go into another section you need that accreditation. The view is: “Just a minute, competence evidence on construction projects—there is an element of it which is just universal; if you cannot behave properly when it comes to health and safety, you should not be allowed on the site.” That applies to everybody. The thinking is that there should be some arrangement where there are core competences and there are schemes where you can qualify and those schemes relate to each other. If I were to get into this scheme it has some sort of accreditation to it; then I would get into that scheme and that scheme and that scheme, and I would not have to qualify for half a dozen schemes. There are very good schemes being run by trade associations, which are undoubtedly very thorough and very effective, but again I can qualify for one here and one here and qualify for one there—so core competence for assessment would save an awful lot of trouble and be a level playing field in terms of what competence really means.

Q395 Miss Kirkbride: Do you see at present any difference between the public sector and the private sector with regard to this plethora of competences?

Mr Hursthouse: To be blunt, no. I have got one contractor telling me I have got to qualify for him; I have another one telling me I have to qualify for him. The answer is “no”. As I said earlier, there are within the CDM Regulations some core competence criteria, which is a good place to start, and it is something that should be developed if there is work to be done.

Q396 Miss Kirkbride: Because they are effective. So what is your view on the effectiveness of Constructionline, BERR’s own database for construction firms?

Mr Hursthouse: It is a self-certifying paper exercise, and it has not delivered.

Mr Wren: If it does not have third-party accreditation, it is not worth it.

Q397 Miss Kirkbride: It is a waste of time?

Mr Hursthouse: You might be able to recover it, but as far as what it delivers now—probably, yes. That is perhaps overstating it, but it is not what we are looking for in the industry.

Q398 Miss Kirkbride: If there is a particular issue that you would like us to raise with regard to the Olympic Delivery Authority when we see them in the New Year, your chance is now!

Mr Wren: I would say all the things that we said before. Choose your supply chain, choose it early and choose it wisely. It is the specialist sector that is going to build the Olympics, let us be clear. We have much to offer. Get in early and there is value engineering and innovation to be done. If the ODA adopts a hands-off approach and stops at its tier 1, which is the major contractors, and relies on them to do what they are going to do, nothing will change. Projects will be let on price rather than best value. Risks will be sub-contracted down the line. It does not matter where you sub-contract a risk—if it happens it will be to the detriment of the Olympics, and the best thing to do is understand the risk and manage it. Make sure cash flows through the supply chain. If you do not do that, you will end up with the experience of a fairly major national stadium not too many miles from here, rather than the experience of the Emirates Stadium, which we shared, which we both worked on. That was good practice in terms of supply chain integration. The 2012 construction commitments which were developed for the Olympics—it is important that they do not just stop at the contractor; but that the contractor operates those construction commitments through the supply chain. We need to see evidence that that is happening currently.

Q399 Miss Kirkbride: You drew the analogy with the Dome: is the Olympics going to be ready on time?

Mr Wren: It will.

Mr Hursthouse: It certainly cannot be late. This is absolutely true: before we were here, as you might imagine, we consulted and we were aware this might come up, and so Graham just told you what he told you, and I can tell you categorically that I have very little to add to that—in fact nothing to add to that: I would agree with him entirely. As he said, we both did work on the Emirates, and the question is: do you want an Emirates or do you want a Wembley? I know which one I prefer!

Chairman: The question answered itself.

Q400 Miss Kirkbride: The Dome was ready but not finished, I would argue—but there we are.

Mr Hursthouse: As a construction project it was completed on time and on budget. What they put inside it was another matter.

Chairman: It is quite good to think of the function of a building before you build it—but never mind! Gentlemen, you have been a very good double act, if I may say so—admirably succinct. You have not replicated each other's answers either! We are very grateful to you. I know it is a slightly difficult and artificial way to conduct these affairs, bringing the two of you together, but we are short of time, and you have done your sectors proud. We are very grateful. We have suggested one additional written memorandum, Mr Wren, but if there is anything either of you have not had a chance to say today and on reflection you would like to qualify your written evidence to us, please feel free to drop a note and make that clear to us. Thank you very much indeed.

Witnesses: **Mr John Slaughter**, Director of External Affairs, and **Mr John Stewart**, Director of Economic Affairs, Home Builders Federation, gave evidence.

Q401 Chairman: Welcome. Thank you very much indeed for your written evidence and thank you for coming. Many years ago when I was in public relations I used to work for something called the House Builders Federation, and I think you may be related quite closely, so what do you do, and why the house not the home? Please introduce yourselves for the record as well.

Mr Slaughter: I am John Slaughter, Director of External Affairs for the Home Builders Federation.

Mr Stewart: John Stewart, Director of Economic Affairs at the Home Builders Federation.

Mr Slaughter: We used to indeed be the House Builders Federation until about two years ago, when we changed our name. The idea of that was to ensure that we better represented what the industry is now doing. We do not simply build houses; we build flats and mixed developments; we are involved in urban regeneration. However, we liked our acronym, so we made the massive shift from House Builders to Home Builders.

Q402 Chairman: Thank you very much. That is very clear. In a way we are changing gear with you today, because a lot of our work until now on this quite

intensive inquiry has been on the larger projects; now we are talking about a very different sector of the market. Can you explain to us in practice how the home building sector differs from the rest of the “constructionists” we have been talking to?

Mr Slaughter: In a number of ways. The starting point is that essentially it is quite a high-risk industry, with the critical raw material of land supply through the planning system being its lifeblood. That in itself introduces quite a lot of uncertainty. In terms of the scale of operations, which you have touched on, Chairman, it is fair to say that although there are some major home-building projects, they are the minority of what the industry is doing. Statistically, the average development is something like 27 homes; so essentially we have relatively small-scale local output of housing across the country. In fact, the industry is characterised by a very large number of active sites at any one time. Some of the large companies may have as many as 350 or 400 sites in production at any one time across the country. That is one way of characterising the difference. It takes a long time to bring sites through the planning system from the point of view of originally identifying

strategic sites that may be developable, then securing planning permission and then being able to start work on site. That introduces uncertainty in the sense that our main customer is you and I, or anyone else in the country who might be looking to buy one of our homes. The market we represent is obviously a volatile market. In the gap between the start of the production process and the end, when you are selling to a final customer, things can change quite a lot. There is a lot of uncertainty and commercial risk in developing house building sites and bringing them to fruition. If we had to characterise ourselves as an industry, we would see ourselves as developers, certainly not contractors, with a lot of risk in the way that I have mentioned, making it essentially a speculative industry, with all the issues that that potentially entails.

Q403 Chairman: What about fragmentation? What is the size of the largest player in your sector and how does that compare with the rest of the sector?

Mr Stewart: The largest company now is around 20,000 homes a year, and there are three in the “15,000–20,000 units a year” size band. It is difficult comparing it with the contracting industry because they do not build homes in the same way.

Q404 Chairman: In terms of the available market do you regard yourself as more or less fragmented than your sister companies elsewhere?

Mr Stewart: In construction?

Q405 Chairman: Yes.

Mr Stewart: I think it would be very difficult to make that comparison, but there is a long tail of smaller companies in house building, just as there is in construction—but whether they are comparable is difficult to say.

Q406 Miss Kirkbride: In your memorandum you say that the planning system is the principal barrier to building homes and growth in your sector. Are you seeing any signs that Government’s Planning Policy Statement PPS3 is beginning to have an impact on the amount of land available?

Mr Slaughter: It is very early days on that because that new planning policy statement only came into force in April this year, and the whole process of adopting local plans and bringing sites through the system is quite slow. However, we are hopeful that it will make a difference because the new guidance from Government says that once local authorities have identified what their housing needs are, they must identify a rolling five-year supply of land that is truly developable in order to achieve that, and further strategic land supply beyond that for their housing needs. That is a significant difference compared to the requirements of the previous planning guidance that it replaced in April. We are hopeful that that will make a difference. To my understanding there have been a few appeals that have been considered and decided since the new guidance came into force, which have essentially backed up its requirements in the sense that where there was not a clearly identified five-year land

supply and a site was being considered under appeal, the inspectors have said that it is reasonable to grant planning permission because the local authority had not fulfilled its requirements to provide the requisite land supply. That is also early days. If you believe in the power of good exemplars, then the action that the planning inspectorate has begun to take may well be significant, and we would like to see that continue.

Q407 Chairman: We do not want to trample too much on the affairs of our sister committee, the Department for Communities and Local Government Committee because obviously planning matters are primarily for them; but our purpose in this inquiry is to look at public policy issues affecting the construction sector. Is there anything else you would like to say briefly in relation to how the planning system impacts upon you that will be relevant? I am not providing you with an open cheque for an essay; just for a couple of sentences!

Mr Slaughter: It is such a massive subject. Very, very briefly then—the speed of the planning system decision-taking is a problem, and this is something that we say to Government Ministers and officials in CLG. It takes an average of fifteen and a half months for a residential planning application to be resolved. Also, not overdoing the complexity of the policy requirements is the other big issue. We will probably come back to this later on in terms of questions about sustainability and zero carbon.

Q408 Chairman: The point I am trying to draw out is that planning is the most important issue for your industry, is it not?

Mr Slaughter: Yes, because it governs the raw material that the industry depends on to produce output.

Mr Stewart: Chairman, the distinction I always make is that the planning system is largely outside the control of the home-builders; it is an administrative system run by local authorities. Without planning permission on a piece of land you are not legally able to build, so it can be an absolute constraint if there is not enough land and you cannot produce enough homes. All the other issues, such as skills, materials and production methods, are to a large degree within the control of the industry, so it is qualitatively very different to all the other potential barriers.

Q409 Mark Hunter: As you say, questions about planning are relevant to a different Select Committee than this, but would it be completely unfair to say that the reason why planning is flagged up by organisations such as yours as being such an issue is because your members tend to favour developments in greenfield sites rather more than brownfield sites?

Mr Slaughter: No, absolutely not. The industry is now building about three-quarters of its output on brownfield sites, and so it has gone with the grain of Government policy on this. In practice, it is not easier necessarily to get permission for brownfield developments any more than greenfield

developments. The biggest overall problem is the amount of land coming through the planning system, which Government figures show has declined by 7% between 1997 and 2003.

Q410 Mark Hunter: I would love to explore that further. My experience as a former councillor was somewhat different, but we will park that to one side for a moment. Can I bring you on to skills capacity issues, which was covered in your submission to a certain extent. Can you tell us more about your estimate of the growth in the home building workforce that will be required if we are to meet the target increase in housing supply of 240,000 homes a year?

Mr Slaughter: Based on the research that we jointly commissioned with CITB ConstructionSkills a couple of years ago, as a broad estimate, taking into account potential productivity gains, it is probably in the order of 40,000 extra members of the workforce compared to roughly 280,000 that perhaps we have now.

Q411 Mark Hunter: To pick up on a point in your evidence, what proportion of that do you think is likely to come from migrant labour?

Mr Slaughter: I am afraid I do not think we can give any firm estimate. We have no real means of telling. Professor Ball, who carried out the study, said that it might be less than 20,000 of the 40,000, so somewhere less than half—but to be precise about that is very difficult.

Q412 Mark Hunter: What about skill shortages in particular areas? Do you foresee any specific areas being more problematic than others, and, if so, what work are you undertaking yourselves to plug that particular gap?

Mr Slaughter: You mean types of skills and particular areas of activity?

Q413 Chairman: Both would be interesting, both geographically and skills.

Mr Slaughter: In terms of the types of skill and types of job, I think there are challenges for management, the professions and the traditional trades within the industry. Professor Ball's analysis pointed that out. Certainly key issues in terms of output and productivity and quality are roles such as site managers and site supervision. There is a general shortage not just for home building but across the piece for planners and some of the other professionals. We are definitely going to need more bricklayers, carpenters and people like that. In terms of what we are doing about that, we are trying to work as closely as possible with CITB-ConstructionSkills to address those shortages. Our major members have taken a number of skills initiatives in recent years. One is to increase the number of apprentices, which is something the industry is keen to do. The major members have signed up to the CSCS objective, the qualified workforce objective. We have also been working to improve the qualifications for some of the key areas, particularly site management, where we have worked through

CITB—ConstructionSkills to introduce new qualifications for residential site management and supervision. They are options of existing qualifications that are more fit for purpose for our sector. The big push probably has to come to address the question of numbers overall. A lot of the work has to be through promotion of career opportunities in industry and the industry engaging with that as well. CITB—ConstructionSkills regard that as one of their key requirements, and we fully support them on that. We are trying to work with them on that through upgrading our own website, amongst other things. We and our members are supporting initiatives like the Inspire Scholarships, which are an important way of trying to attract new young professionals and management recruits into the industry. There is a range of things we are trying to do. Geographically—I might ask my colleague to comment on this in a moment, but the market seems to be working to balance requirements reasonably well, but that may in part be related to the inflow of migrant labour from the new accession countries in eastern Europe. Anecdotally there is perhaps more of that labour in the south and east of the country than other parts of the country. Statistics on this are very difficult to gain.

Mr Stewart: The lack of statistics is a real problem.

Q414 Chairman: We have heard quite a lot of compelling evidence from other witnesses that that pattern of shortage of skills being addressed by migrant labour in London and the south-east is fairly consistent.

Mr Slaughter: We have a survey, which John is involved with, which has tracked the degree to which employers in our sector regard labour supply as a constraint on production. Certainly the position has improved in the last few years and that has been regarded as less of a problem than it was three, four or five years ago.

Q415 Mr Weir: You mentioned the Construction Skills Certification Scheme. I understand that the Home Builders Federation has a target for all site workers to have the CSCS card or equivalent card by the end of 2007. Are you on course to achieve that target?

Mr Slaughter: We do not know how far we are going to get. We are not going to get to 100%, but I do not think that that is in practice easy to achieve in any state of affairs because of the churn in the labour force. That is the view of many people I have spoken to. We are currently at around 70% from the last audit of sites that was taken out, and our members are pushing very hard to get as far as they can by the end of the year. I cannot predict exactly what the final figure will be because we will have to audit that early in the New Year; but we certainly hope it will be above 70%, and from a starting point of something like 40% 20 months or so ago. We think that is a pretty good improvement.

Q416 Mr Weir: When was that last audit taken?

Mr Slaughter: October 2007. There is a very strong push on at the moment, as you appreciate, for the end-of-year deadline, to get as many people signed up as possible. We recognise that probably not everybody will be signed up at the end of the year, and so the companies are thinking ahead about how they can complete the push beyond 1 January with a transitional mechanism to bring people on board.

Q417 Mark Hunter: How does the performance of the home building sector compare with the rest of the construction industry in this regard?

Mr Slaughter: My understanding is that the level of card holding—the nearest equivalent would probably be the major contractors' group—as an analogy—which is in the high eighties per cent. When they got the equivalent of 1 January 2008 a year ago in their case I think they were 85/86%. We will not probably have got as far as that by 1 January; but on the other hand the time over which we have been working on this has been considerably shorter.

Q418 Mr Weir: How many of your members make use of the grants available from the Construction Industry Skills Levy? Are they happy with the way the levy functions?

Mr Slaughter: Not entirely, is probably the answer. If you do not mind, I will refer to a few figures that I have. It is a problem area for us. We would like to see better performance in terms of grant take-up. I have to be a little bit careful, because I do not think these figures are always necessarily publicly disclosed by ConstructionSkills, who collate them. The home building industry is not generally as successful as some other parts of construction in obtaining a good return on the levy it pays in terms of grant. That is an area that we are particularly looking to improve. There are some interesting perspectives on this. The percentages in terms of payment of levy by HBF members, or companies that are registered by CITB—ConstructionSkills of HBF members is pretty high compared to the industry average. However, the percentage claiming grant is also pretty good—but the overall return is below average for the sector as a whole. There are some issues there which are quite hard to grasp in terms of why the performance is not better. We know circumstantially—and I cannot mention names—that some companies are much better in terms of their performance in this respect than others. This is an issue that we are actually raising and discussing with CITB—ConstructionSkills with a view to seeing how we can improve it.

Q419 Mr Weir: You say some companies are better than others: does it depend on the size of the company? Are larger or smaller companies any better than others?

Mr Slaughter: No, it does not. There are some quite large companies that, as far as we understand it, do not have a good return in terms of grant. There are a number of issues: it may be how companies are set up internally and how far they resource the process

of trying to secure support. There are concerns on the part of some companies that the procedures are simply too bureaucratic and too difficult, and therefore there is a disincentive to work to get as much support as they might.

Q420 Mr Weir: We have heard evidence of regional variation in the way companies take on apprenticeships for example. Does the same sort of thing apply here—that you get large regional variations? Is there more of a tendency perhaps in the south not to go in for this scheme than in the north? Does that happen?

Mr Slaughter: I think there is a difference between the north and south, because a higher percentage of the workforce is probably directly employed in the north of the country; and therefore placing apprentices in your own company is easier. We had a discussion about this with some of our major members fairly recently, and they did substantiate this north/south difference. In the south, where there is a larger degree of indirect employment on site, then it is not always so easy to secure the placements from the point of view of our members, the home builders. They sometimes have to work quite hard with their contractors to take people on as apprentices. One of the issues in terms of the take-up of grant and support is probably related to that phenomenon.

Q421 Mr Weir: Going back to the question about the CSCS cards, is there also a north/south divide in the way these are taken up? It has struck me that the 86% in the construction industry, excluding home building, is quite high, given the evidence we have heard about migrant labour particularly in the south. I wondered if there were any regional variations in that figure as far as you are aware.

Mr Slaughter: Not that I am aware of, no. That certainly has not come through the audits that we have carried out. We do have companies that have strengths in different parts of the country. Although we have effectively ten major companies in the sector, they all tend to have a strength in particular parts of the country, and there is no discernible pattern of one group being stronger than another in terms of performance.

Q422 Mr Bailey: Zero-carbon homes: marrying this to the skills agenda, do you think you have sufficient skills to deliver the Government's targets by 2016?

Mr Slaughter: What an enormous question! I suppose we do not entirely know at this stage because we do not know for sure how we are going to achieve the target at this point. There are lots of issues about how to achieve it.

Q423 Mr Bailey: There are different technologies to achieve it.

Mr Slaughter: Yes, and we certainly do not know what the right technical solutions and commercial solutions to energy supply, for example, will be at this stage, so it makes it difficult to give a hard and fast answer to the skills question. The way that a number of people look at this in the sector is to see

that the suppliers and manufacturers of the new products and services that will be involved in achieving the zero-carbon homes standard will probably have a major part to play in this, because they will have to communicate the benefits of their product and instruct the installers, the operators and the site managers who are going to use the products in order to build the homes and have them working on the right basis. We suspect that quite a lot of the skills requirements and training requirements will effectively be pushed by the manufacturers and suppliers in the chain, wanting to make sure that their products are successful by communicating the right information and the right instruction to other people who need to have it.

Q424 Mr Bailey: Do you think the Government is allowing the industry enough flexibility in the way in which it achieves these targets—or towards achieving them?

Mr Slaughter: That is a debate in progress, I would say. If I could give you a brief explanation of why I say that, as far as we can see probably the critical issue to resolve will be how you achieve residual energy supply for zero-carbon homes. Zero-carbon homes is the performance standard post construction, so it is about having no net carbon emissions from the use of a home once it is occupied and built. But there is going to be a need for residual energy supply because for various reasons we are not going to be able to do everything through better insulation. The question is then how you achieve that residual energy supply. That is where a lot of the uncertainties I mentioned earlier rest because we do not know enough about the capabilities of the technologies. The average size of a site, which I referred to earlier, of 27 units, means that you are not going to necessarily get everything on site. You need to have the flexibility of other solutions. At the moment the working definition of zero carbon is relatively tightly drawn. Our wish would be to see a somewhat more flexible definition of zero carbon that would enable us to have a reasonably wide range of technical solutions and commercial solutions available to enable us to achieve this standard in an effective and cost-efficient way.

Q425 Mr Bailey: I very much welcome those last comments because one of my hobby horses is that there did not seem to be enough attention focused on the potential of geothermal energy, both in the public and private sectors—houses and offices. What is your assessment of the potential of geothermal?

Mr Slaughter: My understanding is that it is quite significant, but not everywhere in the country will be suited to that type of application. That is one of the issues we face. There is not any one single knock-out answer to how you achieve this in terms of the technology, which is why we would like to have that menu of options available. As far as we are concerned, this is simply a means of achieving the standard in a cost-effective consumer-friendly, practical way. Hopefully it means that more

commercial partners from the energy supply industry will be interested in working out sensible arrangements about how we do it.

Q426 Mr Bailey: Do you think the fact that the public sector is not a significant client for new housing makes it more difficult to promote the environmental sustainability agenda?

Mr Slaughter: Yes it does, essentially. I am quite familiar with the view of the wider construction sector that public procurement, which is about 40% of the market is a significant means to achieve these objectives. We have nothing like a 40% public sector drive in house building. It is an issue. We have English Partnerships and other public agencies that are able to do quite a bit through demonstration projects, but they do not have the critical mass that would exist from Government procurement in other fields. So we have to look at other approaches which will work and have equivalent results. I know that this is something that people find slightly surprising, but what I call an intelligent approach to regulation is one of the things we need at a national level. The substitute, in a way, for public procurement in our case, is setting the right standards in the right time frame in national building regulations, for example; then you can try and create a level playing-field for the industry in that way.

Q427 Chairman: In Worcestershire we are a bit suspicious of the Government at present, because we have two eco-towns planned for my constituency and the Government is not telling us who the promoters are for these towns or what the criteria are to assess whether to go ahead or not. It is very important because large proportions of affordable housing in a brand new environment suggests that there must be equally eco-friendly large portions of affordable employment in the same area. The Government does not seem to be doing a great deal to build confidence in its wider objective as part of the eco-town proposals. Do you think the Government is doing enough to build a framework in which zero-carbon housing can be a reality?

Mr Slaughter: I think we would like to see them do more certainly. The eco-towns proposal is an interesting one, but at this stage we do not know enough about how that is going to operate. The Government is in the process of drawing up the criteria you would like to see, and I agree that that is very important.

Q428 Chairman: But the applications are in.

Mr Slaughter: The expressions of interest are in, but I do not think they constitute applications as such because the criteria have not been settled for the scheme. If we had a concern about eco-towns it is more in the direction of how long they will take to come through. The point about the substitution for the public sector pull that you were just talking about is a quite difficult one. This is how the Government is trying to do it; but the mass is not going to be that big that early, despite the plans for eco-towns. Perhaps the biggest concern there is

whether we can find other ways of putting together good learning experiences at an earlier stage than the eco-towns themselves might deliver.

Q429 Mr Weir: In your memorandum you call for an “enlightened longer term strategy” for the evolution of the national building regulations to assist effective innovation in sustainable construction. What do you mean by this?

Mr Slaughter: A number of things. We have a number of wishes about how building regulations in particular might evolve to make it easier for the industry to concentrate and deliver effective innovation. The building regulations have become quite complex over time: new parts have been added to them on a relatively piecemeal basis, and changes have taken place on a piecemeal basis. We would like to see a longer term strategic vision for the key changes that the Government would like to see in the building regulations over time. The zero-carbon initiative is a good example of that, where the Government has said, “Let us have three changes in building regulations over the next several years to 2016, and so we have a plan for a step of changes that industry can work with.” We would like to see similar vision in other fields of the building regulations. We would also like to see the regulations become less prescriptive than they have some times been in the past, more based on better regulation principles of output-based regulation, not seeking to say you achieve the output in this or that specific way, but establish robust output and leave more scope in the industry to achieve that in a range of different ways. We would also like to see ideas which we have had one successful experience of on part E of the building regulations on sound insulation of a pattern-book approach, which industry has led through development pattern-book examples which are then verified as sound for achieving the desired objective under the regulations being accepted, so that you have a more industry-owned and industry-led process of binding effective ways of achieving regulatory outcomes. That then becomes less burdensome for industry and opens up the door to innovation. There is a range of ideas of this type that we would like to see adopted more generally.

Q430 Mr Weir: The argument against is always that if you simplify the building regulations you are reducing effectiveness, especially in an industry that we have heard is very much price-led. How do you counter that argument?

Mr Slaughter: On one level there is a concern that the current regulations—some of them in recent years have been very difficult to enforce because of the way they are drawn up. They are quite complex and not particularly easy to understand for compliance officers as well as developers. A simpler, less proscriptive, less complex set of regulations would in one sense be much easier to enforce because it would be much clearer what you were doing. If you have industry ownership in the way I was suggesting, you also create an incentive for people to do things the right way. There may be other things you need to

look at as well, and we are not suggesting that there should not be proper compliance; but in many ways a better, fitter for purpose future set of regulations might be easier to enforce and better for everyone to live with.

Mr Weir: Other witnesses have complained that the building regulations seem to change very regularly. Is it really simplification, or more that you know what you are doing for a longer period and you do not want so many changes?

Q431 Chairman: Just to add to that, also the changes are announced at the eleventh hour and compliance is required at very short notice.

Mr Slaughter: All of those actually. We would like to see a better future approach on all of those issues. It is certainly simplification, but a clear route map for the future is important because it has been an industry frustration in recent times that there have been too many changes with not enough advance notice, and that does not encourage efficiency or effective application, and it does not encourage forward investment planning by the supply chain, which is often very important in this field. The notice of implementation is also a key issue. All three of those points we would support.

Q432 Chairman: I asked you at the beginning about the fragmentation of the industry. I have heard it suggested that the fragmentation of the UK home building industry in particular means that its R&I record is not what it might be if it had a greater critical mass. Is that a criticism you are familiar with, and do you think it is fair?

Mr Slaughter: We have no statistics to be able to comment scientifically. In one sense we would not think it is fair because the industry has innovated quite a lot in terms of the product you get in your home today. They are much more energy-efficient where even compared with a few years ago the design specifications have moved on a lot, and what is fitted as standard in the home is quite different. In another sense I think you are correct, and that is why we would want to see a sensible approach to national regulation through building regulations, rather than no regulation. Personally I would agree with what the Stern report had to say in its chapter on construction, where it pointed very strongly to the fact that there was a lot of fragmentation in the sector as a whole; therefore if there was going to be a drive to successful improvement in the environmental performance of the construction sector, the right approach through national regulation was going to be an essential part of how that was done. We would very much support that. The industry can do a lot of things, but in certain key areas, without the right national regulatory framework, it becomes a problem because you cannot necessarily achieve competitive advantage successfully for an investment that might be quite risky as well as capital intensive when your competitors are not necessarily having to do the same thing.

Mr Stewart: Chairman, the feedback to smaller companies is important because clearly they cannot afford to spend as much on research and development as large companies; but as long as the timescales for these changes are adequate so that the industry somewhere—large companies and others and research organisations can do research and transmit that information to the smaller companies, then they can come along behind. As John has already said, it is a lot to do with the timescales and the plans, rather than doing things too quickly or requiring things without proper planning.

Q433 Chairman: Last week we heard from the Building Research Establishment and the two research information associations, CIRIA and BSRIA and they were both expressing concerns about research innovation in construction generally, in quite worrying terms. The word “crisis” was used on a number of occasions. Is that a label you would attach to your part of the industry as well?

Mr Slaughter: I do not think we would, no. If you take the example of zero-carbon, the fact that we have this eight, nine, 10-year timetable that was announced a year or so ago by the Government, which we have supported and which was supported by the Construction Products Association for example, means that we are all trying to work together about how we get there. We look at it the other way round: having got that framework agreed and in the public policy domain, the

industry now has the confidence to know what it has to achieve. I do not think we would feel that was the case in our sector.

Q434 Chairman: We asked all our witnesses this final question and I am not sure how relevant it is, but I am going to ask it anyhow, because we have got the Olympic Delivery Authority coming in in the early part of the New Year. It is only something like 4,000 homes that are planned as part of the legacy of the Olympics Village site, but is there anything you think the ODA should be doing, speaking as home builders, that they are not doing or could be doing better, or are you broadly content to leave it to them to get on with it?

Mr Slaughter: It is very hard for us to say. We have not been involved with the ODA at all.

Q435 Chairman: Compared to Thames Gateway it is quite modest, is it not?

Mr Slaughter: Yes. It is relatively small-scale in terms of what we are talking about. The way in which they have looked at the housing element of the project has not been something where they need to come to us specifically because it has been part of the wider tendering process.

Chairman: I do not think we have requested further detailed information during this session, but if, on reflection, you feel there are things you would like to amplify, please feel free to give us some further information. We appreciate the time and trouble you have taken to come before us. It would have been remiss of us not to look to home building as part of the evidence we are taking. We are very grateful for the time and trouble you have taken.

Tuesday 15 January 2008

Members present

Peter Luff, in the Chair

Mr Adrian Bailey
 Roger Berry
 Mr Brian Binley
 Mr Michael Clapham

Mr Lindsay Hoyle
 Anne Moffat
 Mr Mike Weir
 Mr Anthony Wright

Witnesses: **Mr Peter Cunningham**, Director, Construction Clients' Group, and **Mr Andrew Wolstenholme**, Director (Capital Projects), BAA, gave evidence.

Q437 Chairman: Gentlemen, while you are getting your papers sorted out, I will just begin talking and apologise to you, and, indeed, to the other people in the room, for the slightly late start this morning. We had rather a lot of private business to get through first and it grew like topsy and we could not change the time of the meeting; so thank you for your tolerance, and I do apologise for that. This is, of course, our last evidence session with the industry and the users of the industry before we see the Minister next week. We have had a very interesting time and have been looking forward to this session very much indeed. We have heard so much about Terminal 5 in the course of this inquiry that we are particularly looking forward to hearing about that story as well in this session. Can I begin, as I always do, by asking you to introduce yourselves for the record and, as you do so, just explain exactly whom you represent and what that means?

Mr Cunningham: Good morning. My name is Peter Cunningham. I represent the Construction Clients' Group. We are an independent membership organisation which represents public and private sector clients, whoever they are, whether they are frequent or occasional clients, informed or uninformed. We are also one of the construction umbrella bodies which is represented on the Strategic Forum for Construction and, internationally, we are an integral part of the International Construction Clients' Forum, which is the client group that is recognised by the EU.

Q438 Chairman: Thank you very much indeed. I should say thank you for your written evidence as well, which is greatly appreciated. Mr Wolstenholme.

Mr Wolstenholme: Good morning, happy New Year. My name is Andrew Wolstenholme. For about the last four years I have been the Project Director for Terminal 5 projects at Heathrow. I am now the Director of Capital Projects at BAA on the Executive Board, so work for BAA and am accountable for delivering, as we look over the next two quinquenniums, a capital investment programme of around £9.5 billion.

Q439 Chairman: Most of this evidence session with you, which will last about an hour, will be concentrated on the Construction Clients' Group's view of what is good practice for clients but towards end we will turn specifically to Terminal 5; so that is

the structure of questioning. Can I just be clear what your role is and how you differentiate yourself from that of the Office of Government Commerce in relation to best practice for public sector clients?

Mr Cunningham: As I said earlier, we are an independent membership organisation. The Office of Government Commerce is the centre for government best practice. Critically, the OGC is tied into EU procurement law, is working on finance initiatives such as the private finance initiative and is also responsible for things like departmental budgeting. We have worked with the Office of Government Commerce on activities such as the 2012 Construction Commitments, the Fair Payments Charter and also on the Public Sector Construction Clients' Forum; so that is the distinct difference between the two.

Chairman: Thank you. That is helpful.

Q440 Mr Weir: Mr Cunningham, in your memorandum you say that clients must be trained to be a client. Could you explain what you mean by this?

Mr Cunningham: Yes, I can. Basically the delivery of a construction project is that it is a complex process and the distinction I am trying to draw here in this question in our evidence is the distinction between the frequent client and the occasional client. Naturally, if you have a prolonged programme of activity, then it makes sense for that organisation to invest in their capability as a client, to train themselves up to get the best value out of what they can achieve out of their construction activity. For an occasional client, if you are only working on one or two projects over a five-year period, for example, then it sort of negates the opportunity for them, or the investment that they would need to make in building their capability up. I think, from our perspective, to actually manage that process, to understand the construction sector and to become an informed client, it is critical that clients spend time in training themselves to develop their capability to manage the construction process.

Q441 Mr Weir: Can you give us some idea of the proportion of construction work in both the public and private sector that is undertaken by frequent, as opposed to infrequent, clients?

Mr Cunningham: I do not have exact figures, but if you are asking my view by value, I would think it is 40:60 in favour of frequent projects and clients.

Q442 Mr Weir: Is that in both private and public sectors?

Mr Cunningham: Yes, that is together.

Q443 Mr Weir: Is there any difference between the two? Are you likely to have more of one type in either sector, for example?

Mr Cunningham: There are obviously more occasional clients in both sectors numerically, but by value it tends to be that there is more frequently procured work. Obviously, the difficulties experienced by the supply side of the industry, in terms of accessing small and medium-size enterprises, is the same issue that we have, in terms of accessing those occasional clients to actually advise them and devolve the best practice that is learned from those frequent and informed clients.

Q444 Mr Weir: When you say “by value”, what is the proportion of value, say, in the public sector that comes from frequent clients as opposed to infrequent clients? Is the bulk of the value in construction coming from public sector clients who come back regularly? Is there any difference there?

Mr Cunningham: I think that there is evidence that that is becoming the case now. Certainly over the last few years, with the advent of partnering and frameworks across the public sector, there have been great strides made in the use of those different procurement routes to actually get more frequently procured projects through a framework, and that is delivering better value for the construction client. Specific examples may be, for example, looking at Central Government Clients Defence Estates, the Highways Agency, *et cetera*. Then, looking more at local government—you could look, for example, at the likes of Birmingham City Council, St Helens Metropolitan Borough Council, Norfolk—there are a number of different examples of local government and central government organisations that are utilising frameworks to procure their construction activity and getting the benefits from them. An example from Birmingham, for example, is that they are saving at the moment through their frameworks eight million pounds a year in terms of tendering costs, which is a significant step forward.

Q445 Mr Weir: Is there any statistical evidence you can point the Committee towards as to the difference in performance of frequent, relative to infrequent, clients? I appreciate you may not have them with you today, but if you could let us know of any it would be of some use.

Mr Cunningham: I think there is evidence, both in the private and public sector, of this happening. What happens in the private sector is that typically construction clients keep their construction teams together. If you look at the likes of a Tesco or a Marks and Spencer, a Nationwide, or if you start looking at the developers like Stanhope or Land Securities, *et cetera*, then you start to see how they are getting the benefits from those activities. Obviously, I have just mentioned the cost savings that Birmingham are getting in the public sector, but I think the key difference between the two at the

current time is that the private sector are absolutely realising the benefits of the work that they do through long-term procurement programmes. For example, in a former role I used to work at Mowlem and we worked on framework contracts with Tesco and when we started out on those projects they would take 40 weeks. Within six months of working on that programme activity that was down to 18 weeks. So you can start to see that there is time compression there, and if you are talking to the likes of Tesco, an additional 22 weeks of bringing in revenue and profit from going on a one-off basis of 40 weeks for every project is a huge benefit to them.

Q446 Chairman: You have anticipated most of the questions I was going to ask you just now.

Mr Cunningham: I am sorry.

Q447 Chairman: No, that is very good, it is very efficient, I am very grateful, but I just wonder, are there any other benefits that flow from this example of good private sector frequent clients using framework contracts, for example supply chain effects, integrated supply chains?

Mr Cunningham: Yes. Obviously the key issue that has happened has been that those organisations are integrating their supply chains at an early stage. Andrew here, representing BAA, may have some of his own comments he would like to add here, but what is critically happening is that these organisations at a very early stage are engaging their supply chains.

Chairman: Mr Binley is going to ask lots of questions later, so I will not go too far on that.

Mr Binley: I am happy to ask supplementaries.

Q448 Chairman: Long-term investment programmes relating to integrated supply chains. Are there any other benefits you would like to identify to us from this approach? You do not have to; it is an open invitation.

Mr Cunningham: In terms of?

Q449 Chairman: Maintaining skills.

Mr Cunningham: Yes, obviously there are opportunities there to up-skill in terms of a supply chain, that obviously leads into better consistency of the work that is delivered through the work framework, and then you can obviously realise the improvements. By having a more consistent process, by benchmarking and measuring performance, you can then put continuous improvement programmes in place, which obviously has a huge impact as you roll through the lifecycle of a framework.

Q450 Chairman: Do you feel there are any lessons that the private sector could learn from the public sector or the public sector could learn from the private sector in this approach to procurement?

Mr Cunningham: I think there are lessons that both could learn from each other. I mentioned briefly some of the real impacts that the private sector is getting from working on long-term procurement activities. I mentioned the time compression that Tesco was getting, and they are really realising the

benefits there. Critically, our experience and evidence that we have got from the public sector is that frameworks or long-term strategic partnerships are being put into place, but that is where it stops, and they are not realising the real benefits of, say, for example, bringing a school coming into operation 22 weeks ahead of schedule or the same thing for a hospital, giving the Tesco example.

Q451 Chairman: What you are saying (that awful cliché) is that the public sector is talking the talk but not walking the walk; it has got the language right but it is not actually seeing it through.

Mr Cunningham: I would not say that. I would not completely agree with that. I think that they are making the right moves in terms of entering into these longer term working relationships. It is paying dividends, but I would say that we need to move on from that and actually start to realise the true benefits of how a framework operates by making sure you can secure that continuous improvement and those benefits throughout the lifetime of the contract. Rather than actually getting through the mindset, saying, "I have put a framework in place, job done", it is taking it forward from that.

Q452 Mr Bailey: I must admit I find this concept of actually training the client an interesting one. I had not thought about this before.

Mr Cunningham: It is same with ConstructionSkills. Many had not thought about that much before either.

Q453 Chairman: That was quite an interesting aside. I want to make sure that has been properly noted in the transcript.

Mr Cunningham: I did mention in "any other business" in my first ConstructionSkills board meeting in December that there is nothing in their prospectus or strategy that looks at the construction client.

Q454 Mr Bailey: The public sector and public sector clients: given the fact, in terms of best practice, there are both yourselves and the OGC as a potential source of guidance, do you think that is adequate for infrequent public sector clients to get the advice that they need?

Mr Cunningham: I think the OGC, in the role that they have in producing best practice guidance and guidelines for public sector clients to follow, do an excellent job. I think the guidance that they produce is good. We have certainly referenced it in some of our material on the Clients Charter and the synergies that are there. The only issue that I would say that the OGC has is that it is under resourced in that they have the guidance for public sector clients to follow, however, they do not typically have the resource to turn that into action, so they do not typically have the resource to engage public sector clients to make that happen.

Q455 Mr Bailey: Do you think that is one of the reasons why it is not used more widely?

Mr Cunningham: What is not used more widely: the guidance in general?

Q456 Mr Bailey: Yes?

Mr Cunningham: Yes; absolutely. I think it is used across central government clients. A lot of it is mandatory across central government clients. Where it tends to become an issue is in local government and where central government procurement is devolved locally, such as in the health sector and in education.

Q457 Mr Bailey: Do you think there is a lack of awareness and, possibly, enforcement?

Mr Cunningham: Lack of awareness of what, of OGC guidance?

Q458 Mr Bailey: Yes.

Mr Cunningham: I do not think so. No, not at all. I think the OGC does a good job in both developing the guidance and promoting it. The critical issue for me is the resource that they actually have to make it happen, turn it into action.

Q459 Mr Bailey: The Specialist Engineering Contractors Group argued in their evidence that procurement funding for the sector should be contingent on clients' compliance with the OGC's *Common Minimum Standards*. Do you agree with that?

Mr Cunningham: To coin a phrase from Mr Luff, I think that is all about government walking the talk, is it not? Certainly, from our perspective, and a central government perspective it is mandatory and they must follow it, but it becomes a bit cloudier when you start looking at local government and where central government departments devolve their procurement activity locally.

Q460 Mr Bailey: So do you think it is less effectively applied when local government is the client?

Mr Cunningham: Potentially, yes.

Q461 Mr Bailey: That was very diplomatic.

Mr Cunningham: Thank you.

Chairman: Potentially, yes. We will take that as a qualified yes.

Q462 Anne Moffat: My question is on the private sector. Do you think there is sufficient best practice guidance available for infrequent private sector clients?

Mr Cunningham: Obviously we have the Construction Clients' Charter, which is there to help provide guidance to those organisations.

Q463 Chairman: We will turn to it in some length in the next few questions.

Mr Cunningham: Okay. If you are asking me, the guidance that currently organisations or infrequent clients get, I would say, is fairly partial. What I mean by that is, for example, where organisations provide guidance for clients it tends to be from perspective of the stakeholder group that they are representing in the supply chain. For example, if RIBA (Royal

Institute of British Architects) were to produce some guidance for the client, then it would primarily be from the perspective of the consultant in the process. So I do not think there is any global guidance, but the Charter is aiming to do that in the future.

Q464 Chairman: Is there anything else on the Charter that we could do?

Mr Cunningham: Like I said, various members of the supply chain or organisations that represent stakeholders within the supply chain have produced guidance for clients to follow, but it is partial guidance. There is the role of the client adviser to provide guidance to occasional clients and to all clients, but if you are asking me about specific, written guidance for private sector clients, then apart from the Charter and what we advocate, I do not think there is a global piece of guidance.

Q465 Chairman: Can you explain how some infrequent projects, such as the Emirates Stadium, work really well and succeed and others, such as Wembley, fail?

Mr Cunningham: In a nutshell! I will take the two in turn. I will take the best case one first, the Emirates Stadium. What we were dealing with Arsenal Football Club was a client that knew what they wanted. They had a clear brief. They knew that to compete in the Premier League they had to move from a 35,000-seater stadium into something which was more adequate for it to compete with the Manchester Uniteds of this world. They knew exactly what they wanted, they needed to move to a 60,000-seater stadium, they knew exactly what additional revenue that was going to bring in, in terms of gate receipts and sponsorship, *et cetera*, and as a result of that they were able to have an informed view of what their budget was going to be for the stadium. As a result of that, you had strong client leadership, there was absolute commitment in bringing the construction team in at an early stage—I think they were working for a year on it before they moved into construction—and as a result of that you see the benefits and the results that you get. Conversely, looking at Wembley, you had a client that really did not know what it was doing. It was managed by committee, therefore you have different stakeholders trying to do different things, wanting different things, and inevitably there was scope creep—the scope changed during the project—and that had an impact on the delivery, and we all know what the consequences of that were. In summary, what I would say is that the benefits of what happened at the Emirates Stadium were a client was absolutely dedicated to understanding what the construction process was, engaging the supply chain at an early stage and knowing exactly what they wanted as a client. Conversely, Wembley was none of those things.

Q466 Mr Binley: A supplementary first, if you will allow. Having spent 40 years in the private sector before coming to this place, my experience is that

service providers very often use client training to become good clients within their sales pitch because it is in their interests to do so.

Mr Cunningham: Yes.

Q467 Mr Binley: A service provider cannot afford not to have a good client because it costs them money. Do you find that in the construction industry?

Mr Cunningham: What, that the supply side or the clients are using training

Q468 Mr Binley: I am talking about a supply chain where a service provider provides a given service to a client, that in a sales pitch they will very often include client training for work with a service provider because it is in their interests to do so—it is a part of the normal process, that is what I am saying—and it seems to me that there is a view that it does not take place as much as it should do. It may not be bureaucratized but it is a part of the process in many instances. Do you find that in construction?

Mr Cunningham: What we find in construction is that it is a fragmented industry. Our role as the client group is to get the client into a position whereby we are utilising the best practice from our frequent clients, which is all about engaging the supply chain at an early stage and then utilising that to educate occasional clients. A key part of that process is engaging the supply chain at an early phase. Unfortunately, with occasional clients what typically seems to be the case is that there is late engagement of the supply chain (or this is what my supply chain peers would advocate), therefore it is very difficult for them to impact upon what happens with the project. In answer to your question in a round about way, would it be useful if the supply chain were to train the client?

Q469 Mr Binley: I am saying it is a normal part of the practice, when a part of the supply chain sells to the prime contractor that he does train that customer as a part of that process, and I think we are missing that particular point.

Mr Cunningham: I think that we would welcome that, we would welcome the opportunity for that to happen, but also it is the engagement below that tier one supply chain and actually getting down to tier two, tier three and the specialists.

Q470 Mr Binley: That is exactly what I want to come on to, and you lead me in nicely. There are three problems with regard to supply chains. The first is about quality and quality performance, the second is monitoring—that is a difficult exercise for the main contractor—and the third is dissemination of information. They are all interlinked, but they are the three prime areas. My concern is that too many main contractors do not spend enough time ensuring that all of those things are just as relevant at the very lowest level of management decision-making as they are at the top. You have explained the purpose of the Construction Clients' Charter, but will you tell me how it actually works in respect of ensuring that all of the levels in a supply chain are aware of the need

for quality, how the quality protocols work, how that information is disseminated and how the main contractor actually monitors that particular process?

Mr Cunningham: The Clients' Charter, as it currently stands, is focused on four key areas of activity. One is client leadership and leadership of the supply chain, the next one is looking at integration and collaborative working, the next one is quality, as you said, and then people, which involves health and safety. There are rigorous processes in place for accreditation and, unfortunately, this has had a kick-back to us which has been, from our perspective, a perceived low-take up of the Clients' Charter. Would you like me to go into some figures on this?

Q471 Mr Binley: It is all very well having these lovely things in place, but if they do not actually work, in practical terms, and do the job that the client wishes them to do, they fail. My concern is how you ensure that the information, in terms of quality and all the other requirements, gets through to the every lowest level of the supply chain and how you monitor it to ensure that it has happened: because a charter is fine, but unless it has practical purposes in that respect, all you are doing is selling us a PR exercise.

Mr Cunningham: The original charter was based on the Egan principles from the 1998 report *Rethinking Construction*. We have conducted a major review of the Clients' Charter over the last 18 months and we are now focusing the new Charter on the 2012 Construction Commitments, which advocate those areas, plus others, including sustainability, which is fairly high on the political agenda at the moment.

Q472 Mr Binley: These are lovely management words.

Mr Cunningham: Let me finish what I am saying.

Q473 Mr Binley: Answer the question.

Mr Cunningham: Basically, what we will be doing is focusing on the clients, on getting them signed up to the Commitments, getting their supply chain signed up to the Commitments, and then we will be benchmarking their performance so that they attain a specific standard in performance to attain the status of this new charter, whatever we call it in the future.

Q474 Mr Binley: How do you monitor that?

Mr Cunningham: We will benchmark performance against the construction industry key performance indicators.

Q475 Mr Binley: So you tell them what you want, but how do you monitor that it is being done?

Mr Cunningham: Exactly.

Q476 Mr Binley: How do you do that?

Mr Cunningham: By benchmarking their performance and capturing the information off the projects, utilising that as best practice and then

driving a continuous improvement process to constantly improve performance across projects. What more do you want than that?

Mr Binley: I want to know how you get in there to make sure at the very bottom level that what you want to happen is actually happening.

Chairman: I think it is the practical things: what you actually do to deliver those fine words; what does that mean in practice; who will do what; which people will you employ? That is right, is it not, Brian?

Q477 Mr Binley: Yes.

Mr Cunningham: You are talking about how you go through your selection.

Q478 Mr Binley: How do you monitor it and make sure it happens?

Mr Cunningham: The important thing here is that the evidence we are getting from the way that frameworks are operating in both public and private sectors is that rigorous processes are being gone through to actually select and procure construction supply chains. Then what is happening is that those organisations are being monitored on their performance and what they do, on how they meet specific targets that are set by the client and then how they utilise that information and data to drive continuous improvement, not just with that specific contractor but across all the contractors in that framework, and that is what is happening. I talked about the benefits that the Birmingham City Council are deriving from that, significant costs benefits, and it is the same for the likes of Manchester City Council.

Q479 Mr Binley: I would be grateful if we could have the information about that so we can actually see it is really working in practice.

Mr Cunningham: That is fine. I can provide that. There is some guidance that we have captured the benefits and learning from implementing frameworks across local authorities, and I will forward you that information.

Mr Binley: Thank you.

Chairman: I do not think you have asked your main question.

Mr Binley: We know what the Construction Clients' Charter's purpose is, quite frankly.

Chairman: Let us move on and ask some more questions about the Construction Clients' Charter, which is what we are really looking at now.

Q480 Mr Wright: You did mention you were going to give us the figures on the take-up of the Charter.

Mr Cunningham: Bear with me a minute and I will give you the figures. Currently there are 305 client organisations that are signed up to the Construction Clients' Charter. Do you want me to break that down further?

Q481 Mr Wright: In terms of the break-down, would it be fair to say that the majority of them are housing associations.

Mr Cunningham: It is fair to say that, yes.

Q482 Mr Wright: Why would that be, do you think?

Mr Cunningham: The main reason for that is that the Housing Corporation saw the Construction Clients' Charter as being the mechanism to implement Egan across their new build programme and, as a result of that, they requested any housing association or RSL (Registered Social Landlord) to get charter status to get access to new build funds. That is exactly why that happened.

Q483 Mr Wright: Three hundred and five seems a pretty little figure to me. What would be the potential, would you say, that you could achieve against signing up to this Charter?

Mr Cunningham: We need to get significantly higher than that. Rather than me talk about numbers, in terms of numbers of client organisations that are signing up to it, I would rather talk in terms of percentage of value, and really that is what we need to be looking at, influencing the significant value, and, obviously, the public sector has a significantly high value turnover within the construction output.

Q484 Mr Wright: The public sector has got that. What would you say are the numbers of central government and local authorities that have actually signed up?

Mr Cunningham: There are currently four local authorities signed up, and the only central government client that has signed up is the Highways Agency. As I said earlier, that to me is hugely disappointing. We have just undertaken a review of the Charter and the feedback that we have had is that the process is too bureaucratic, there is too much red tape and barriers to usage are too high. That is why we have not had take-up outside of the housing associations or social housing sector. We have also been looking at updating the content of the Charter, because currently it is aligned only with the original Egan Report in 1998, and we have been doing that with the 2012 Construction Commitments. On the back of this activity the Housing Corporation have already utilised, they have "social housed", the Construction Commitments specific to their requirements and they are rolling that out now across their social housing new build programme again. What we have done since then is developed a process whereby we can engage both the clients in the process and also the supply chain organisations, to get them signed up to the Commitments and then a process of measuring their performance, diagnosing how they are doing to make sure that they attain a specific standard of activity and, if they are not maintaining those standards, they will not get charter status. What we have tried to do, or what we are doing is putting a process in place which minimises the barriers to entry but still puts a formal process around delivering better value for the construction client.

Q485 Mr Wright: So in language terms, are you saying you want to water down the Charter to make it more acceptable?

Mr Cunningham: No, we would not water anything down. That would be detrimental to what we are trying to do across the sector. What we are trying to do is to develop something which is (a) more up-to-date, (b) is more relevant and (c) is more accessible to frequent and occasional clients and is not just being used by one specific sector within the industry because it is mandatory for them to do so. We want this to engage all clients and supply chain organisations, and provide the consistency that we want and really make a difference across the sector.

Q486 Mr Wright: Have you taken any measurements of the construction clients who have actually signed up to the Charter? What are the benefits they have achieved from that?

Mr Cunningham: We have not done any formal measurement of what benefits have been achieved. What we have done is undertaken this formal review. Those that have implemented the Charter as it currently stands have derived significant benefits. However, on the counter side to that, because the current process is fairly complicated and bureaucratic, there is evidence that some housing associations have taken on consultants specifically to get them charter status—so it has become a tick-box exercise rather than something that really is changing the way that they procure their construction activity—and that is why we have had to address it with the review.

Q487 Mr Wright: Has any organisation withdrawn from the Charter since you signed up?

Mr Cunningham: Yes.

Q488 Mr Wright: Is it significant numbers, and what were the reasons given?

Mr Cunningham: The numbers have only been recently because of the Housing Corporation's shift in policy to move away from the Charter and more towards the Commitments, which is where we are moving forward as well. So, as their reviews have come up for the Charter, some organisations have opted out of it as a result of the Housing Corporation now making it non-mandatory, which backs the reason why we have done the review in the first place, and supports why we are doing it.

Q489 Chairman: As you began to answer this section of questions you began to offer a break-down. I do not want a detailed break-down of numbers necessarily, unless it easy to do, but are government departments and local authorities on the list of those who signed? How many of them?

Mr Cunningham: I did answer that question.

Q490 Chairman: I did not hear; sorry.

Mr Cunningham: Four and one. The one central government organisation is the Highways Agency.

Q491 Chairman: Who have a reputation for being a particularly good public sector client.

Mr Cunningham: Yes, and we actually have a member from the Highways Agency who sits on the CCG Board, and they have been integral in the review process.

Chairman: Sorry for being repetitive. We move now to Terminal 5, Mr Wolstenholme.

Q492 Roger Berry: Yes, Mr Wolstenholme, it is your turn. Good morning. Terminal 5 is widely regarded as being a success story. Is that true and, if so, why?

Mr Wolstenholme: Yes, it is a success story. At 4.00 a.m. on 27 March this year T5 will be open. It will be on time, it will be on budget and it will set new standards for quality, and I believe it has moved the industry benchmarks for health and safety. Why has it been a success? I put this down to two principal reasons, and it is no coincidence that a lot of the debate and discussion so far has been around the client role. One is that I think we have understood over many years of being a construction client the importance of the role of being a client; so a strong client body, strong leadership, a very clear brief and, I think, effective governance over that process is the first element. The second element, I think, is that we have been able to create an environment for success for the large and extensive supply chain that has been taken on to deliver the actual physical work. Success, I think, in that in developing the T5 agreement (the Terminal 5 agreement), we looked very hard across 12 programmes of similar size and scale and saw three root cause failures. It is about behaviour and process in the whole arena of delivering projects, it is about managing risk and opportunity and it is about accepting change as the norm, and for that reason you have a choice as to which form of contract you go down. Either what we call transactional contracts that tend to need certainty at the beginning, that will have a lot of conflict that goes with it and, therefore, potential for claims, where you go down a relational type contract which is very much about partnering, about engaging into graded teams and about managing the risk appropriately with those people who are able to do it. I think a strong client setting the realm of success has been the root of the success of T5.

Q493 Roger Berry: As you have suggested, it is commonly stated that the key factor was the decision of BAA to carry all the risk. Was this, in fact, the case? Is this actually what happened? Can you say a bit more about the reasons for that?

Mr Wolstenholme: If you looked across those 12 benchmarked programmes that we looked at, some big in the public sector, some in the private, both at home and internationally, the norm that we could project forward was that there was a likelihood or a chance of our project being a million pounds over budget, being a year late, but not setting the quality standards at opening day and, indeed, killing many people. In order to protect ourselves against that risk (and at the time we were capitalised probably as a six billion pound business, T5 was worth 4.3 billion), the best chance we had to mitigate those sorts of risks was to take a completely different attitude. In answer to the question, "Did we take that view?",

yes, 80:20 of the scope has been delivered in a cost reimbursable style where we have taken integrated teams. T5 is not just a terminal; T5 is 16 separate projects. Each of those projects has a separate risk profile and we developed the brief and the integrated team from each of those separate risk profiles and by doing so allocated very clear targets, became extremely proficient in understanding programme and cost controls and monitored the potential for risk to crystallise on a sometimes daily, and certainly weekly, basis.

Q494 Roger Berry: Why do you think other projects have not adopted this approach?

Mr Wolstenholme: I think if you look at BAA, we have been in the game of managing large programmes of work for a number of years right now. We are just about to enter what we call our third generation of "framework supplier agreement". You need to have the discussion around the occasional or the sort of serial, if you like, client. It is about the capability you have within that client organisation to take on risk in a different way. We would not encourage client bodies or organisations who do not have a considerable amount of experience in developing the relationships, in understanding how you manage risk in this particular way, of necessarily taking on a T5 agreement type approach. Interestingly, there was a question previously about Emirates versus Wembley. If you look at when the risk was transferred to the supply chain, you have different levels of certainty. Our business is to understand our risk and to make sure that when it is appropriate to pass that risk to a supply chain, then you choose your moment carefully with your eyes open, as it were. By taking the T5 approach, we knew that there would be changes made, we knew that the size and complexity and the integration required and the environment within which we were working was best suited to a model that was reimbursable style, and for that reason, as I said, 80% of the work that we procured through T5 was delivered through that method.

Q495 Roger Berry: Unite, the trade union—and I had better declare an interest, I am a member of the trade union—heaped praise on BAA, they heaped praise on the Terminal 5 project and the way that it was handled, in particular the way that the contractor's workforce used direct labour, provided training, promoted good health and safety practice, to which you have referred already. Why did BAA take that approach?

Mr Wolstenholme: Quite apart from the risk, beyond defining "the what" of the 16 projects and, therefore, the programme called Terminal 5, we had to manage the risk of "the how", and "the how" in part was generating an environment where between eight and 10,000 construction workers could have a stable platform for delivering more than just a job. This created for them a career opportunity, if you like. There are three elements that you have mentioned there. One is direct labour, correlation between those organisations that take on predominantly

their own labour force; they have loyalties towards their organisation and they have pride in their work. I am not saying that others do not, but the correlation is actually quite strong and, therefore, we chose a model that sought to maximise the number of people that were directly employed right across the organisation. In practice what we have achieved is probably around 80%. So it is very difficult, the way people choose to be employed in the industry, to get 100%, and not helpful to want to get there, quite frankly, because there are some elements of that work that you do not want to do. In terms of training, as I said, more than just a job. For many people T5 has been an opportunity to work for a continuous period of up to four or five years and for that we have taken a range of different attitudes towards training (either on the job training, taking people from the local community, starting earlier with schools, providing apprenticeships, providing mature bursaries) and all this, I think, has enabled us to create this stable environment. The third element, which is my own personal campaign of the last four years, is to do something different with health and safety. If you want to create a stable environment and create a dialogue, create a conversation with your organisations and your workforce, then you had better have them perceive you as really worrying about their health and safety. For this reason, we have put in place what we have called IIF (an incident and injury-free programme). We asked all the leaders of our principal suppliers and their principal sub-suppliers to engage in a leadership training course to create an environment where you could eliminate incident and injury. This was more of a state of mind, acting as role models, acting as representatives, and the experience and the results that we got, it probably took us a year or 18 months to change the culture, to create this tipping point where things began to happen differently, and slowly, through the workers' feedback, 70–75% of people said, "This is the safest site I have ever worked on"—the safest, not a safe site, the safest—and by creating this dialogue one then gained permission beyond safety to talk about cost, to talk about programme, to talk about quality having first dealt with things that mattered to people. If you go back to the unions, we spent four or five years meeting the unions on a regular basis, understanding what their concerns were, seeing what the common links were between us as a major construction client and what the industry's issues were, and by dealing with that we also created a stable platform for industrial relations; so you look after their welfare, you create training opportunities, you create a career rather than just a transient job, you look after the health and safety and actually you can begin to expect, with this big picture view, a much better, stable environment for your eight to 12,000 people.

Q496 Roger Berry: Would you argue that, whatever the nature of the contract, whatever the approach of the client, the advantages you have just stated for direct employment, provision of training, attention

to health and safety, those principles, the arguments you have made there, presumably, would apply across the piece?

Mr Wolstenholme: It is interesting where the supply chain starts training the clients and where the client is expected to create a role model and create change for itself. I actually believe if you are a client like BAA, or Tesco, or serial providers of major infrastructure programmes or, indeed, public sector clients, then you have an accountability and responsibility to create environments to move the industry forward. Where you are a one-off client, then actually I think you should expect the supply chain to come with some clues and some answers to what you are probably only going to do once in your life, but there is absolutely no reason why. The moral arguments for improving health and safety is unquestionable; the business case risk few people understand. It costs huge amounts of money to have casualties on site, both in time and cost and quality, and people have often observed well, you have got to be at BAA to put in a health centre. We can show you statistics and key performance indicators that give you a strong business case to do this (keep your workers on site, if they get themselves injured in any way deal with them absolutely on the spot) and, whilst they were slightly sceptical about seeking the reason why we wanted to give them medical experiences for safety critical operatives, after a period of time they realised we were doing it because we care about their health. I think this is transferable, I think different peoples within this sector in different circumstances should create the need for this, but I think there is ample evidence now that the construction industry takes health very seriously. I think there is a huge movement and improvement, even though sometimes these do not mirror themselves in the headline statistics, about us becoming a safer industry, but this is about leadership, and if you have got leaders who care and understand about these things, then stuff will happen and changes will be made.

Q497 Roger Berry: Your comments about the evidence in relation to direct employment and training you would present equally strongly.

Mr Wolstenholme: The industry in the late eighties and early nineties went from a directly employed model to one that was predominantly subcontracting. I believe there is evidence of the cycle changing and those organisations that are moving down that way will reap benefits beyond which I think a purely self-employed engine can sustain.

Q498 Chairman: Yet on the other outstanding successful construction project in London that we have heard about so much, the Emirates Stadium, the contractor largely used bogus self-employed labour rather than direct employed labour, yet produced a good project.

Mr Wolstenholme: This is not the only constituent that makes up good successful projects. I would say the overriding success of Emirates is obviously a client who knew exactly what it wanted. There was

a period of time when the clients, the consultants, the contractors worked together in a sense in a risk-free environment before the risk of delivering that programme was passed on, and when you have got clear briefs and clear targets, then of course people from different employment models can work successfully. I believe you had first-rate suppliers there whose ethos, independent to whether they were directly employed, apply the same rules of training, the same rules of health and safety; so if you can get that stable environment, you can bridge some of the uncertainties that directly employed versus agency labour provides.

Q499 Mr Clapham: Given the experience of Terminal 5, where you are bringing together 16 projects, of course you come into that whole area of financial products, of insurance. Do you feel that the financial products and the insurance are sufficiently developed to generally cover all of the insurance industry, and did you have experience of this at all in Terminal 5?

Mr Wolstenholme: Yes. The financial products within this context for BAA were fairly simple. BAA paid directly for all of the work delivered on site. I think the model around our insurance products was very interesting. Because we had created an environment where we encouraged integrated teams to come together, you do not have this sort of segmented approach that for so many years has dogged our industry of a client, a consultant team designing and a contracting team taking on whatever comes out of that process. It is normally imperfect and it is the blame culture that goes around: "Who is wrong, who is imperfect, why I should create a claim?", that required the insurance world to allocate blame and to spend an awful lot of its time wondering who was at fault. The insurance product that we have developed, or developed alongside the industry, was if you are going to work in an integrated team, for example this team, and you all represent different parts of your industry and it is an environment within which you can work together, then it is much more likely that you need to allocate blame to move the project on and, therefore, the form of PI insurance (public indemnity insurance) did not require us to allocate blame because we could prove that that was a much better way to work from now. Are there the sophisticated insurance products out there to do that? I do not believe the industry has moved on fast enough—there is some doubt, I think—to match an integrated team form of working. Does the financial and the insurance industry seek to catch up? Probably not, is my view.

Mr Cunningham: Can I just put an answer in there. We are actually collecting evidence at the moment on whether that can actually work. There are a series of BERR sponsored demonstration projects, the first one being of Southport Infirmary up on Merseyside, working in that type of way so that we can capture the evidence and the knowledge of the impact that working in that way is having so that we

can then utilise that to develop the products that are out there in the market and disseminate that as best practice out to the sector as well.

Q500 Mr Clapham: On the PI insurance, for example, here you are bringing together hundreds of workers, a large number of small and medium size enterprises. Has it been possible at all to be able to offer, in exchange for training their workers particularly in health and safety, lower insurance premiums? Was that something that you were able to work with, for example, on T5?

Mr Wolstenholme: I think that we have had a remarkable record. The insurance industry will be holding T5 up as a benchmark, a remarkably low incidence of claim, either from the projects in construction or risk insurance or from the professional indemnity insurance. One must take a view when one is ensuring the next set of projects as to whether this client is likely to impose a larger risk and, therefore, demands a higher premium or a lower risk. I would like to think that the results we have demonstrably delivered on T5 will lead us to a place where we can buy ourselves insurance at low premiums. Again, a question some time back around supply chains training clients: supply chains know who the good clients are, the insurance market will know which teams work well together and, through history, which are likely to be more risky for them; so these premiums will be set, hopefully, around the output that you can deliver.

Q501 Mr Clapham: Given the experience of Terminal 5, have other large construction clients sought to learn from your experience? Could you give us some examples of that?

Mr Wolstenholme: We have had probably for the last two and a half years, queues of people may be a slightly overestimate, but lots of very large, mainly private sector, clients, whether that is from the water industries, the defence industries, traditionally those industries from whom we would go and seek to get learning ourselves, so we would steal the lessons of the oil industry from the late eighties and the early nineties, fantastic industry programmes to put things together to seek to pre-assemble things off site, to take things off site. The trend for the last 18 months or so has been people coming to see, and to learn from, T5, whether it is how the client has acted, whether it is how the governance structure has acted, whether it is how you reduce the risk to take these off site, whether it is looking after the construction work force. So, yes, we have had a long queue of people coming to take learning from us and I feel it is our responsibility to be able to share the lessons. We are a learning organisation, we will go and steal anyone's good ideas and, in return, we are very pleased to try and articulate what those transferable lessons are and to help people through their own risk profiles.

Q502 Mr Clapham: A little earlier you said it is difficult to actually sell the business case for that investment in health and safety. Have you found, in terms of dealing with the large clients who have

come to you to ask about the experience of T5, that it has been easy to sell the case based on your experience?

Mr Wolstenholme: The health and safety case?

Q503 Mr Clapham: Yes.

Mr Wolstenholme: As I said, no-one would argue the moral business case to actually make improvements and changes to the way in which we work. I think people have been interested to observe the straightforward business generated case and, as I said, from a health and safety point of view I think people have been clearly turned in their view of how they may pre-invest in things like health centres. I do not think, generally, people are slow in taking up any opportunity to improve the environment and the output that they can hold against their own record for improving health and safety. Generally people have been very interested in what we want and generally people have been very interested to take those lessons forward to their own risk profile.

Q504 Mr Clapham: Before I move on to my final question, earlier you referred to negotiations with the trade unions that have taken some time. You met with the trade unions over a period, I think, of five years. Would you say that the trade unions have been enormously important in ensuring that you got the standard of health and safety that you had on T5?

Mr Wolstenholme: The trade unions are an incredibly important stakeholder as part of a single integrated team. We treated them as a stakeholder, as we would some of our suppliers or some of our third parties. I think the process of going into conversation—this has not been a negotiation, this has been aligning our objectives collectively and creating an environment that happens to be very closely aligned with some of the problems that were occurring. Before the programme started we met on a quarterly basis, we met on a quarterly basis throughout, dealing with the high-level issues, not dealing with the day-to-day incidents that inevitably happen on a site with eight to ten thousand people, but, yes, I think they have given us huge support. At times when we have had setbacks on site the unions have given us huge support because we bothered, I think, to create that environment where the context was aligning people's objectives; and I am delighted that they were able to come here today and to look at the T5 programme to say, "Yes, collectively we have moved the industry on, including those areas that are highly unionised", because we have sought to look at those parts that are important to them. We took on three national working rule agreements. One of those national working rule agreements was the major projects agreement that looked at the industry's behaviour around mechanical and electrical, and I think the Amicus Union in those days that was designing the new agreements tried to get a concept of integrated teams, tried to get a balance between rewards, if you like, and performance, and it is that sort of forward thinking that was consistent with the T5 approach. I think that there is an analysis to do at the end of the day

as to whether that provided value for money or not. Actually the fact that we had industrial relations stability over a period of four and a half years is very demonstrable evidence. The value in creating stability, the value in creating a healthy, well-trained, well-motivated workforce is very often misunderstood and very often the difference between a good project and a great project.

Q505 Mr Clapham: Finally, are there any changes or reforms that you would like to see government make to ensure that we get better delivery in large construction projects?

Mr Wolstenholme: As the question was posed I thought that was relevant to sort of the 10 billion pounds, if you like, we are spending over the next 10 years. If that is the context of the question, then planning processes are very important to support major programmes. If T5's decision had not taken the four plus one years to get permission, then everyone would have been home and dry on T5 and the release of the busy congested central terminal area three years ago. So the planning processes we look to for our major programmes in the future is vital; from our own context, a regulatory outcome that actually encourages and incentivises good value, environmentally conscious projects, is vital to our own portfolio as we look forward. The third one, as I look back over the last decade, in the sense of changing the UK construction industry, is that governments should not underestimate, I think, the purpose and the strength and the influence it had with the Latham Report followed by the Egan Report and, I think, a highly focused construction initiative that saw great change or saw significant change over a period of time. My request, in a sense, back to government, and I think the observation of government and the industry 10 years ago was, "You seem a bit dispersed and we seem quite well organised", yet I think we are slightly better organised and perhaps slightly less emphasis in government on this highly important sector. You know £120 billion, ten to 12% GDP, 50% public sector. There are still huge opportunities, I think, for efficiency savings on this programme and, if you look back over the last 10 years, it does make a difference when I think governments, private, public sector, every stakeholder in the industry forms together with a clear aspiration as to where you can get to. So my request is that the changed programme that government had previously sponsored would be very important to see further improvements as we go forward from here.

Q506 Chairman: There is just one question, Mr Wolstenholme. You have a big capital programme still to come at BAA which you are in charge of. *Building* magazine reported last week massive redundancies in your construction projects division and its headline was, "Cost-saving measures signal shift away from construction management method used on T5".

Mr Wolstenholme: That is how the press put it. For the last 12 months now, we have been looking at how we look at the next five years of our construction

programme, we have taken the lessons learned from our first and our second generations from T5 and we have segmented our construction risks into a number of different pots. If the article had said, "Look, BAA are moving to a model where one cap doesn't fit all", we will be using construction management techniques against the risks for which that is appropriate. Where we have very simple projects that are easy to find with no interface with the operation, then we will move perhaps towards an Emirates Stadium-type project where at the right time you pass the risks down. What we are doing too in matching the third generation of supply chain is reorganising our own resources, slightly slimmer, slightly lighter touch on those programmes where we will have more reliance on the construction supply chain and slightly more resource up at the upfront construction plant end, so this is, I think, the next generation, a more sophisticated, a slightly simpler approach, but actually providing the people and the value in the right places. If you look at the size of our organisation over the last two or three years, it has crept up to a level where we now feel we can downsize ourselves, but this is not axing 200 people to save money, this is actually getting a simplified process in order to make sure that we are fit to deliver at Heathrow a £3.5 billion programme. It is extremely important to the airport, very important to the UK, and I think it is a programme that matters to London, so we are getting ourselves fit to deliver that and we are doing the responsible thing in readjusting and simplifying our processes.

Q507 Chairman: So there is no retreat from the principles?

Mr Wolstenholme: No retreat from the principles at all.

Q508 Chairman: Finally, and either or both of you may want to answer this and it is a very unfair question because it refers to those who are probably already in the room for the next evidence session, but you have had a lot of publicity for T5, all very favourable, you have had deadlines to meet and you stayed on time and on budget, but the Olympic Delivery Authority have a unique challenge in that they have an absolutely unmoveable date by which they have to complete their very ambitious programme, a series of projects, so what is your judgment on how the ODA is doing as a client?

Mr Cunningham: I am conscious that our friends are behind us. In our view, we believe that the ODA as a client is showing some of the exemplary principles that our industry should be following or the clients should be following. They have shown exceptional client leadership, they have engaged all stakeholders at an early stage and some of their supply chain principles in terms of their procurement

methodologies follow the principles of the change agenda from the last 10 years, and I commend the ODA for doing that. On the downside of that, I talked earlier with regards to the failure of Wembley being due to decisions being made by committee and I am just conscious of the huge number of select committees and different committees that the ODA, as a client, have to report to. Therefore, my sort of caveat to you and to your colleagues would be just to be careful of scope creep and the impact that will have on the ODA as the client that they are at the moment in terms of showing true leadership, and our concern is that that might be clouded in some way in the future if there is too much intervention, shall we say, from the committee approach. At this mid-term report, if you like, if I was asked to give an out-of-ten performance, I would give eight out of ten and, if I was allowed to go for half marks, I would go for eight and a half, but they are showing exceptional leadership. Obviously, the proof of the pudding is in the eating and we will look to see how the programme develops.

Q509 Chairman: And BAA for T5 would have got how many out of ten?

Mr Cunningham: I can only give ten out of ten for that!

Mr Wolstenholme: I never give people ten out of ten and I think there is always a gap, there is always learning. If you go back in a sense to the first question of what should people be worried about, is there a strong client in place, is there strong leadership being provided, is there a clear brief against which you can set very clear targets and is there an effective governance process, the ODA is a new organisation, it started up a year and a bit ago, several months in a sense, on a programme of works that is inevitably still being defined and I think, rather than seek to say how many marks out of ten, ask the right questions around whether the Government is providing the right support to the ODA to make sure that there is clarity of brief, to make sure there is support both when things go wrong and things go well and a clear and clean governance structure that enables it to make decisions quickly. If you can score highly against those marks, there is absolutely no reason why the expertise of the supply chain and the integrated teams being developed will not produce a benchmark result for the future.

Chairman: Gentlemen, we are over our time. I am very grateful to you for your very clear and persuasive evidence. Thank you much indeed for your trouble. If there is anything, on reflection, which you wish you had said, we are open to receiving further written representations and you can discuss that with the Clerk. Thank you very much indeed.

Witnesses: **Mr Simon Wright**, Director of Infrastructure and Utilities, and **Mr Howard Shiplee**, Director of Construction, Olympic Delivery Authority, gave evidence.

Q510 Chairman: Can I say how grateful I am to you, Mr Shiplee, for the time you gave us last week when we visited the site. It was a fascinating and rather intimidating experience with what is required to be done there, but we were very impressed with the determination that you all showed and thank you very much. You said to me when we met at Stratford Station last week that the question was not so much what construction can do for the Olympics, but what the Olympics can do for construction and we are really looking at that focus of what will be learned for construction and the construction issues that come with the Olympics, and we are not looking at the Olympics. Bearing in mind the gypsy's warning we had from our last witnesses, as you probably heard, we do not really want to double-guess you, but we are looking at the construction issues which flow from what you are doing. There is a whole stack of things we could ask you about today, particularly the sustainability issues which we asked you about when we were on the site last week, so we will not repeat those to try and save time, but I would like to begin, as I always do, by asking you to introduce yourselves for the record, although obviously we met Mr Shiplee last week, and explain your roles in the ODA.

Mr Shiplee: My name is Howard Shiplee and I am Director of Construction for the ODA and my responsibilities are very clear. They are for the delivery of construction and I am also responsible for procurement which of course is the first critical step in the process. I think it is important to make the point that we, as the Executive Management Board, work as an integrated team across a whole range of disciplines which cover everything from design, delivery, sustainability, environment and all of those matters, so I am a member of a very integrated team under the leadership of David Higgins and our Chairman, John Armitt.

Mr Wright: My name is Simon Wright and I am a Director in the ODA and I am responsible for infrastructure and utilities, which is taking it from the point of identifying the requirements through to developing the business cases, consultation with stakeholders and agreement with the concessionaires or utility providers or other contractors up to the point at which Howard takes it on to execute it, delivery.

Q511 Chairman: I just want to ask a few questions on the scale of the task and what progress you are making before we get into the issues really more directly relating to construction. Can you just give us some way of understanding the scale of what it is you are actually doing to put it in context for us in some way?

Mr Wright: Clearly, this is a unique project and it is one of the largest in Europe, if not the largest currently in Europe, both in scale and complexity. Our focus is on the Olympic Park site, though clearly there are other components to it, but most of my comments revolve primarily around the Stratford City/Olympic Park site. We are where we wanted to

be, we are in line with our programme and the milestones that we set out some time ago, but it has been a hard struggle and it continues to be so and we are not in any way complacent. The achievements to date are significant, as you will have seen. We have acquired, through LDA, the land, so we have ownership of the component parts of the land and we have managed to close the highways, such that we can get on with the works, so we now have a safe and secure site in order to work within that very large area which you saw. We have been able to proceed with the contaminated land treatment and moving the earth around in order to get the profile for the development of the venues. As you will have seen, the Park is bisected with rivers and rails, so it is quite complex topographically and we have managed to link it up with temporary connections so that it keeps the traffic off the roads and we can move the material without going on the highway. We have made good progress with the utilities and we have entered into contracts, that is preferred bidder, with the energy provider for a sustainable energy centre on site, and we have also entered into a preferred bidder agreement with an electrical network provider, and both of those contracts have significant private-sector injections of capital into the works at a long-term concession. The scope of our work has been clearly identified, the briefs are now completed and clearly we are in deep dialogue with LOCOG, who are co-locator with us, we have taken the lessons from previous Games and decided that we need to be absolutely interlinked with the London Organising Committee, so we sit in the same building as them, and we have a long, detailed and in-depth dialogue with many other stakeholders. One of the key complexities of this is the diversity and numbers of stakeholders that we need to engage with effectively at the right time, bring them on board, make sure they are consulted with, communicated with effectively, and then we are seeking to achieve aligned objectives bearing in mind we cannot deliver everything and what everybody is expecting—

Q512 Chairman: You are beginning to anticipate some of the questions we want to ask.

Mr Wright: We are where we need to be and where we wanted to be at this point in time.

Q513 Chairman: Of course, as Mr Shiplee emphasised, this is not a project, it is a whole series of projects. How many work packages, how many projects are you defining as part of the overall programme?

Mr Wright: I think the total number of contracts could be over 500.

Mr Shiplee: Perhaps to put that into context, that is what I would call "primary contracts". When you then dig down and move forward into the supply chain, we potentially finish up, we think, with about 15,000 transactional contracts when you look down the supply chain, all of which are important to us, so just to reinforce what my colleague is saying, that

puts into context the scale of what we want to look at and the intrusive nature of how we want to deal with all of our suppliers.

Q514 Chairman: But this is a programme overall, is it, something like twice the size of T5 in terms of its scale and complexity, that sort of order roughly?

Mr Wright: In value, yes.

Q515 Mr Clapham: It is an enormous project and, when we visited last week, I think we were all impressed by what we saw, a project that covers, I think it is, 635 acres, twice the size of T5, 500 companies and an enormous job there to integrate those companies. Now, it has been said that perhaps the building of the Olympic Stadium provides the best opportunity to mainstream best practice in UK construction. Could you say a little about, for example, how you came to decide on the way in which you are going to approach the matter? For example, could you give us an overview of the construction commitments and, in doing so, could you say what their origins are?

Mr Shiplee: The construction commitments of course come out of the Strategic Forum, as you know, and the Olympics was seen as an opportunity to, if you like, rev-up learning in the industry and it was a very convenient hook on which to hang the need to uplift understanding across many areas and to inject a greater level of understanding and buy-in of the types of issues that we have been talking about this morning. We talk about demonstrations, and I suppose you might as well be upfront about these things, there is no point just talking about it, and we have put the Olympic Stadium, which is the largest and most significant piece of our activity, the one that will be most visible to everyone, we have put that forward as a demonstration project. We believe we are going to put ourselves right there in the goldfish bowl and say, "We will demonstrate that we are doing what we said we intended to do and we are following the construction commitments", so we are doing that because we think it is important to do that both to test ourselves and to support the construction commitments and the Strategic Forum.

Q516 Mr Clapham: So, when you were actually sort of bringing together your approach, did you look at what had been done on T5? Did you take any examples from T5?

Mr Shiplee: One of the challenges that we have is that we do not have the time or luxury to spend a lot of time going back to school to learn from all these things. What we have got to do is very quickly either pick up the things which we have all learnt in our respective careers as a team which the ODA Board brings together and, as well as that, to learn quickly from best practice as fast as we can. Of course, we have talked extensively and we have continuing dialogue with T5 and a number of other major projects. Interestingly, the contractor we have secured for the stadium is the same contractor who

built Emirates and we had some very interesting discussions with Arsenal about what they thought were the important factors in their relationship.

Q517 Chairman: We want to come back to that in a minute.

Mr Shiplee: In my own case, I come from a major project background and last night I dug something out which I thought might be a little helpful because a lot of the lessons are not new lessons, they are simply lessons that people continue to forget and ignore. I led a joint venture in Hong Kong for Hong Kong's international airport terminal and we were asked by our five international partners upon completion to give them a report as to why it had been successful for the customer, for us as the contractors and for our supply chain. Very quickly, these are the items which you may find of interest: safety; a clear contractual framework; commitment to an environment for success; clear procurement processes; recognition of relationships and a relationship of risk; leadership at every level; partnership, not conflict, throughout all of the relationships; constant evaluation of performance; awareness of what is going on around you, not just what you are doing yourselves; absolute urgency; a structure and a communication structure that tells people, explains to people and, finally, listens to people; training; planning, planning and planning; effective information technology as a base framework; and, finally, teamwork. That was good for seven years ago now and, from my point of view, those lessons have not changed at all, so that is my philosophy. That accords completely with my colleagues' philosophy and we are building on that to bring other issues into play as well because of course all of that is about construction, but there are other issues to do with sustainability and to do with legacy which are other areas where we have got to pick up quickly the bouncing ball, not reinvent wheels, and use best practice.

Q518 Mr Clapham: So it would be correct to say that what you have done is actually to build on your experience and what has been done elsewhere to develop, if you like, a bespoke set of principles which are unique to what you want to achieve on the site?

Mr Shiplee: I would not like to say that we are unique, but I just think that we are, as a group, as a board and as an organisation, very aware of the significance of all of these issues, and we understand what they need and we understand what it means in terms of the industry and our stakeholders. Of course, we will not get everything right, but I think our level of awareness is such that it gives us a very high probability that we will get most of it right, which has got to be the case.

Mr Wright: We come from a mixture of public sector and private sector backgrounds, so there is a blend of experience there from major projects in both sectors.

Q519 Mr Weir: I was interested in what you were saying, Mr Shiplee, about the main stadium putting yourselves in a goldfish bowl. Certainly the 2012

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Construction Commitments state that the procurement decisions will be made on the basis of best value rather than lower cost, but clearly there is a great level of attention and perhaps concern at the cost of the Olympics, so does that make it possible for you to look at best value rather than lower cost or are you effectively being pushed towards a lower cost whatever?

Mr Shiplee: I can answer that question absolutely categorically by saying that yes, we are buying to best value and not to lowest cost. I cannot provide you with the evidence of that in open forum because it is commercially confidential, but, if the Committee wanted to see evidence of that, we could provide such evidence.

Q520 Mr Weir: That was my next question, that we would like to see the evidence of that, and I think we all appreciate the confidentiality of it. Why is it that there was only one eventual bidder for the Olympic Stadium contract and the Aquatic Centre?

Mr Shiplee: There are two very different reasons. As far as the stadium is concerned, it was the first major venue that had been out to the marketplace and I think at that time, some 16 months ago now, our own plans were just being formalised, we had really only just been constituted as a board and most of us came to the ODA at or about that time in terms of the current management team. I think, frankly, the industry simply looked at it and took a vote not in any darkened room, but they simply voted with their feet. I have talked to the chief executives of many of the companies who we would have thought would have bid and the general response I have received, and did receive, was, "Well, just look at who's bidding. The company that is bidding or one of the companies is the company that has just finished what has been seen to be an incredibly successful major sporting venue, so why should we bother getting into this competition? That's the best team, they've done it before. You're taking on a designer and a contractor at the same time, so why reinvent the wheel? We'll go and spend our money on bidding for something somewhere else". That is the fact of it.

Q521 Mr Weir: That seems a rather timid response from the construction industry. There is a widespread belief apparently within the industry that the Olympics presents a massive opportunity for the sector, but what you are describing seems to be a rather timid approach to it if they are not prepared even to bid for the large contracts.

Mr Shiplee: Well, if I could spin it round the other way for you, and I am making no comment about Wembley whatsoever other than the fact that the industry did not appear to be terribly excited about it, it is interesting that the contractor that got it and successfully completed it, which is, I think, a tribute to them, it was the first project in this country for a contractor which had not operated in this country before. I do not want to see contractors coming and saying, "We're really very good and are going to take on huge risk", but what we are looking for is confidence in the capability of delivery, and people have recognised risk and have taken a view. If that

was their business judgment that they did not wish to participate, there is not a lot that we can do about it. However, just to complete it, the second one where we finished up with a single bidder, and I should just give you the background to that and say that those are the only two and in many other areas we have had very substantive and effective bid lists from industry where industry has obviously decided that it is appropriate to bid, we have also learnt because one of the things we do now on every one of our bids is that we hold industry days and we talk to industry way in advance of going out to tender both to explain to them what is coming up and to hear their views about whether it is attractive to them and, as a result of that, we have found ourselves in a generally much better position. The second area is the Aquatic Centre and we have learnt from the stadium and we went through a process and had a very solid bid list. We, however, finished up with three bidders actually commencing the bid process. Of those three bidders, one dropped out because during the process they were simply not prepared to accept our terms and conditions, they wanted an alternative set of terms and conditions which we felt were unacceptable, so we said, "We're not going to adjust on this one", another one was very simple, that during the process, they are an international company, not from the UK but Europe, and they came in and said, "We're very, very sorry, but we've just been awarded some huge, multi-billion dollar contracts in the near and Far East. They're sucking up huge amounts of resource and, rather than give you half a job or a sham, we're going to tell you that we're withdrawing. We're very sorry about it and we're sorry that we've taken it to this position, but we're withdrawing", and we said, "Thank you for being honest about it", and it left us with a one-horse race. We have worked hard in that and what is important is that the form of contract that we have been using allows us to have discussions with contractors so that we do not finish up in a stand-off position, nor do we become a hostage to fortune, so in both of those contracts we have worked our way through negotiating with the contractors to conclude arrangements which are within our budgetary arrangements and which, we believe, provide value for money.

Q522 Mr Weir: Was the cost of actually quoting for the main stadium, for example, a factor, do you think, in companies being unwilling to move forward and actually put in a bid in the first instance?

Mr Shiplee: I think there is always a debate about cost, about the cost of bidding, and I think substantially that comes out a lot in PFI areas where it is exceptionally expensive to bid. We have tried to make it such that it is not an expensive operation. We still require a considerable amount of input and, after all, if people are not prepared to make the investment, then they do not deserve to get the job, but we are trying to ensure that we can, if you like, take some of the risk out of it, so in a number of areas, once we have got a contractor into the state of progressing forward through negotiations, we have

on occasions agreed with one or two contractors that we will actually fund some of their early design work, as long as of course we have the intellectual property rights for that work and we may use it as we see fit, to try and reduce what are seen as the potential loss costs of tendering so as to align contractors with a desire to get on board with us and to start the process of building a relationship, and the new engineering contract is a helpful way of doing that as well.

Q523 Mr Weir: Given obviously that the Olympics is different from many construction projects in the sense that it has to be finished by a specific date and you cannot afford to have much slippage in that date, I would suspect, can you tell us what the risks are associated with having just one bidder for these prime contracts and do you foresee any problems with that? You have mentioned before that you were not in a stand-off situation with one bidder, but surely, if you have got one bidder for a contract and they know they are the only bidder, which I presume they did by that point, then they are in a much stronger position in dealing with you than if they were in a competitive situation.

Mr Shiplee: I think that must be right to some extent, but I think there is a balance in that debate. When talking with contractors who are bidding and have bid to us or wish to bid, one of the strong issues that they put forward is that of reputation and, after all, I do not think it behoves any contractor to feel that they have endeavoured to take advantage of a situation and what we have seen is in fact proposals coming forward to us which do not indicate that anyone is taking advantage of us. Some of these projects are complex projects, they attract a price and we have been through those prices, we have been through issues like overheads and profits, and we believe that in the circumstances they are reasonable, so we do not believe that we are being taken to the cleaners by the construction industry; quite the contrary.

Q524 Mr Weir: You presumably will say you are, but are you satisfied that the contract you have is tight enough that we are not going to get massive overrun in cost in the run-up at speed to finish this prior to the Games commencing?

Mr Shiplee: The answer is yes, but I think it is important to give you some background as to why I say it is yes so firmly. We started the discussions and negotiations with the contractor on the main stadium actually 16 months ago. That 16 months that we have spent now working together has not been spent on negotiating a contract, but it has been spent on actually creating the design for the stadium. When they were appointed, what we had was the broad brief as to what we required, but we went through a long period of iterations while we established the optimum design for the stadium, and what I think we have got now is quite a revolutionary approach to the stadium delivery. We have also great clarity of what that scope is and the scope has been backed up and agreed with LOCOG who will be the prime user and, ultimately, with

various organisations who will collect it in the legacy, so we have created a very large element of certainty in this so that, when we start the construction, and I can report to you that the site officers, whom I think you saw when you came round a week or two back, are going up on site, our integrated team, with us as client, the contractor and the design team and now some of their specialist sub-contractors, will be moving on to the site as an integrated team within the next six weeks and with the level of certainty where we have identified very clearly what we want, how much it is to cost, and the big issue is that we must not change our minds.

Mr Weir: I hope you are right and we will watch with interest.

Chairman: I must remind myself and you and the Committee that we are trying to learn the lessons for the whole construction sector of what you are doing with the Olympics, so that is why it is very helpful that you drew the parallel, for example, with PFI contracts earlier on, so do feel free to draw on experience from elsewhere as well in answering the questions.

Q525 Mr Binley: So 500 companies, which surprises me as I would have thought it would have been more, involved in the Olympics, you might correct me if my figures are wrong, and about 24,000 people in total; a sizeable project. On how many of the main projects to date has the construction team been identified and have they been involved in the early design process, and what you said intimates they have, and how much has that whole process involved sub-contractors who are a vital element of this operation?

Mr Wright: A significant number of contracts have already been placed.

Q526 Mr Binley: Can you be more specific than "significant"?

Mr Wright: I would guess at around ten, and I am talking about construction contracts. Clearly there are many other kinds of procurement, including, for instance, stationery and all that sort of thing which I do not get too much involved with, but major orders have been placed in the utility market and for the initial venues clearly we are in the midst of procurement, so, when you say, "Have orders been placed?", it is a question of what stage of the process you include.

Q527 Mr Binley: When I was a salesman, I always thought an order was when I got a signature on a piece of paper.

Mr Wright: Well, quite, but European procurement has a number of steps to it.

Q528 Mr Binley: I understand that.

Mr Wright: In all of those procurements, we have engaged with a supply chain at an early stage, including, for instance, on the energy network where we are at preferred bidder stage, so the order is placed and the contract is being finalised. It is a design-build-finance-and-operate procurement and we have engaged with the private sector to invest in

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the long-term regeneration of the Park, so this is an energy centre not just for the Olympic Games, but for the long-term development of the site post-Games. They have put a significant amount of their own capital into the project, or they will be, on the basis that they achieve the income from selling energy.

Q529 Mr Binley: If I can cut you short, I want to be specific with this question, if I might. We are talking about a defined number of projects.

Mr Wright: Yes.

Q530 Mr Binley: How many defined number of projects are there in relation to my question and for how many have you already got construction teams identified and early design work started upon?

Mr Wright: Early design work has started on all of our projects.

Q531 Mr Binley: But how many? I want to get a grip on this. You started on ten, but how many major construction projects have you got in total and how many have you got signed up for?

Mr Wright: There are around 25 to 30 major construction projects. On all of those projects, design has commenced.

Q532 Mr Binley: So that means you have signed contracts on every one of them?

Mr Wright: For design.

Q533 Mr Binley: And you are buying that design, irrespective of whether people get the contracts or not?

Mr Wright: We are. In these projects, they all require an initial design, design consultant, an architect, engineer—

Q534 Mr Binley: Okay, so you have signed up ten of those 25/30?

Mr Wright: No, all of those contracts have designers signed up for them.

Q535 Mr Binley: No, my question was: for how many of the major projects to date has the construction team been identified?

Mr Wright: That is a different question.

Q536 Mr Binley: It was my first question.

Mr Wright: I beg your pardon if I misunderstood. We have initial design teams and, when we move, by and large, we move to a design-and-construct contract, so the initial design teams take the project through to a scheme stage or an initial design stage so that we can get planning permission and that type of permit. We then will tender it into normally a design-and-construct form of contract and, for any new engineering contract, that is very often the form of contract that we use. Of those larger number that I mentioned, 35-odd, something significantly less than that, eight to ten, are at a point where we have a design-and-construct contract identified.

Q537 Mr Binley: Thank you, that is very helpful too for my other questions. In terms of the process at this stage, are we at too early a stage to be talking to prime contractors about sub-contractors?

Mr Wright: No, we are not at too early a stage and there are discussions held with the tier ones, the prime contractors, during the tender process about who they will engage as their tier twos or prime sub-contractors. We are very interested in those and we want to understand who they are going to be putting forward and that we consider them to be appropriate organisations and then we will work with them. Often, they will carry out the design in the detailed stages, so it is very important that we engage with tier ones, as we are, in the earlier stages so that we can work with them together to ensure that the designs are locked in and effective.

Q538 Mr Binley: Thank you for that; I now have a clearer view. How many of the projects currently under way use project bank accounts or project insurance and how much work have you done there?

Mr Shiplee: Let us just pick up project insurance first. We are working on the basis of project insurance, so we insure all of the works, and the only insurance that the contractors have to carry is for their own liability in terms of their employees and their own plant and equipment. For the work itself and all the risks associated with the work, we have blanket policies and we have found that to be the most appropriate; again more learning. I think one of the important issues, and I think it was mentioned by my colleagues from T5, is the whole issue of recognition from the insurance industry that, when you perform effectively and efficiently, and I think Mr Wolstenholme said that accidents are expensive and this is absolutely true in every respect, the industry reflects that in the premiums that we are charged if we can demonstrate good performance, and I think that is a very important issue for the future. In terms of project bank accounts, looking down the construction commitments and many things, it is the one area where we have taken a view that project bank accounts, as proposed, are not something that immediately springs out as appropriate for us. The reason is that the project bank account approach works if the client is holding all of the contracts and, therefore, is the person who is actually paying and is administering the contracts. In our case, in the vast majority of cases the prime contractors will hold their relationship with the supply chain and we expect them to administer both the payments and the contractual administration of that supply chain. However, we do expect to be intrusive in wishing to know that, when we are paying properly, that is reciprocated by the tier one contractors and below also paying properly, so we are not simply turning a blind eye. The other point on this is that, if we in fact had areas, for instance, the link Mr Wolstenholme mentioned earlier of the portfolio approach to the different types of contract, and indeed that is exactly what we are doing, we have different forms within the contracts, as you have heard, some very clear about scope and price, others involving private-sector funding. If we found a

situation, say, where we thought it appropriate to execute some work through a construction management route, then I would have no compunction whatsoever, where all of those contractors are directly engaged to us within that project, of in fact taking on a project bank account approach.

Q539 Mr Binley: Good, because I do not need to say to you that (a) the construction industry is a bit prone to seeing bankruptcy on occasions, and (b) we are now running into a situation where credit is becoming more difficult to get from banks. Equally, I do not need to tell you that, if a cog in the wheel comes to an end, you have some problems on a very limited time-frame project.

Mr Shiplee: I agree entirely.

Q540 Mr Binley: I would assume that you see project bank accounts being an important part of managing that particular risk and I was just a little surprised not to hear a slightly more definitive answer in that respect. Would you add to that or comment on that?

Mr Shiplee: Forgive me, I thought I had been very definitive.

Q541 Mr Binley: Well, I am not sure you have, particularly with sub-contractors.

Mr Shiplee: What I said was that I do not believe, and we do not believe, that it is appropriate in the majority of the forms of approach that we have adopted that we should try and administer the payment of the supply chain which is actually owned, if you will, by the primary tier one contractor. What I did say was that we expect to be intrusive in ensuring that, if we are paying fairly, properly and promptly, that should be reciprocated down the supply chain because I am very conscious, as I think you are alluding to, that it is in fact down the supply chain where a serious problem can occur, that someone goes bankrupt and you are in trouble. I have personally been in situations where, as the client, there is only one answer: go and buy the company because you have to have it complete the work for you. Does that answer the point?

Q542 Mr Binley: Yes, that helps me, thank you. You are committed to not withholding unfair retentions, and that has been stated, as I understand it.

Mr Shiplee: Correct.

Q543 Mr Binley: How are you working to ensure that your main contractors do not hold retentions, and this impacts upon the earlier question, for their sub-contractors?

Mr Shiplee: You said “unfair retentions”, but we are not holding any retentions, fair or unfair. The second issue is that we expect that to be reciprocated down the supply chain. I have also to say, however, that one of the important things about supply chains is the 80:20 rule and it also applies to the whole issue of client relationships with the industry. If you talk to any major contractor and say, “Where is your base of income?”, it will be 80% of income comes from 20% of his customers, and so on and so forth.

Therefore, I think one has to respect in this that certain contractors may well have within their supply chains organisations with whom they have worked for a long time. Now, if they have got an arrangement which suits them, whatever it may be, then I am quite content to leave that as long as it is fair and appropriate, but I would not particularly wish to see people trying to hold retention on others because actually they are making money out of cash they are getting.

Q544 Mr Binley: I understand that. Your phrase “I would hope”, do you not think you need to be just a little more specific in that respect?

Mr Shiplee: Well, perhaps because I have some faith in the industry—

Q545 Mr Binley: I am delighted.

Mr Shiplee:—and when I say “I hope”, that is not an act of blind hope. Perhaps a better way to put it is that I anticipate that the industry will reflect our approach and I wish to see it reflected on down the chain and, by the way, if it is not reflected down the chain, we will take an extremely dim and proactive view of it.

Q546 Mr Binley: I am delighted at that. Finally, could you explain just a little what you do to ensure that SMEs play a significant role in delivering the Games, and it is almost self-evident that they will, but I want to add to that what I asked in the earlier session of questioning, which is how are you ensuring that you really do get down, in terms of quality and risk management, to the bottom of your sub-contractors’ organisations, small though many of them might be?

Mr Shiplee: Without going back to the contracts, we have currently placed in the order of 500 contracts. Now, some of those contracts may be for the supply of paper, but, nonetheless, we have 500 contracts that have been placed and 50% of those contracts have been placed with SMEs and about 25% of those contracts are actually with SMEs within the five boroughs within the area, so we are actually working very hard in this area and we have also tried to make it easy. I think you have mentioned the costs of bidding and I think approaching an organisation with a bureaucracy of the type that we have to have, for a small company can be difficult and of course very dissuasive, so what we have got is a supply chain booklet, it is very simple, it is very user-friendly, and it tells people, and we left a pack with you, how to get engaged and how to get registered. We have also been holding, with the regional business networks throughout the regions and throughout London, meetings with industry at all levels to explain to them again how to get engaged because we wish to see small- and medium-sized enterprises and of course enterprises from other parts of the valley, for instance, with the five boroughs where there is a very large mix of different backgrounds. We want to see a spread of all of this activity and across as many small companies as we can, and the same within our contractor supply chains.

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Mr Binley: Can I congratulate you. I knew about that and I just wanted to get that on the record because I think it is a very good example that we can use in other areas, quite frankly, so I thank you.

Q547 Mr Bailey: We have heard a lot about the Emirates Stadium which was delivered on time and on budget, but, we were told, using something like 70% bogus self-employed labour which obviously has wider implications. What are you doing to ensure that the same is not true for the Olympic Stadium, given the fact that McAlpine is doing both?

Mr Shiplee: Well, the first thing is we are not here to debate whether it was or it was not bogus self-employed, so I am not sure whether it is or not, but one can only take what has been said.

Q548 Mr Bailey: It was the union that said that.

Mr Shiplee: I do understand. The issues that we have made are very plain, that we recognise the significance that direct employment can make and that it is something that we wish to see passed down, and through, our primary contractors. Of course, we have been asked to mandate it and we cannot mandate it because legally people are entitled to be employed on various mechanisms. The important issue is that people, first of all, we hope, will substantially be self-employed and at the moment, approaching 2,000 people on site, 85% are directly employed, so we are trying to live up to what we have said. I think, as we proceed forward, it will be important to ensure that the people who are employed on the Olympic site, irrespective of whether they are directly employed or by some other mechanism, are legally entitled to work, are paying the appropriate tax and other things necessary and are, therefore, not bogus, but are legitimate self-employed, and I think that is very important and we will be doing all we can to ensure that that is the case.

Q549 Mr Bailey: I think that is the crucial thing. What can you do to monitor that?

Mr Shiplee: A number of things. If we, first of all, take the issue of, for instance, immigrant labour which is one issue which I think you have raised previously, on site we have embedded in our organisation not only the Metropolitan Police from the point of view of general control, but we are also in discussions now with the border immigration authorities and our proposal is that they become part of our site team, that they are there, that they are present and that we can, through our process of issuing passes on to the site, assure ourselves that people are people who are entitled to be here, entitled to work and that they are being appropriately employed. Again, we have trade union representatives who are now accredited trade union representatives who have been recognised by our current incumbent contractors and are on site, and I am sure that they also will be taking an active interest in these matters and I would expect that, if they saw things that were unsatisfactory, through a mechanism that we have set up with the trade unions, the group that we have set up, they will be

bringing that to our attention and we will discuss it and, if things are not being done properly, then they will have to be rectified by the employers.

Q550 Roger Berry: Inevitably, there will be migrant workers from other parts of the UK and indeed from other countries. What proportion of the workforce do you anticipate being migrant workers from other countries?

Mr Shiplee: One might ask that nationally, what is the situation. We reflect what happens in the nation, so I think it is a very difficult question for anybody in effect to answer. We, at the moment, have not yet differentiated. I can tell you that of our labour force, in broad terms, 20% comes at the moment from within the five boroughs which is very significant and about 50%, so the remaining 25% taking us to about 50%, comes from London and the South East and then about 40% comes from other regions and other parts of the UK and we are not yet differentiating in terms of people who are migrant, but we will be doing so. We are just moving to our next stage of securing the site, as you will have seen from your visit, and that will then start to close off and put in place our control processes and procedures. Inevitably, I think it will be a similar mix to that which exists in the industry at the moment. I do not see any huge influx of people specifically coming from Eastern Europe for the Olympics. The one thing that the industry has been very successful at doing over the years is flexing its size and scale to meet market demands.

Q551 Roger Berry: Are there any particular places that yourselves and contractors are actually recruiting from at present?

Mr Shiplee: That is a matter for our contractors. Just to put it into context as it may be helpful to you, whilst the Olympics is a very big programme, we, in terms of the UK construction capability, represent about 2% of capacity. In London and the South East, we represent something between 12 and 14% of capacity, so we are not a swing player in that sort of respect and at that sort of level our issue is to make ourselves attractive in a competitive marketplace to get the right and best resources we can.

Q552 Roger Berry: You said earlier that you take the commitment to the five London boroughs very seriously and a large proportion of the 50%, you said, or 20% comes from those boroughs. In the construction commitments, that commitment to the five London boroughs, does that constrain the opportunities? Is it a commitment that on the ground you find difficult to uphold?

Mr Shiplee: I think there are two issues. I am not sure exactly where you are coming from, but, first of all, this is a national event and, therefore, the nation will participate.

Q553 Roger Berry: Indeed.

Mr Shiplee: I made the point that quite a substantial amount of the workforce is from other parts of the country and I think that is as it should be and historically that is how it always has been in London,

that there has been a level of work undertaken by people from other parts of the country. I think that the issue of the five boroughs is a very, very important one. If I can just add one other statistic, 10% of our workforce was actually unemployed before they started work on the Olympics, and the reason I mention that is because it is another part of an important piece of work and that is the whole issue of legacy. There are a lot of discussions about what the legacy means to the Olympics, what it means in terms of venues left and the facilities, but we also see the legacy in the construction sense as leaving behind us when we are complete a greater level of local employment and upskilling into our industry and, therefore, employment, skills and training as an important cross-cutting theme are very, very high on our agenda. That is not just because it is a good thing to do, which it clearly is, but also because the more people that are trained and come from the local area puts less strain on the local transportation systems, so that is a great advantage. Of course, finally, we want the people in the location to see us not as interlopers, but as good neighbours and again, if people are working for us on the programme, then they have a vested interest in its success just as we have.

Q554 Roger Berry: It is a national event, indeed an international event, so my question, I suppose, is to what extent is there a conflict between the understandable emphasis on the five boroughs and the benefits to people who live and work there, but also the wider commitment that this should be a project that benefits the UK as a whole? Is there a conflict there in reality?

Mr Shiplee: No, I do not think there is a conflict. First of all, much of what we need will have to be manufactured, much of it pre-fabricated, and what we want to do is exactly as the lessons learned from T5, that you get best production in a factory environment, so what you want to do is assemble it on site and, therefore, the more we can transfer off the site to good facilities throughout the country will be very important to us.

Mr Wright: I think the design is focused on achieving safety, but also off-site assembly, so by designing appropriately for off-site manufacture, we can mobilise the supply chain in a number of parts of the country and not rely solely on local, which of course will not have the capacity, but encourage, as Howard has said, the local training such that we get a win, win because we are getting the skills we need and we are not putting a strain on the transport system that would otherwise occur if people came from further away.

Q555 Anne Moffatt: Just talking about skills, what targets have you set and what arrangements have you made for the training of your on-site workers?

Mr Shiplee: First of all, we have not yet set targets and there is a reason why we have not set them, because we are still working on the landscape of where we are going. What we have done, first of all, in terms of on-the-ground training, we opened just over six weeks ago the first of our training facilities,

which is a plant driver and training facility for plant operators of which there is a shortage in the industry, and it is very interesting how that has been achieved. It has been achieved by a public-private partnership between our Learning and Skills Council, the LDA and many other organisations and by very substantial amounts of money, not cash, but equipment provided by JCB which will come to us free. They are on site now and people are being trained to use them and then will ultimately be transferred to the National Skills Plant Training Centre, so that is the first of our training operations now running on the site. We are currently working on a second one which will be eventually in Waltham Forest, using again a public and private approach, and that will be for staff who are training in, and an awareness of, working at heights because again, from the safety point of view, falls from heights are the single biggest cause of fatalities in the industry and, therefore, it has a dual role. We are starting shortly a Women into Construction programme which will start probably in the next six weeks. Importantly, on a rather more global approach, we have formed what we call our “Corporate Social Responsibility Group” and we decided that we did not have the time to try and reinvent the wheel on training and upskilling and it became apparent to us, through investigation, that there are a lot of organisations in government particularly and other organisations in the public sector which do this work, which do training and are involved in all of these things and of course also have hands in budgets. One of the challenges when you talk to them is that they will train people, but how do they get them into jobs because there is no leverage to the employers? We of course sit between those people and a large number of employers. We formed the Corporate Social Responsibility Group which brings together those private and public sector organisations and the employers that we are moving into contract with and we have now established a series of cluster groups within that operation which are now working on a whole range of initiatives in order that we can start moving training out into the very broad areas that we want to, and of course apprenticeships is one of those important areas, although “apprenticeships” has different meanings these days. We are working very hard on that and have been now over probably the last five months and I think, as we move forward this year, we will be setting ourselves some very stretched and, I would hope, ambitious objectives to be achieved in this area because I think this is one area where we have to demonstrate some real effort made and some real results in what we are trying to do.

Q556 Anne Moffatt: As this evolves, will you be able to provide us with details of what your programme is?

Mr Shiplee: I will be very happy to do so and, frankly, if I may ask, any help you could give us would be appreciated.

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Q557 Mr Bailey: UCATT, early on when interviewed, scored you six out of ten on industrial relations. Now, there has been a public outcry about your refusal to have a unified pay structure for workers on the Olympic site, so it might be lower than that now. Do you not think that the absence of a single pay structure is a recipe for conflict?

Mr Shiplee: I think that there are no right answers to any of these issues and there will be examples that can prove either side's case in any circumstance. I think that the point was made earlier about programmes and projects. The Olympic works do not just cover the Olympic Park, but we have activities as far away as Weymouth, we have ventures which involved private-sector funding as well as public-sector funding and we have different forms of contract. The important issue is that we are working within the framework of the nationally negotiated working rule agreements and that is part of the agreement we have already reached, after extensive negotiations, with what was then the four, but now the three construction and engineering unions. Now, the issue of some form of unified pay arrangement, when I talk about 15,000 companies potentially down our supply chain, it cuts across the whole structure of the industry and I would doubt very much that that is a sensible thing to do. The industry, both client, unions and contractors, regulates itself in this area and, rather than talking simply about unified pay arrangements which then leads to a whole debate about unified pay negotiations and collective bargaining across some 20,000 people which I just think, frankly, is unrealistic, the issue that is important is that people are fairly and appropriately paid within the working rule agreements and that there is a realistic level of parity across the piece in what people have in their back pockets and in their wallets as their take-home pay. I believe that has always been the issue and remains one and we will be taking an interest in seeing how that progresses. We are continuing discussions with the organisation which supports the major projects agreement which is very specific to the electrical industry which was used at T5 and we continue our discussions there to see whether or not there are some approaches that might be appropriate for the Olympics, but we have not reached any conclusions on that yet.

Q558 Mr Clapham: The 2012 Construction Commitments state that you aspire to be incident- and injury-free. I know it is early days, but could you tell us how you are performing at the present time?

Mr Shiplee: What I think is probably most important is to say that recently we had our first million man hours passed with no incident. Sadly, someone walked out of a canteen, slipped and twisted their ankle, so that put us back to base which was unfortunate, but that is life. We are now well on our way to, and will shortly pass, our second million man hours without incident, so we are trying again to walk the talk. In terms of how we are doing that, again I think you heard Mr Wolstenholme talk about leadership and safety before, and we again completely agree with that and we have already

established our Safety Leadership Group which is attended by the HSE, our own contractors and indeed the trade unions are represented, as indeed are the TUC, so that we can have commonality of view and work together and that is what we are doing. We have a programme of leadership which starts with our Chairman who takes a personal interest and this flows down into the supply chains and we are going to be extremely intrusive not only into safety, but also in terms of welfare and conditions. We recently opened the occupational health centre on site and you have heard the comments about medicals. People can get a medical there if they have a safety-critical job, so they can go and get a health check. I was over there talking to the nurses just before Christmas and they are talking about all sorts of issues to help people, and of course we are in a very male-oriented industry, so things like testicular cancer are very important, and they were showing the appropriate things that they are going to be putting up in toilets and various places to try and help people recognise how they can help themselves in these sorts of areas, so again we are taking it very seriously and being proactive.

Q559 Mr Clapham: Mr Wolstenholme also said that it was difficult to sell the business case for health and safety. You are committed to selling that business case to all who work on the site?

Mr Shiplee: Absolutely, and my belief is, frankly, that it is sometimes a difficult case to sell, but I think contractors and clients alike recognise that accidents are very expensive. One of the things that we are starting to look at and actually do, although fortunately we have had no serious incidents, is indeed to look at the cost of incidents and, by that, I do not just mean what people perceive as the cost, but all of the other costs that are associated, the down-time, the stoppages, the slow-down, the inefficiency, all of those things because I think, in that way, we can then start having a much more intelligent debate with insurers and others, although that insurance issue is a matter for the employers themselves.

Q560 Mr Binley: It has been said that the cumulative effect of the Olympics on construction price inflation will be between 1% and 1.5% in London and the South East. Have you done any work on that and do you have any view of what that might be?

Mr Shiplee: We have our view of what inflation is, but, if you are saying are we creating an inflationary situation—

Q561 Mr Binley: Well, that is what somebody said and I want to know whether you believe that is right and, if you do, how much you think that will be?

Mr Shiplee: Well, on the basis that, at peak, we are only 14% of the London market, my answer would be no.

Q562 Mr Binley: Well, I am going to come to something else a little later which you might know then. Secondly, some estimates last year said that the

total cost of construction price inflation arising from the Olympics equated to almost £4 billion. Did you read those estimates?

Mr Shiplee: I did not and I could not comment on that. It sounds to me—

Mr Binley: Well, it is pretty important.

Chairman: It was the Taxpayers' Alliance, the source of that.

Q563 Mr Binley: That is exactly right, and their record has been very good indeed on matters of this kind, I might add. Might I then come to the final question because my concern is that there is a lot of focus on construction in the South East with Crossrail, Heathrow, the Sustainable Communities Project, Gatwick extensions, and I could go on. Have you been made aware of any impacts of the Olympic construction programme on adjacent sites and what is your view of availability of resources, recognising the whole of that construction project marketplace?

Mr Wright: Clearly, we understand and recognise that, absolutely right, and the major contractors who are tendering, or will tender, clearly also are well aware of that. They are national firms, most of the current tier ones, and so far they have been able to recruit adequate resources to meet the need, so there has not been any evidence so far of them being unable to recruit resources. Clearly, we are not yet at the peak and the type of resources will change. You have been round the site and you will have seen the kind of work we are doing and that changes as we move into building venues, which starts this spring and then into the summer, and then on into the fit-out and again the types of skills change. As we get towards the latter stages, the types of skills start to become perhaps potentially more constrained and there will have to be close attention paid, and part of the training and the upskilling is going to assist in that, but there will need to be close dialogue with the adjacent contractors. We have Stratford City of course on our boundary and the Olympic Village is of course part of the Olympic project, a major project in its own right, and many other private-sector developments that are occurring as a result of the Olympic factor around the Park with the downturn that we are now beginning to see that that might be modified to an extent and we need to keep a close eye on the next two years as we get towards our peak, but at the moment we are okay.

Q564 Mr Binley: You are in early because your project finishes on a time-limited basis in 2012 and, if it ain't, you are in real trouble, but others are not. Are you leaving a legacy of a shortage of resource as a result of that? I understand you are upskilling some people, but my concern is that there is going to be a further influx of people into the South East and that is going to be a real problem for the North and the Midlands.

Mr Shiplee: I cannot really comment. I do not think that is an Olympic issue.

Mr Binley: I just want it on the record and I am grateful to you.

Q565 Mr Wright: Just very briefly, what is the retention rate of the labour force because of the competition obviously that there is certainly within the City in the construction industry?

Mr Wright: We are at any early stage, so, in terms of the evidence so far, it is good, but we have been on the site just over a year, so it is very early days. What is quite pleasing to note is that, for instance, people who became employed, and certainly there were some unemployed who became employed in one of the early contracts which has now finished, have been re-engaged by a subsequent contractor, so I think there is some evidence beginning to emerge that we are able to sustain employment across contracts, such that the labour force will move on with contractors as the work progresses and the types of contractor complete one job and others come in to start the next. At the moment, we are seeing some continuity and we are quite pleased with the current status.

Q566 Mr Wright: What numbers would you say there would be in terms of vacancies on a regular basis or are you up to full complement?

Mr Shiplee: I cannot give you exact vacancy lists, but what I can say is that we have, with the five boroughs, the LDA and Jobcentre Plus, formed an operation, a brokerage system, which actually identifies need for the contractors, feeds that into a process which then feeds those needs out into the five boroughs and beyond, as appropriate, in a way which gives us a structured recruiting programme for the Olympics which of course gives us an immediate concentration on the five boroughs and then feeds it out from the five boroughs into Greater London and then further on. That is something that we kicked off at the turn of the year and that is starting to prove effective in terms of the recruitment processes, particularly focused on the local area.

Mr Wright: A comment I would like to make in respect of the five boroughs and the Greater London area is that this has been sold as a United Kingdom bid and I think it is vitally important that areas further afield share in that particular resource. It just appears that the concentration is within the M25 area rather than trying to spread the resource to where other people in my area up north perhaps may well be able to bring expertise and also reduce the unemployment levels in those areas, so it is just a comment, that I do not want to see the concentration that appears to be there in five boroughs and the Greater London area.

Q567 Chairman: I think that was just a comment. There are two quick questions to finish. The first is that we are talking of a deadline of 2012 and all construction projects have deadlines and timetables, but yours is particularly written in tablets of stone. What risk does that pose to you? Is there anything that the Government can do to make your client position stronger or are you content with the position you enjoy?

Mr Wright: I worked on the Greenwich Peninsula project which had its own fixed deadline and in actual fact in many cases it is extremely helpful in

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focusing, as Mr Wolstenholme said, the entire team from the earliest possible moment that, when everybody comes on, they know that the completion date is what it is and it is not going to change, so that drives—

Q568 Chairman: And the contractors do not see an opportunity to stitch up the client?

Mr Wright: Clearly that could be the case and you cannot pretend that that is not going to be an issue, but our policy is that we have a programme that allows us a float, so we are not working up to the wire. We have a programme that gets us in early, we are on programme and on track to do that, so we get in and give ourselves a bit of breathing space, such that we are not so vulnerable to being held, if you like, to ransom at the last stages.

Q569 Chairman: So it focuses minds, it is not a problem and you are content with the power you enjoy and the relationship with your contractors?

Mr Wright: I think the relationship is extremely good with all parties thus far and we have had very good support.

Q570 Chairman: We have asked you questions specifically on the Olympic project and we are trying to learn lessons about big projects and construction generally and particularly, in your case, some of the public sector issues. You have talked a lot about legacy, good relations, training, health and safety, employment policies and so on, all these issues, which for you, because of the politically exposed situation which the Olympic Delivery Authority is in, are very important, but to what extent when you go on to your next big project, whatever it is, will

those same issues be important to you and why or is the political dimension of this project giving them a particularly high focus?

Mr Shiplee: My personal experience is that I was five years in Hong Kong and what was very important to the administration there when we started was health and safety. Why? Because during the process of delivering that project, there was a change of site and it was absolutely classed as essential by HMG that they should demonstrate that they had acted properly in accordance with looking after the people who would be transferred to China at a later date, so these sorts of imperatives are not just special to us, but I think they occur in many places in different ways. For all of us, having just suddenly come to a conclusion that these are really good things to do and, gosh, we woke up this morning and that is how it was, for all of us, and I am sure Mr Wolstenholme is the same and Mr Wright here, we have worked our way through understanding why this is important, probably seen some places where it has not happened and realised that actually it is a good thing to do it this way because it is a better way to go about it, so I think the issue is that people are very committed. I am very committed, my colleagues are very committed and that commitment will be taken on, but of course we will have learnt some more during this process.

Mr Wright: There are some core principles which I think we hold true and will take with us. There are certain specific elements in every project which cause you to reconstitute those into a slightly different mix, if you like, and I think the lessons learned are fundamental in major projects and can be transferred from one to another.

Chairman: Thank you very much for carrying the torch for the Olympics so effectively this morning, gentlemen. We are very grateful to you and thank you very much indeed.

Tuesday 22 January 2008

Members present

Peter Luff, in the Chair

Mr Adrian Bailey
Roger Berry
Mr Michael Clapham

Mr Lindsay Hoyle
Anne Moffat
Mr Anthony Wright

Witnesses: **Rt Hon Stephen Timms** MP, Minister of State for Competitiveness, **Mr Denis Walker**, Director, BERR Construction Sector Unit, **Mr Clive Young**, Assistant Director, BERR Construction Sector Unit, Department for Business, Enterprise and Regulatory Reform, and **Mr Mark Pedlingham**, Executive Director, Market, Suppliers and Skills, Office of Government Commerce, gave evidence.

Q571 Chairman: Gentlemen, welcome to what is the very last evidence session of what has been one of the most interesting, long and well contributed to inquiries this committee has held. We were deluged with written memoranda. Then we were delayed by a certain uncertainty about the future of the department, which I am glad was resolved satisfactorily, so the industry has been very patient in getting to this stage today where we have you before us, and I would like to express publicly my gratitude to everyone who has contributed so intelligently and interestingly to our debate for so long, and now it is the main event, as it were, with you, Minister, and your colleagues. Can I begin by asking you, as I always do, to introduce yourselves for the record, and I believe, Minister, on this occasion I am going to be a weak-willed Chairman and allow you a brief opening statement to set the scene.

Mr Timms: Chairman, thank you very much for your kindness and your indulgence. I am the Minister for Competitiveness with responsibility for the construction industry. With me are Denis Walker on my right, who heads the department's Construction Sector Unit, and Clive Young, who covers the unit reporting on skills and people, and on my left Mark Pedlingham is from the Office of Government Commerce. He is on secondment there from the Ministry of Defence where he has held a very wide range of engineering and procurement posts. He is the board member in OGC responsible for the strategic engagement of markets and suppliers and for work on procurement skills, and he is heavily involved in what the Government is doing as a customer and client of the construction industry and on the reform of the Government Procurement Service, so is a very important contributor this morning. The construction industry, as the committee will by now know very well, represents a very large piece of the UK economy; it accounts for about a twelfth of GDP, three million jobs, and it has been a very successful industry over the past 10 years as well, benefiting immensely from the stability that the economy has enjoyed. However, its importance for government goes a long way beyond its economic contribution. It is central to ambitions for good quality public services, for better schools, hospitals, for example, and it alone can deliver more housing, do it in ways that protect the environment and build as well the infrastructure to create

sustainable communities. These tasks are central to the mission of government and the success therefore of the construction industry in all these areas will have a very big impact on the success of public policy. We set out at the Comprehensive Spending Review in the autumn our 30 public service agreement goals and the construction industry, I reckon, will make a direct contribution to 16 of the 30, so construction is a critical industry for numerous departments. Our department acts as the voice for business, the voice for construction, in this case across the broad range of interests. I work closely with the Strategic Forum for Construction and its constituent organisations and it is my task to ensure that insight from the construction industry influences policy development across Whitehall and also in Brussels, and that government's work with the construction industry to deliver policy objectives is as effective as possible. The 2012 Construction Commitments headings that industry and government signed up to last year ahead of the Olympics provide a good summary of our current shared agenda—procurement and integration, commitment to people, client leadership, sustainability, design quality and health and safety. We are currently, for example, developing a strategy for sustainable construction, working closely between my department and the OGC's Public Sector Construction Clients' Forum on the public sector role in supporting modernisation in construction, developing a programme of public sector demonstration projects on integration, developing an industry strategy for innovation and reviewing the Construction Act to identify changes to improve payment practices, and I very much welcome, Chairman, the opportunity to discuss those matters with you.

Q572 Chairman: Thank you very much; commendably brief. You said in your answer there that you reckoned that construction had round about 12% of UK GDP.

Mr Timms: About 8%, one twelfth.

Q573 Chairman: Sorry; I meant one in 12. The industry has given us a figure of up to 10%, so between 8% and 10%. Do you spend 8%–10% of your time on construction?

Mr Timms: No. I think I would spend a good deal more than 10% on construction.

Q574 Chairman: You have a bewildering portfolio. I am exhausted just reading it, and now you have lost a minister from the department and your portfolio has expanded modestly as well. You feel that you can devote the time and resources to such an important ministry?

Mr Timms: Yes, I think so.

Q575 Chairman: Good, because I think you have got a very important job. The thing that has struck me about this industry is its diversity, which I suppose I knew anyhow, but also the Government's diversity in response to this diversity. It is a bewildering cobweb of organisations. In fact, your own submission, quite rightly,—and we appreciate very much the written submission we had from the department—included evidence from OGC, DWP, the Department for Children, Schools and Families, DCLG, of course, the Health and Safety Executive. A number of government departments are big clients of the industry. You did not include Defra, as far as I know, but they have a huge role, of course, as well. It is very difficult for the industry to deal with such a large department. Do you feel that the structures are able to co-ordinate properly and enable the industry to flourish and not get drowned in a miasma of acronyms and organisations?

Mr Timms: I certainly agree with you that there is, for the reasons I have set out, a very wide range of departmental policy interests in construction and it is certainly right to include Defra amongst the others. I think it is absolutely essential that we hold this wide range of interests together and I believe that we can, and the way for us to do it is for my department to work very closely with the other government departments involved. A very good current example is the work on the Strategy for Sustainable Construction where we have a project board that is chaired by my department and that involves senior figures from the other departments you have mentioned, including Defra, OGC and Communities and Local Government, plus industry, plus the Sustainable Development Commission, and in that way we make sure that the strategy reflects the needs of industry and of all the government departments involved. I think that is the only way we can do it and I think if we organise ourselves in that way we can do it successfully.

Q576 Chairman: You see, this committee has heard on a number of occasions complaints about building regulations being agreed very late up against a deadline, from the manufacturing industry, for example, who implement the regulations themselves. Would it not be better if that aspect, which is really a key competitiveness issue as well, was handled directly by BERR rather than DCLG? Is there not room for further machinery in government changes to make it easier for the industry?

Mr Timms: The problem is that the construction industry interacts with so many different parts of government and building regulations is just one. If my assessment is right, that the industry is contributing directly to 16 of the 30 top level goals of government, that is the majority of government

activity directly affected. If one were to start going down that road one would have to completely reorganise government in order to suit the convenience of the industry. I do not think that is the right approach. I think what we have to do is organise government around the objectives that have been set for public policy and then make sure, having done that in terms of the machinery of government, that we are properly joined up between departments to provide an effective interface for the industry. It is my job to do that. I believe that we can. I certainly would be interested in the conclusions of this committee arising from this work about ways in which perhaps we can make some alterations to do a better job in that respect.

Q577 Chairman: The industry often says, “What we need is a minister for construction”. I know many interest groups say this. I do not think it is often the answer to the problems, frankly, but you are the Minister for Construction.

Mr Timms: I am.

Q578 Chairman: And you are convinced that you can properly co-ordinate the machinery of government to deliver the best possible outcome for the industry within the very realistic constraints of public policy generally?

Mr Timms: Yes, I am confident of that and I am very happy to look at ideas about how we can do it better in the future.

Q579 Mr Hoyle: Can I just say to you that the big conversation is that whenever you talk to somebody from the construction industry they will say, “Oh, well, we are being overwhelmed by people from Poland and other European countries”. What estimates do you have on the current dependency of the UK construction industry on migrant labour?

Mr Timms: We have certainly been greatly helped by migrant labour over the past few years; I think there is no doubt about that, and I can provide some figures for the extent to which we reckon that has been the case so far. The proportion of migrants working in the construction sector has increased since 2001 from 4.6% of the sector workforce to 7.7% in 2006. The proportion in London was always much higher and it has also jumped much further, so in 2001 it was 21.5%, in 2006 41.9%, so we have certainly benefited greatly from the support we have had from migrant labour over the past years and, of course, it has for a very long time been a characteristic of the construction industry that workers have come from outside Britain.

Q580 Mr Hoyle: What is your projection for the next five years on migrant labour? Do you expect it to increase or decrease?

Mr Timms: One of the contributions that the Office of Government Commerce has made, and very helpful contributions, I think, is the development of an econometric model so that we can test out both the effects on the market of major new demands for construction coming from the public sector and also other variations. For example, the model has been

used to look at the result of a hypothetical outflow of 5,000 people per year from the industry over a continuous 10-year period. I am not making a projection that that is what is going to happen, but we just tested what the effect would be if there were such an outflow, which I think would be quite a large outflow, and that resulted in an additional 4% in total to output prices. That was the result of running the model over the 10-year period, so I think we are in quite a strong position but we do need to recognise that we may not be able to benefit from as many migrant workers in the future as we have done in the past.

Q581 Mr Hoyle: The figures you gave us about the numbers up to 2006, are they estimates or are those collected figures?

Mr Timms: Let me get Clive to comment on exactly where that data has come from.

Mr Young: It is actually quite difficult to get precise figures in this area because a lot of migrant workers work in the self-employed area and they do not actually register with the Home Office under the workers' registration scheme, so in fact it is difficult to get the numbers of the genuinely self-employed who are working in this area and also difficult to forecast. We do know that ConstructionSkills have recently been undertaking some work in what they are calling a mobility study. They tell me that the information is due to be published in March and their current estimate of the numbers of migrant workers is about 144,000 based on a manual workers' total of 1.8 million. I do not at this point have any information from that report in terms of forecasts but I look forward to seeing the information that comes from that.

Q582 Mr Hoyle: So what you are saying is that they could be much higher, these figures that we have been given?

Mr Timms: The figures that we have given are the best figures we have at the moment.

Q583 Mr Hoyle: I am just thinking that people being paid cash in hand would not show; there would be no way of counting those. That is okay. Given the sector's dependency on migrant labour, especially for the delivery of the big projects, looking at the Olympics, for example, we have always been told by the Government that the rhetoric was British jobs for British workers, yet on the Olympics we could have over 50% being migrant workers. How do the two stand?

Mr Timms: I have a particular interest in this because the area where my constituency is is where the Olympic Games are going to be held, so I think we have a very big opportunity here to match up people in the UK looking for jobs with new opportunities in the construction industry around the Olympic Games, and there are lots of other important opportunities for the industry as well. I think we need to redouble our efforts to attract young people into the construction industry and to make the point to them that this is an attractive career available in construction. It is undoubtedly

the case at the moment that it is a very good industry for young people to enter. We need to persuade them that that is the case, and we need to do more, for example, with the introduction of a Construction GCSE. I met some of the very successful young people in the first cohort of students that have taken that GCSE. There is work on the 14 to 19 diploma. There is a lot of work going on with ConstructionSkills to underline the attractiveness of the construction sector to people based in the UK, so I hope we will be able through those efforts to make more headway in the years ahead to attract more UK-based people into the construction industry. I would, however, just make the point that I made earlier on, that the involvement of people from outside Britain working in construction is, of course, nothing new. Indeed, it has been a hallmark of the construction industry for a long time.

Q584 Mr Hoyle: Historically, yes, we had the Irish working on the motorways and projects like that. What I would say to you is that people find it very hard to get an apprenticeship. Somebody else is going to ask that question but I just want to make that point that we have a lot of local construction industry companies who can no longer take people on.

Mr Timms: Can I comment on that?

Chairman: We have jumped ahead a bit there.

Q585 Mr Hoyle: I just wanted to clear up that point.

Mr Timms: It is a very good point.

Q586 Mr Hoyle: What I would say to you is that at the moment we have seen a boom in the construction industry, all these people being employed. What happens if there is a downturn? Who is going to lose out? The people that come from overseas, migrant workers, are looking for the money and are willing to take a lesser wage. Who will be the loser if there is a downturn in the market and people do not go back to where they came from and will work for less money? What happens to the UK construction workers under those circumstances?

Mr Timms: It is certainly the case, as I said earlier, that this industry has benefited hugely from the stability over the past decade and the industry is very vulnerable to boom and bust cycles, and in fact that has been a huge problem with the industry in the past. The central objective of our policy over the past decade has been to secure stability in the economy. The consequence has been that since 1995 in every single year bar one the industry has seen growth, and the central objective of our economic policy going forward is to maintain stability. It is clearly the case, and events overnight have underlined it, that we are entering some challenging times in the world economy, but I think we are, compared to many other countries, in a strong position because of the decisions that have been made and the way that the economy has been managed. Of course, if there were to be a downturn there would be serious challenges for every part of the economy and for this part of the

economy arguably more than others. That is why it is so important that our commitment to stability in the economy is maintained.

Q587 Mr Hoyle: Let us push a little bit more on that because, in the case of the impact of inflation on the construction industry, we are well aware of the price increases. How will that affect the Government's capital investment programme and how do you think you can mitigate that problem?

Mr Timms: This is a central issue for the econometric model that I mentioned, to look at the demand on the industry, the major projects over the coming decade and the impact on inflation, and I will ask Mark to say a little bit more about this in a moment, but our assessment is that the position is a manageable one.

Q588 Mr Hoyle: Okay, it is manageable, but we know that the Prime Minister is very concerned. He is going to turn the screw a little bit. He takes so much money out and says, "I am sorry, but this money is not going to be available. We are going to reduce the amount of money", at the same time as you have seen inflation within the construction industry, not inflation in the country. How do we mitigate those two circumstances which look very feasible in the near future?

Mr Timms: No, I do not think they do. We have just had the Comprehensive Spending Review. That has set out our spending totals for the three years starting in April. I do not expect those to change. In terms of the Olympics, the budget has been set out up to 2012 and I am confident that the commitments that have been made on spending will be maintained. We do need to keep a close eye on inflation; I agree with you about that. That is the purpose of the model that I have described, and our conclusion is that, with what needs to be done over the period ahead and with the resources available with which to do it, we are in a sound position. There may well be pinch points, there may well be some particular skills, like project management skills, where there is an issue, and we will need to work with the industry to address those, but I am pretty confident that we can get through the challenges ahead in good shape.

Q589 Mr Hoyle: The only thing I would say is that with the Olympics what it is doing is robbing Peter to pay Paul, so yes, you are having a boom in the south but that is at the expense of projects going ahead in the north, because we are taking lots of money out of there where projects have been lost.

Mr Timms: I do not agree with you there.

Q590 Mr Hoyle: I represent my constituency. I cannot have a sporting village, never mind the Olympics.

Mr Timms: If you look at what is happening in Manchester, in Liverpool, it is a different culture. If you are looking at what is happening in Sheffield, in Leeds, there is huge regeneration going on in all of those city centres, in Newcastle at the moment, and that is one of the reasons, of course, that the industry has done so well over the past decade, so I think we

are in a position—and I made a speech to this effect last week—where certainly we have seen London doing well, and some people are now calling it the capital of the world, but I think that is benefiting the regions of the UK, and indeed Scotland and Wales as well.

Mr Hoyle: Thank you for your honesty. I look forward to standing up and the Chairman saying, "We want no more lottery money. We have got enough. We do not need any more".

Q591 Mr Wright: Moving on to skills and training, last year's machinery of government changes led to your department losing the policy lead on construction skills. How do you engage with that department now in this particular area?

Mr Timms: This is a very important area for us, as indeed it is for every part of the economy, but in construction skills it is extremely important. The machinery of government change has given the lead to the Department for Innovation, Universities and Skills. We are working very closely with them. From my perspective, ConstructionSkills is doing a very good job. They are working with schools and looking to improve the image of construction as a career. They are increasing apprenticeships, to pick up a point that was made a moment ago. They are managing the National Skills Academy for Construction and they are working as well to increase diversity in the industry, increasing recruitment of women and of young people from ethnic minorities, so I think the arrangements we have got in place with DIUS now in the lead are delivering well for us, but it is a very good example of an area where, in my role as the Government's Minister for Construction, I need to work very closely with colleagues across government.

Q592 Mr Wright: So what you will do is have regular meetings with them to discuss some of the issues on the question of the number of people required within the industry and the migrant workers? How would you input into that? Would that be a genuine partnership between the two departments?

Mr Timms: Yes. There are regular discussions between officials about all of those matters. We are starting to look again at the kinds of issues being considered by the model that I referred to, the OGC model, which does look at numbers of people of different kinds that are likely to be available to the industry over the period ahead and that information comes from discussions within government, across government, even parts of government. I think, again, it is a good example of how government has to work in dealing with an industry which has such a wide impact.

Q593 Mr Wright: You did mention briefly earlier the speech you made last week, and in part of that speech you said we needed to move on from the "north-south divide" debate. Yet in the provision of construction skills we heard from the unions and the sector skills council that there are significant regional variations in performance, with training provision by employers being much more prevalent

in the north and Scotland. Are you doing anything to spread northern best practice to the south in the provision of training?

Mr Timms: You are absolutely right about the regional differences in the pattern of apprenticeships. In Scotland and the north, where direct employment tends to be the norm, there is a very strong commitment on the part of employers and I welcome that. In the south, however, where the use of self-employed and sub-contract labour is much more common, apprenticeship opportunities are fewer, so with support from the Learning and Skills Council and the CITB—ConstructionSkills is looking at addressing exactly that challenge. It has developed programme-led apprenticeships which is a new training route to enable the big housebuilders and contractors to participate through their supply chains of small businesses, so we are making some progress. We do need to find more work placements for young people wanting to take up apprenticeships. I think that initiative is going to help but it is something we are going to have to continue to focus on.

Q594 Mr Wright: Would this be one of your priorities, bearing in mind that most of the major projects are in the south of the country and are obviously dependent on bringing in the skills but it just does not seem to be working correctly. Is that one of your priorities with DIUS?

Mr Timms: Increasing the number of apprenticeships is a priority, and indeed DIUS has identified it and put figures on the number of apprenticeships that they want to deliver over the next three years of all kinds. Within that construction apprenticeships are going to be very important and they are certainly very important to the industry and therefore for me.

Q595 Mr Wright: We are in that area where somebody who has an apprenticeship in engineering certainly could be guaranteed a job, but UCATT told us at a previous evidence hearing that 50,000 young people applied to the Construction Industry Board for apprenticeships in 2006 but there were only 7,000 places with employers that could be found. It is a huge shortfall, and we recognise that there is the need for these skills in the coming years. What are we doing to rectify that situation?

Mr Timms: We certainly do need more; there is no question in my mind about that, but the figure I have—correct me if I am wrong—is 10,000.

Q596 Mr Wright: I think in the original evidence we had the union gave us a figure of 9,000 but they downgraded it to 7,000.

Mr Timms: If you look across government as a whole what DIUS is saying is that we want to increase apprenticeship places from a quarter of a million to date to 400,000 by 2010–11. to achieve that and to achieve the contribution that I want from the construction industry we are going to need more high quality employer places than we have available today. That I think is the key constraint, the placements in the industry. We cannot deliver

apprenticeships by ourselves. There have to be those work places available for young people to take up in order to complete their apprenticeships successfully and I am certainly going to be working with the industry to encourage more employers, and employers in larger numbers, to make those places available.

Q597 Mr Wright: Do you have any targets for the future, bearing in mind the low take-up within industry?

Mr Timms: I have not set a target yet specifically for construction apprenticeships. I think to some extent this is going to depend on my discussions with the industry and an assessment of what realistically the industry can deliver.

Q598 Mr Bailey: Can I just switch the line of questioning from the role of government in creating capacity within the industry? One of the things that has emerged is the enormous but largely unrealised potential that government does have to improve the industry and the Construction Confederation told us that better and earlier information about long term investment programmes would play a role in that. What are you doing to improve the flow of information to the sector on government investment plans?

Mr Timms: This is another very important area. There is huge potential, given that the public sector accounts for such a large share of the industry's business, for the public sector in its procurement activity to be helpful to the industry, and indeed to promote improvement in the industry, and I think that is an important opportunity. We are pursuing that through the Public Sector Construction Clients' Forum, which, in response to some work by the National Audit Office, was established in 2005, and also through things like the integration demonstration programme. I think the forum does give us the opportunity to improve the flow of information to the industry as well about what is coming up but I see it as more than that; I think it is about helping the industry to modernise and adopt best practice at every point in the supply chain.

Q599 Mr Bailey: What do you think of the proposal in the Institution of Civil Engineers' document that there should be an "independent national commission for strategic infrastructure planning"?

Mr Timms: I am not convinced at this stage that that would be a sensible thing to do. I must confess I have not read the argument. Although I am aware of the recommendation I have not read the case that the institution has made. I think the arrangements that we have, including on big projects,—and we have talked about the Olympics and Crossrail, the announcement that has been made relatively recently, and other big projects—work pretty well. I am not sure how you could take it out of the ambit of government, given that the commitment of very large sums of money would be needed with the projects that such an independent body was recommending. It seems to me this is much too close

to the very heart of government decision-making for it to be realistic to take it outside and put it in a separate institution.

Q600 Mr Bailey: So you do not think there is a case for having a sort of chief engineering officer like the Chief Scientific Officer?

Mr Timms: That, I think, is a slightly different proposition. I have not seen a compelling case for such an appointment but if there were one made to me I would certainly have a look at it.

Q601 Mr Bailey: Can we move on to framework contracts which are generally accepted as being the best way to go forward? There is considerable evidence that there are improvements that could be made in the way the public sector manages its framework contracts. Do you monitor and advise on the performance of framework contracts?

Mr Timms: Can I ask Mark to comment on this?

Mr Pedlingham: We have moved to a number of industry standard contracts as being the best way of taking forward our engagement supply side, and that was done a few years ago as a result of an analysis of the then current government contracts and a view that they were perfectly sound industry standard contracts that would be of value to us. The major way in which we understand whether projects are being successful or not in delivering the outcomes is by measuring the project performance. We have been measuring project performance for a while. Back in 1998–99, when the assessment was first made by, I think, the NAO study on project performance, we had a success rate of something like 30% on projects. The most recent data we have as a result of measuring performance shows 60% successful delivery of projects. We are seeing signs that all of the guidance—and there is yards and yards of it as you are aware—that OGC has provided is now beginning to bear fruit.

Q602 Mr Bailey: What is the take-up on the Office of Government Commerce Gateway Process?

Mr Pedlingham: As you say in your evidence, the Gateway Process is well respected and has been running for some considerable time. We are always looking to refresh, and, of course, some of the major departments have been authorised to use Gateway themselves for medium risk projects, so we are actually seeing the utilisation of Gateway spreading. Specifically in the construction area, it has been used on 368 occasions on 182 programmes, so I think we are seeing quite a large use of Gateway in construction and the value that is having is similar to the value Gateway has in all major projects in which it is applied.

Q603 Mr Bailey: Do you think there is much potential for greater take-up?

Mr Pedlingham: I think the fact that we have given some of the major departments the ability to effectively own and run the Gateway process for all their medium risk projects means you will see very

much more use of Gateway on those projects than OGC was capable of achieving whilst it held effectively the responsibility for all Gateway reviews.

Q604 Chairman: Mr Pedlingham, can I ask a question I should know the answer to? Which minister do you report to?

Mr Pedlingham: The Exchequer Secretary to the Treasury.

Q605 Chairman: Which minister in particular though would you regard as your minister?

Mr Pedlingham: Angela Eagle.

Q606 Chairman: That is just for my information. I was exploring in my own mind the case for moving you to BERR, that was all, because you are very important for the sector. Your work is hugely important and a lot of our witnesses have talked about you. The Construction Clients' Group think you do not have enough resources, for example, to do the job you need to do, which is one of the reasons perhaps why Gateway is not making the progress it could do; it is not fulfilling its potential. You say, in your very welcome contribution to the memorandum that the department gave, that you are reforming yourselves to have a "smaller, more focused . . . organisation". I recognise those managerial buzzwords because you have taken a hit from the Treasury so they justify them in public. How much smaller are you becoming and, if people think you are under-resourced already for the job you need to do to drive through good procurement generally but also specifically in construction, how will this help?

Mr Pedlingham: First of all, to clarify, the Public Sector Clients Construction Forum, which is the body we use to integrate much of the work we do on the client side, is only one part of OGC's contribution to the construction marketplace, and, of course, Gateway operates quite independently of that forum. Whilst you are quite right in saying that the size and scale of the organisation within my ambit that looks at the construction sector and should provide support to the PSCCF has reduced as a result of *Transforming Government Procurement*, it is very much the size and scale it needs to be to do the task it is being set. PSCCF had some very detailed discussions about 18 months ago about the future direction it should be taking and its conclusion was that there was now a sufficient body of guidance and sufficient understanding of what was mandated and what was there simply to be encouraged to be used for the emphasis to move away from the creation of such guidance and towards embedding that guidance in use within the departments. Given OGC's position, it can do a certain amount towards that but it is the departments that need to put the effort into the embedding processes rather than OGC.

Q607 Chairman: I cannot recall our earlier conclusions in our procurement report, but basically we felt you should be more powerful and be wielding the stick a bit more because, with the best will in the

world, you are the experts and government departments are not always. You have been given a more powerful stick but you have not got the people to wave it, have you?

Mr Pedlingham: Any power that is exercised must recognise the primacy of ministerial responsibility.

Q608 Chairman: You have a responsible minister, so Angela Eagle can tell you what you should do.

Mr Pedlingham: What I mean is that it is the responsibility of ministers to deliver the outputs that their departments are responsible for delivering. That is why a lot of what OGC provides is guidance and is required. Where it is mandated it is mandated by government agreement that it should be mandated and the flow effectively of that mandation is through the departments' ministers.

Q609 Chairman: There is no doubt there are some very effective government departments out there procuring very well. The model that is being held up for this committee at present is the Highways Agency, for example, as a good example, but elsewhere procurement just is not up to it and I think you need to make your presence much more powerfully felt, for example, with local authorities. The infrequent purchaser is often a much more difficult candidate, of course, and often their purchases are infrequent; sometimes they are frequent, as in the case of schools, for example, but do you think local authorities are doing the job and do you think OGC could do more with local authorities to help them do their job of procurement more effectively?

Mr Pedlingham: I think I will go back to the point that OGC has got very much more in the way of support and assistance to the construction industry than just my part of the organisation, Gateway being a clear example. This question of government's capability in procurement overall is recognised in the *Transforming Government Procurement* document by the work that I am doing elsewhere on trying to improve the Government Procurement Service and the reforms we are making there. Likewise, there are the procurement capability reviews that OGC has initiated. We have been through the first five of those and the reports of the first three procurement capability reviews were published in early December. These are very much about assessing departments' capabilities for the delivery of their procurement challenges and understanding what help we can give them to improve.

Q610 Chairman: It is just that your organisation generally has a hugely important role for construction. What percentage of procurement is public as broadly defined—30%, 40%?

Mr Timms: About a third.

Q611 Chairman: So it is a huge impact on the sector, both in terms of spreading good practice but also in terms of helping the sector plan its resources. We have talked about the Public Sector Construction Clients' Forum. The Minister anticipated that we

would want to discuss that in his answer, quite rightly. Do we think it is making a real difference? Can we actually say yes or is it just a committee that sits around coming up with very interesting reports and econometric modelling or can we say yes, it has changed things for the better?

Mr Pedlingham: My view of where the PSCCF has got to is very much that it has shown the leadership that it was required to show. It is very much around the strategic engagement of all of the public sector's clients and, of course, we bring to that also Constructing Excellence, the Strategic Forum for Construction, CABE, et cetera, and that allows us to design programmes that take the construction industry forward. There is no question in my mind about that. As you say, quite rightly, we have created the demand cluster modelling process, which really has three aims, one of which is to allow departments to model their future plans so that they can understand what impact those plans might have and what constraints there might be in pursuing those plans, but it also helps us to understand the skills agenda, as the Minister has just been discussing, and it allows us effectively to understand the impact that government as a client is having on the supply side, but that is only one element of what it has been doing. PSCCF has also been large in understanding the practical impact of whole life value and what that might mean and providing guidance as to the common core metrics that should be used in forward assessments of investment in a whole life value sense. We have also done work on fair payments, which I am sure you are aware of, and it is no mean feat to get agreement across both supply side and client side on the fair payments regime, and I think that has been very successful. We are now putting in place some work to baseline where we are in respect of utilisation of the fair payments guidance and we will be measuring that over the coming years to ensure that we are improving in that area. There is also reviewing things like the current procurement routes that we use to understand whether there are better procurement routes than those we are currently engaged in. There is a broad-ranging set of activities and we are very much focused on improving client side capability.

Mr Timms: I attended a meeting of the forum before Christmas which I certainly found very worthwhile, and I think this must be the right way forward. I agree with you about the Highways Agency being an exemplar at the moment. I think Defence Estates is another. You have mentioned local authorities and there are some very good examples. Birmingham City Council I know has been mentioned in earlier evidence sessions. The right way forward must be to spread the understanding of that best practice across the whole of the public sector. I do not think there are ways of absolutely forcing every local authority to behave in a way that is as good as the best, but I think we can encourage people and make real progress as we do that, and I think the forum has been making real progress.

Q612 Chairman: Just to wrap up my questions about the OGC specifically, you can put your hand on your heart and say the budget cuts are not going to make

you less effective and the Public Sector Construction Clients' Forum is achieving practical change on the ground, as it were, not just meeting in committee and deciding what it ought to do in theory?

Mr Pedlingham: It certainly is not a talking shop; that is something we have been very clear and careful to ensure. Secondly, as I say, I think the work of the PSCCF is about ensuring embedding of the good practice guidance, et cetera, that we have put in place. That is best achieved, as I say, through a number of other mechanisms, such as Gateways, PCRs (Procurement Capability Reviews), MPRG (Major Projects Review Group), et cetera.

Q613 Chairman: Perhaps it is unfair to put an official under pressure on this point, so perhaps I ought to see what the minister says. You reject the evidence of the Construction Clients' Group that OGC is under-resourced?

Mr Timms: I think OGC has got the resources that it needs to do what is undoubtedly a very important job.

Q614 Anne Moffat: My question is about integrated and collaborated working. Your memorandum states that BERR's relationship with the construction industry is set "firmly" within the Egan agenda, which advocated integrated and collaborative working. Yet the Construction Industry Council and the National Audit Office both told us that the impetus behind Egan had been lost. If that is the case what can you do now to promote integrated and collaborative working?

Mr Timms: I do not agree that the impetus has been lost. I think the direction set for us, starting over 10 years ago now, by Sir John Egan when he was appointed by John Prescott, has been maintained and that continues to be the agenda for our work on construction. There certainly are some areas where progress has not been as great as we would have wanted, and you mentioned integration. I talked to Mike Davies of the Strategic Forum on Construction about this recently. On integration specifically it is clear we have made progress five years on from the Egan progress report which was carried out in 2002, and the details of the progress will be set out in a report in June, but I accept it is now clear that the target for integration, which was that by last year 50% of projects by value should be constructed by integrated teams, has not been met. However, I do not agree that the momentum behind Egan has been lost and it is certainly my firm intention to ensure that all of us, industry and government, are clearly focused on making further progress in the direction that Egan set out.

Q615 Anne Moffat: What work are you doing with the financial services industry to develop financial products to aid integrated working, such as project insurance and project bank accounts?

Mr Timms: There has been some interesting work on both of those and I recognise the importance of both of them. I do not think there is a kind of silver bullet in either of those developments but I recognise the importance of the contribution they can both make.

On project bank accounts, and the NAO have identified these as an example of things being done well, they looked at an example of their use on a Defence Estates project at Andover North, and we are therefore starting to see that happen. I notice that we have a couple of banks now offering project bank accounts products and that is welcome progress. On project insurance we have been looking at this as well. The push here has predominantly come from the SEC Group to get the public sector to agree to pilot single point project insurance. There is now a Health Service project under Procure 21, the NHS procurement programme set up by NHS Estates, to be the first trial for project insurance. That is due to start shortly, so on that front as well we are now making some progress.

Q616 Anne Moffat: Finally from me on retentions, the main representatives of all the sub-contractors told us there has been virtually no progress on improving the situation with retentions. What are we doing about that?

Mr Timms: A number of things have happened, but perhaps the most important has been the launch last summer of the Fair Payment Charter that Mark touched on as one of the things the OGC has been working on. We have done quite a lot of work around this charter. I spoke at the launch event last summer. The then Financial Secretary wrote at the end of May last year to other ministers to commend the Fair Payment Guide and the Charter; we published it on the website. We have got OGC working with other industry umbrella bodies to help embed the charter in industry practice and OGC has appointed a consultant to carry out a baselining survey and put in place payment improvement measurement methodology so that we can look at progress between the beginning of this year, 1 January 2008, and 2010. The OGC is also using regional road shows to promote the principles. That, I think, has been quite a significant initiative. It is about encouraging people to do the right thing, but I think that is the most effective initiative we can take in this area, and certainly there have been lots of copies of the Fair Payment Guide and Charter that have now been disseminated.

Q617 Anne Moffat: Do you accept that, while it is difficult to police this sort of practice, the contractors have been provided with interest-free loans subsidised by the taxpayer?

Mr Timms: I think there are arguments on both sides of the debate about retentions. There certainly are disadvantages from them but on the other hand they are a simple, readily available way for clients to get some assurance on defects and remediation being provided if they are needed. I do not think it is an entirely cut and dry argument about retentions being a bad thing.

Q618 Chairman: You are satisfied, Minister, that government departments and public bodies are not guilty of failing to monitor the behaviour of their contractors to ensure they are following best practice on retentions, and there may be a case for it

and I understand what you are saying, but if they are just being rather cavalier and not paying their sub-contractors then opinion around this room is that it is helping their cash flow? You are happy about the overall level?

Mr Timms: What I am saying is that we have worked hard on promoting the fair payment guidelines. That is one of the roles that the Public Sector Construction Clients' Forum has taken up. When I have spoken publicly about this, and I have done this a couple of times now, I have said to people that if they do come across examples of agencies in the public sector not complying with best practice I would like to know about it and I will be very happy to take action in response.

Mr Peddlingham: As I understand it, that is one of the reasons why we are intent on ensuring that this Fair Payment Charter actually is utilised. The reason for baselining where we are today and then monitoring is very much about that. One of OGC's roles is to hold up a mirror and demonstrate to departments where their performance is meeting our expected levels of capability and where it is not. That is a very important role, so having a measurement process in place and committing to measuring payment against this Fair Payment Charter is the way in which we are going to try and ensure that it gets adopted.

Mr Timms: We recognise that we are not there everywhere yet, but we are working on it.

Q619 Chairman: I think the trouble with the ODA is that they have a policy of no retentions. They want to have a proper management of the supply chain, make sure everything is done properly, well managed, with proper collaborative working, and then you do not need retentions. With a well managed project you should be able to avoid them. That is what the ODA's ambition is, I think.

Mr Timms: I welcome that and there are some very good projects around where that approach has successfully been applied.

Q620 Mr Clapham: Minister, just looking at the 1996 Act, it was introduced to deal with payments but there are still some weaknesses in it. Some of the evidence that we have had, particularly from the Specialist Engineering Contractors' Group, suggests that there are still problems there. The Act was introduced in 1996. We are talking about 12 years ago. Why is it that we have still got problems with the Act in its current form? What are you doing to reform it in order to address some of the problems, for example, that the Specialist Engineering Contractors' Group have put forward?

Mr Timms: I think by and large the Construction Act has done a good job for us and I think that is the general view across the industry. What we have been looking at, and we have looked at this very carefully and over a period of time we have talked to lots of people about it, is whether there are changes that we can make in order to ensure that it does a better job still, and we think there are. We have identified a number of changes that we think can helpfully be made but I do not want to give the impression from that that I therefore think the Construction Act has

done a bad job because all the evidence I have seen is that it has done a good job, but we do want to make some changes to enable better cash flow management by improving transparency and clarity in the exchange of payments information in construction contracts and to encourage resolution of disputes by adjudication, where that is possible, in order to reduce costly and time-consuming litigation, and we have got some proposals for how we can do that. I am at the moment in discussion with the Leader of the House about finding a legislative opportunity to take those changes forward.

Q621 Mr Clapham: Can I just read you what the Specialist Engineering Contractors' Group have said? They say, "If we are honest with ourselves, then it is the specialist group, lobbying for fair payment against the contractors' group, that wants to keep the thing muddy—which is what it is now". They are saying on the one hand that the contractors want to keep it muddy. The Act came in specifically to bring that kind of transparency that you have referred to, so do you feel that transparency can be introduced by virtue of some reforms? By the way, I am not saying that the Act did not improve matters.

Mr Timms: I think there are some things that we can do to improve transparency. I think we can improve clarity and transparency in the statutory payment framework and we are also looking at prohibiting the use of pay-when-certified clauses, but, of course, we have to do this on the basis of a consensus across the industry. I do not think it would make sense for us to say, if there is a disagreement between the two groups within the industry that you have mentioned, that we are going to back one against the other. We really have to find a consensual way forward. That is what we are working on. I think we have made good progress on that and it has taken us a bit of time but I think it is the right approach to take.

Q622 Mr Clapham: I was going to ask you about that, because it has taken some time. You have been looking at it for four years. I understand there is currently another consultation going ahead. When do you expect that to be completed?

Mr Timms: I hold my hands up: it has taken some time. It is not quite four years yet but it is certainly getting on for four years. Originally it was hoped that we could introduce the changes using the legislative reform order route and, as you will recall, the way the legislation to enable that ended up made that procedure a bit more constrained than originally intended, so it turned out that we were not able to do it in that way. We are going to need primary legislation. We have just completed the second consultation. We are looking now at the responses we have received to that and, as I mentioned earlier, I am in discussion with the Leader of the House about when a suitable legislative opportunity might occur, but I am very keen now that we get a move on and make these changes.

Q623 Chairman: Minister, you are that most dangerous of ministers, an honest minister, and it is always beguiling for a committee like ours, so let us deal with an issue where there is a real problem, which is the failure of the public sector, and indeed many parts of the private sector, to properly focus on whole life value rather than short term costs. We have had some very worrying evidence from the Commission for Architecture and the Built Environment about 52 new secondary schools. They rated them on whole life costs, and 52% of them came in as mediocre or poor, only 4% of them as excellent, only 15% as good, so there is a real failure to look at whole life costs in many areas of the public sector, and also in the private sector. There is a massive housebuilding programme planned by the Government at present, and yet they also said that 82% of new housing built over the last five years failed to measure up on design quality, 29% of developments so poor that they should not even have been given planning permission; that is CABA's view. I think there are some real issues here about whole life value. What we can actually do to make the public sector focus genuinely on whole life value?

Mr Timms: I agree that we have some way still to go on this. A very clear direction and commitment has now been set. The Treasury Green Book makes clear that whole life value should be taken properly into account in making investment decisions. One of the things the Public Sector Construction Clients' Forum have done is draft guidance to supplement the Green Book about whole life value in construction specifically, and I know in the Treasury Angela Eagle is looking at the moment at that and considering it for inclusion in the Green Book. I think it is also an area where procurement skills need to be improved. One of the tasks, I think, for the transforming of procurement work that Mark has talked about, and the reinvigoration of the Government Procurement Service, is to make sure that we have got the skills in the public sector to enable whole life value to be taken properly into account in procurement decisions. I think the direction has now clearly been set and it is right. We are not yet in a position where I can say it has fully been implemented everywhere. There is a good deal more to be done.

Q624 Chairman: In some evidence, I think I am right in saying, there is a degree of cynicism about some aspects of the procurement process because requirements are put in for whole life value or for social responsibility issues, discrimination issues and so on, and yet ultimately, at the end of the day, it is the bottom line price that really counts for so many people in the public sector. Can you really change that culture? Is it really possible?

Mr Timms: I think we can. I do not think there is going to be one flick of the fingers that is going to bring about a transformation but I think we can move decisively and steadily in the right direction once the guidance is in the Green Book. Once the

procurement skills issues are being addressed I think we are going to move a good deal further down this road and I think it is very important that we should.

Q625 Chairman: I am encouraged again by your honesty in admitting there is a problem here. I want to put this question to Mr Pedlingham if I may and ask what the OGC is doing to look at public sector procurement projects, construction projects, and see what the users of the buildings actually make of them. Have they lived up to the promise of whole life costs and value and things like that?

Mr Pedlingham: As the Minister has said, we have provided some additional guidance which will help practically people who are trying to follow the Treasury Green Book on how to assess whole life value to do that more effectively. At the end of the day the decisions are made for a number of reasons, of which the primary driver should be whole life value, but the other two components are, first, the fact that we are looking at improving the Government Procurement Service's skills so that the people who are involved in undertaking those procurement processes are more able to follow the guidance that is available, and we have an extensive programme there. The final one, of course, is to look at what happens after the event, the post-occupancy evaluation, which, if you like, is a sort of built version of a PPE, and that is going to be mandated from April. It is about looking at how we use the Government Estate, and we have a process in place which, as I say, becomes mandatory from April when we will start to gather the sort of information we need to understand whether the outcomes were as predicted within the original business cases.

Q626 Chairman: So that will be for all public sector clients? It will become mandatory from April?

Mr Pedlingham: I am sorry; I do not know whether it is for all public sector clients. It will certainly be for all central government clients.

Q627 Chairman: That is helpful. Can you just clarify that point in writing?

Mr Pedlingham: I will.

Q628 Chairman: If you asked for a post-occupancy evaluation of Portcullis House, the House of Commons, I think you would get some pretty sharp replies. The quality of the heating and ventilation of that building is a complete scandal, seeing that it is supposed to be sustainable.

Mr Pedlingham: It is important to recognise that while you can measure some of the hard and fast facts and metrics of a building you must also look at those soft, perception-based opinions and views of those who are inside the building as well. It is an important component.

Chairman: We are going to move on to environmental sustainability and some of those issues that Portcullis House has got wrong, I am afraid.

Q629 Roger Berry: Good morning, Minister. Could you tell us what proportion of public sector projects currently meet the required environmental standards, the BREEAM standards?

Mr Timms: The BREEAM standards—I am sure we have something on that.

Q630 Chairman: Mr Walker, it is your moment, by the looks of it.

Mr Timms: Perhaps the OGC can help us.

Mr Pedlingham: I have not come briefed.

Mr Timms: I am afraid I do not appear to have a number in front of me but I am sure we can provide that information for you.

Q631 Roger Berry: As I understand it, the NAO said in relation to 2005–06 that it was about 9%. Does that sound about right?

Mr Timms: I am sure if the NAO said that that is absolutely right.

Q632 Roger Berry: Again, remarkably honest. It is pretty pathetic though, is it not?

Mr Timms: Yes. This is another area where there is a great deal still to be done. We are clearly making progress here but we need to do a good deal more. If I just very quickly run through what we have done, in June of the year before last, 2006, we set stretching targets, including to mandate BREEAM “excellent” for new buildings and “very good” for refurbishments to cut emissions by 30%, to improve energy efficiency by 30% by 2020 and so on, and then in responding subsequently to Sir Neville Simms’ report on sustainable procurement the emphasis was on how to deliver those stretching targets, and they are stretching; I think they were intended to be and they are. The Prime Minister’s Delivery Unit is looking at this as well, reflecting its crucial importance for the whole of government. It is also very important in OGC’s work on Transforming Government Procurement, reflecting the fact that the Government’s view today is that value for money complements sustainability and that both of those need to be taken full account of in making procurement decisions. I do not know whether Mark wants to add anything to that on the procurement side.

Mr Pedlingham: I can certainly confirm the 9% figure. I apologise that I was not more awake at the time. The question of delivering sustainability and the strong role that procurement plays in the potential to deliver sustainability, is well recognised and something that is very seriously treated within procurement decisions. Quite often you will find sustainable objectives are effectively supportive of a whole life value-for-money conclusion anyway, and in those cases achieving sustainability criteria effectively is totally aligned with the value-for-money propositions that are being used to make such judgments.

Q633 Roger Berry: So why was the figure so low in 2005–06, which is not a very long time ago? I accept where we are today in terms of the ambition and the

targets. I think that is commendable, personally. What went wrong in the last year for which we have data?

Mr Pedlingham: The BREEAM standards are one of a number of standards that people are asked to take account of in the decisions they are making. It would be much easier to meet some of the higher level BREEAM standards for new build than it would be for refurbishment. Of course, the issues are complex in respect of the sorts of decisions that departments are having to make and local authorities are having to make, and sustainability is clearly one of a number of decisions they are making when they are making judgments about these things.

Q634 Roger Berry: I was going to ask, in terms of the sum total of public sector projects for the latest year for which we have data, if you simply looked at new projects rather than refurbishments what would the figure be for new projects?

Mr Pedlingham: I do not have that information to hand, I am sorry.

Mr Timms: I am sure we can supply that.

Q635 Roger Berry: I think it would be very helpful to the committee because, Minister, as you say, the target is that all construction projects should be rated “excellent”, according to these standards. It just seems that there is a long way to go and it would be helpful to understand why it is that thus far these mandatory standards appear not to be being met.

Mr Timms: There certainly is along way to go. This highlights the importance of the Sustainable Construction Strategy that we are working on at the moment. This industry makes a very big contribution to whether or not the changes that we need in the economy for sustainability are going to be delivered over the next few years. There is a lot to be done.

Q636 Roger Berry: In relation to the appraisal of public sector projects, does the price of carbon feature in the appraisal?

Mr Timms: You will know what was said recently about carbon accounting, which I think is going to be very important. I think we are now starting to see a robust price for carbon appearing, and so what I hope is that progressively over the next few years carbon accounting will just be part of accounting because there will literally be a price corresponding to the carbon emissions associated with a project. At the moment we are in very early days for carbon accounting but where we are going, given the development of the EU Emissions Trading Scheme, I think is now very clear.

Q637 Roger Berry: Again, I very much welcome what you are saying, but have we started? Is it as from today or last week or a month ago that the price of carbon is deemed to be a necessary factor in the appraisal of public sector construction projects? Is it just a few projects? Is it 100% of all new projects? What kind of timescale have you got on this? I know the ambition is for this to be embedded in project appraisal but you know where I am coming from.

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Have we started this? When did we start it? What proportion of appraisals takes it into account and, by the way, which particular price of carbon, where does it come from? How are you dealing with it in practice?

Mr Timms: I do not have that data with me and I do not think Mark does either, but we can certainly provide you with a note about that.

Q638 Roger Berry: If the committee could be advised about that, that would also be very helpful, because last week's Public Accounts Committee report was somewhat critical on environmental impact assessments.

Mr Timms: It was indeed.

Q639 Roger Berry: I will not say any more then. One thing it also pointed out was that there are at least five government departments that have a policy interest in construction and they also raise this question about to what extent an individual department can be accountable. In our case, obviously, we are interested in BERR and to what extent can your department, Minister, be held accountable for progress towards the laudable targets you have repeated in relation to the construction sector? You are merely one of five, I believe. How do you use the big stick that was referred to earlier to whip others into line, mixing metaphors?

Mr Timms: I think we are going to be accountable on this and demonstrating that is going to be an important element in the sustainable construction strategy when that is published later on this year. I mentioned earlier that has been taken forward by a project board which is chaired by my Department and one of the things the board has been looking at is how we are going to measure progress. The intention is to publish reports on progress at two year intervals and to hold conferences, very public events, next year and 2011, I think, and I hope in that way we will be able to demonstrate to people that we are going to be properly accountable for delivering the objectives that the strategy contains.

Roger Berry: Thank you.

Q640 Chairman: Before you move on, speaking from the chair, can I say that I found this section of the witness evidence far less convincing than we have heard so far from you and your officials. I have just checked the evidence you gave us in writing and it refers to the consultation document across the industry and that consultation is now concluded and you are considering how to respond to it, but I think the Committee would welcome some further written evidence on these issues to inform our report.

Mr Timms: On the accountability aspects?

Q641 Chairman: On what your Department is doing to ensure sustainability both in the public and private sectors because it is a key issue in public policy debate and I do not think we have heard much to reassure us that this has got quite the priority we hoped in the Department so far and perhaps a written submission will persuade us.

Mr Timms: Perhaps I can just make the point, Chairman, that the key here, I think, is going to be the strategy when it is published later on this year. We can certainly update you on progress on that but the key will be what that document says and achieving very wide support for it in industry and across government. That is what we are looking for.

Q642 Roger Berry: Could we turn briefly to R&D in relation to the construction industry. Most countries have a sector specific government scheme to—

Mr Timms: Can I just make one further point. On carbon accounting, a supplement to the Green Book has just been published. It is very early days but at least that has now been done.

Q643 Roger Berry: Thank you very much indeed. Do we have a sector specific programme in the UK for government support for R&D in construction?

Mr Timms: No. About five years ago now, when Lord Sainsbury was Science Minister, we decided to take a different approach to funding for R&D, that instead of numerous different streams of sector specific support, and I think it was absolutely the right thing to do to take a more strategic approach, to put in place the business-led Technology Strategy Board to look at government funding R&D as a whole and decide on a strategic basis where the resources should be going. Previously there were lots of different silos and that funding has now been brought together and is being overseen by the Technology Strategy Board. Having said that, of course, the Technology Strategy Board is certainly supporting work in the construction sector but the basis on which the allocations are now made is different from what it was in the past. From the point of view of the economy as a whole, I think it is absolutely the right approach to this that is now being taken.

Q644 Roger Berry: I am obviously aware of the rationale for the previous decision but do you have any regrets about that and think it was a mistake?

Mr Timms: No, I do not.

Q645 Roger Berry: Not even given that the construction industry is a very disparate industry. Focusing on the key players in aerospace, which I happen to strongly support, I would have thought is a bit more straightforward than focusing on R&D in the construction sector which is much more diverse.

Mr Timms: I think that strengthens the case for looking at the economy as a whole on a strategic basis and deciding how much needs to be contributed in the next three year period to low impact buildings, for example, as opposed to developments in the aerospace sector. I think being locked into lots and lots of different funding streams decided on a kind of rather arbitrary basis, given the speed at which technology is changing, would no longer be the right approach.

Roger Berry: Given the time, Chairman, I will not press that.

Chairman: We are not doing too badly if you want to.

Q646 Roger Berry: It just seems to me that the construction industry is one of the most fragmented industries in the country and the question arises why is it that governments in most other comparable countries believe that there needs to be a sector specific programme for R&D to ensure that construction is improving productivity and so forth, and we in the UK do not? There has been criticism of this.

Mr Timms: I am not sure how much criticism there has been. I certainly have not seen any evidence of damage to UK construction as a result of that change. I recognise that some institutions are not receiving perhaps the same degree of award that they received in the past but that is different, and I can understand them being a little bit unhappy. My question would be in terms of outcomes are we seeing any detriment and I certainly have not yet seen evidence that we are. In terms of why are we doing it this way and others are not, it is one of many examples, we used to do it that way, we thought very carefully about it and decided that the more strategic approach was going to be the better one and my guess would be over time other countries will reach the same conclusion.

Q647 Roger Berry: The Building Research Establishment have been critical and they reminded us that the minister at the time talked about the money being “snaffled into DTI coffers”. One does not normally use the word “snaffle”. I have never used the word “snaffle”. It seems to suggest something less than totally desirable. That quotation has been used in aid by the Building Research Establishment to indicate some concerns about the shift of money allegedly away from construction.

Mr Timms: Clearly the beneficiaries of the previous arrangements may well have a bit of nostalgia for how things used to be. My case is around getting the best impact for the British economy for our very substantial science funding at a time when technology is changing very, very rapidly. I think being able to look with the Technology Strategy Board at a strategic level at where strategically the government’s funding ought to be allocated is the right approach rather than saying, “We have always had this stream for this bit of the economy, therefore we will carry on having it”. That may not be appropriate any longer. There is substantial funding, probably about £65 million a year, in R&D funding for the construction industry, including about £10 million a year from the funding going through the Technology Strategy Board, and there will be some further developments in that area in the next few months. There continues to be a big government commitment to R&D in the construction sector but the decisions now that the TSB take are about what is right for the economy as a whole rather than simply carrying on doing what we always did in the past.

Q648 Roger Berry: Final question: the Construction Confederation have argued that the industry’s growing dependence, as you pointed out, on migrant

labour has provided a disincentive to invest in R&D because the industry sees migrant labour as being a way to reduce their wage bills so they can retain competitiveness by a lower wage bill rather than investing in higher productivity. Do you think there is any evidence of that? Not least because the Government itself has used this argument on a number of occasions that we cannot just be using cheap labour, we must invest in higher productivity.

Mr Timms: I think it is quite difficult to determine whether or not there has been that effect although one can see why there might be. Can I just make a point about wages because it is interesting that if you look at what has happened to wages in the construction sector they have risen faster over the past decade than wages across the economy as a whole, so it would not be right to say that the relatively large contribution we have had from migrant labour has meant construction wages have been held below the level of wage increases elsewhere. Whether there has been an impact on innovation is less clear. The impact of innovation and investments in innovation in reducing the need for labour, there is quite a long lead time there. I do think it is important that the industry should be innovative and part of my role is to encourage greater levels of innovation in the construction industry. For example, I am speaking at an event this evening about the use of offsite construction methods and there is a lot of scope for innovation there. Whether there is really a trade-off between the use of migrant labour and innovation I am not sure, it is a pretty indirect trade-off if there is.

Q649 Roger Berry: If I am allowed my final, final question. Why then is it that UK investment in R&D in construction is so poor? In comparison with other countries we are way down the league.

Mr Timms: Investment in R&D and the productivity gains that come from that are a challenge for us, and have long been a challenge for us right across the economy. I am not sure which data you are looking at.

Q650 Chairman: It is OECD data.

Mr Timms: What I would be interested to know is whether the lag in the construction industry stands out by comparison with others. The discussion perhaps should be had with the Technology Strategy Board about the basis on which it has allocated the very substantial funding in terms of the Technology Strategy Board for R&D and the very substantial funding that it has available and whether those allocations have been made correctly. Across the board there is an issue about how to incentivise more R&D in construction. That is why we introduced the R&D Tax Credits, that is why we have taken the other steps we have, including substantially increasing public sector support for R&D. Whether construction stands out from others, I do not know.

Q651 Roger Berry: Are you going to have that conversation with those responsible for allocating resources?

Mr Timms: I will certainly have a look at the data that you have drawn to my attention and see what conclusions can be drawn from it.

Q652 Roger Berry: The comparative data the Department has will be interesting as well, so we can show you ours if you could show us yours.

Mr Timms: That sounds like a good deal.

Q653 Chairman: We have been told very clearly by contractors that this issue about discouraging innovation because of the availability of labour is real and we are talking about quite big contractors in the UK. Somebody came to me and said he built a power station in India without scaffolding because there were so many people they could run up and down ladders and did not need basic innovations to enable them to build a power station. There is a disincentive effect here against the type of offsite construction you are talking about because the people are there to do it. I think it is an issue. On R&D I do have deep concerns. The industry is more fragmented than that of any of our European colleagues so they have not got the critical mass to do the R&D themselves and we are told by the research and technology organisations, for example, that the UK is now largely absent from international forums, no longer learning other countries' experience, government policy is increasingly being based on focus groups rather than scientific evidence, and it is losing its ability to influence standards setting at a European level. There seem to be some quite big implications here and although I understand the strategy, given the particular situation we are in here, I am not entirely confident that your confidence is well-placed.

Mr Timms: I must say I think the perfect people to answer why we are not investing more in R&D are probably industry representatives rather than me.

Q654 Chairman: Take the house building industry as an example which in many Scandinavian countries is in the hands of a very small number of companies but here, how many house builders are there? It is very difficult, because there is a very wide range of companies, to see the innovation you might like to see in that sector, for example. We have a different industry structure.

Mr Timms: That is certainly true. The point about migration, I am not clear what the consequence of that view is.

Q655 Chairman: You have got so many people you can do it the old-fashioned way so you do not innovate.

Mr Timms: We have free movement of labour within the European Union and that is not going to change. I am not convinced about the industry hiding behind that phenomenon as a reason for not investing in R&D. I think the industry should invest more in R&D. We are providing support through public funding and R&D Tax Credits and so on, and I hope the industry will do more to be innovative in the future.

Q656 Mr Hoyle: I think the other issue, and I do not know whether you agree with this, is what we do find is that construction companies want to become site managers, they want to call themselves service industries, they no longer want to be in construction and it is all subcontracted so, therefore, they do not have to look at R&D because they have subcontracted all of the work out to different tiers. Is that not part of the reason?

Mr Timms: The reason for not investing in R&D?

Mr Hoyle: Yes, because they are only site managers now, they do not employ the people and they do not worry about that, they are passing on the problem.

Chairman: Project managers.

Q657 Mr Hoyle: Project managers, whatever you want to call them. They are not employing the people to carry it out because they subcontract so they know what price it is going to be done for and they are passing the problems on rather than dealing with them.

Mr Timms: I would argue that we have very impressive actual construction companies in the UK and there are good incentives for them to invest more in R&D. In a way, it is bit like the discussion we had on skills where we think why is the industry not investing more in skills, why is the industry not making available more apprenticeships.

Q658 Mr Hoyle: I think we are agreed because if you take a company like AMEC they no longer employ the people, they do not have apprentices, because they have become a service company and they do not employ the skills they used to have. They used to take apprentices on but all of that is disappearing. I think that is the problem with the big companies, they subcontract all the work.

Mr Timms: Yes, but the number of apprentices in the construction industry is going up. It is not as high as it should be, I would like to see it go up more, but it is not going down.

Q659 Mr Hoyle: It is not with major companies.

Mr Timms: I would like to have a look at that and see where those apprenticeships are. That is an interesting point.

Chairman: Now we will change subject to something I think we have been waiting for with some interest.

Q660 Mr Wright: When we had evidence from UCATT before one of the claims was that 50% of the construction industry is regarded as self-employed and a large proportion of that would be regarded as bogus self-employment and, indeed, it must be an issue with the Treasury because in UCATT's estimate in 2001 they estimate it probably cost the Treasury £1.5 billion and in today's value it would probably be nearer to £2.5 billion. What work are you doing with HMRC to tackle this problem of bogus self-employment?

Mr Timms: The first point I would want to make on this is there is nothing wrong with genuine self-employment. I do agree that false declaration of self-employment is wrong and we are committed to effective enforcement of the Construction Industry

Scheme. I know that the HMRC estimate is that maybe up to perhaps 200,000 out of the total 900,000 self-employed subcontractors could be falsely classed as self-employed, which is a much smaller proportion of the total than the UCATT figure. It is still a big number but it is not as large as the one that UCATT suggested. I know that HMRC is very determined to bear down further on that number. It is HMRC's lead. They recognise it as a significant problem and are working to reduce the scale of it. Certainly on the evidence I have seen it suggests it is not quite as large as UCATT suggested.

Q661 Mr Wright: Even a figure of 200,000, as you say, represents a large proportion and, indeed, with the encouragement from the employers to employ people on a self-employed basis it is quite clear to see that it is much cheaper for them to do that without the responsibility of sick pay, holiday pay, the fact that 20% of their money is deducted at source by HMRC, so it is a win-win situation for the employers on big contractors. Apart from the fact that we are losing money through the Treasury, whether it is 200,000 or 500,000 it is significant, probably more importantly is the effect on the industry itself to be better regulated. It must be a concern to your Department, these people who should not be regarded as self-employed and are bogus self-employed, and I would have thought some action would have been taken to work with the HMRC on this particular issue.

Mr Timms: Can I just comment first of all on the question of the scale of the financial loss. The estimate I have is the figure we are talking about would be around £340 million per year, so quite a lot less than the figure that you have suggested.

Q662 Mr Wright: It is still a lot of money.

Mr Timms: Absolutely, it is not to be sneezed at, it is a large amount of money, but it is an order of magnitude less than UCATT was suggesting. I think the difference arises because HMRC believes that it is 900,000 self-employed rather than a million and, even given that difference, the amount of money involved is quite significantly less in HMRC's view than UCATT have suggested. In the end, how the industry organises itself must be a matter for the industry. There is a perfectly proper place for genuine self-employment and I do not think it is for government to regulate or instruct companies about how their relationships are organised as long as it is in compliance with the legislation as it currently stands. Where it is not, and we might be talking about 200,000 people, then action needs to be taken and HMRC is on that case.

Q663 Mr Wright: This is the point. The argument is not about the genuine self-employed. This has even wider implications. Earlier we were talking about the skills, the training and apprenticeship places, and you are less likely to get the bogus self-employed involving themselves in training young people within the industry, so it is self-perpetuating and in the future you are going to get more people being

encouraged to go self-employed, therefore taking away the necessary skills and reducing the ability for young people to get into the industry.

Mr Timms: Yes.

Q664 Mr Wright: Surely if there was a way forward for the Department, even if it is 200,000, to regulate that side of the business that would support and help the skills and training shortage that we have for young people. There are 50,000 people who want to go into skill placements and there are only 7,000 apprenticeships and that in itself should be an incentive for the Department. Whether it is 200,000, 300,000 or 400,000 it is a big issue and I would have thought the Department would have taken this on very seriously indeed.

Mr Timms: I agree with you, and HMRC agrees with you, that it is very important to bear down on that number however large in reality it is.

Q665 Mr Wright: The HMRC are doing it purely for their own reason, to regulate the income they are losing, but what I am suggesting is we have particular problems in the industry in terms of skills and training and surely BERR should take this on board in saying this is an opportunity to regulate this industry for health and safety but also, just as importantly, to provide huge opportunities for young people, so if it is regularised through regular self-employment we will have these opportunities.

Mr Timms: I agree with you about the benefits of bearing down on that number of bogus self-employed people, I think it is entirely appropriate that HMRC is in the lead on doing that and, as you say, they have got a very clear incentive to do so on fiscal grounds, but I think that arrangement is quite an effective one and I hope that we will see a reduction as a result.

Q666 Mr Wright: Moving on to the OGC, I understand that they do not require government departments to procure projects from contractors that directly employ their workers, unless there is a clear case for them being self-employed. If this is the case, why do we not do something about it?

Mr Timms: Mark, do you want to comment on the OGC's approach here?

Mr Pedlingham: No, not particularly, in the sense that we do not specifically have best practice and procurement guidance that plays in this arena which is very much seen as a taxation issue and HMRC deal with it alongside BERR.

Q667 Mr Wright: So this is HMRC as well?

Mr Pedlingham: Yes. The bogus employment issue is primarily a taxation issue. The question of people engaged in a programme is part of the general achieving excellence in construction guidelines we give throughout. There are a range of those guidelines that deal with the capability of the contractor.

Q668 Mr Wright: Should BERR not be working with the HMRC on this particular issue?

Mr Pedlingham: Exactly.

Q669 Mr Wright: And you are doing that?

Mr Timms: I am BERR and Mark is OGC.

Q670 Chairman: I am a bit concerned. To be fair, we have heard some conflicting evidence on this issue but to dismiss bogus self-employed as just a taxation issue does not convince me. We have heard, for example, BAA at Terminal 5 used entirely directly employed labour and that was one of the reasons they attributed to the great success of that project but, to be fair, the Emirates Stadium used quite a lot of bogus self-employed as well, so there is contrasting evidence out there. I do not think it is just a taxation issue, there are also implications for quality and the outcome as well which must concern the client, the public sector client and the private sector client.

Mr Timms: I am sure that is right and I would want to endorse your point about the huge success of Terminal 5 and there are a lot of lessons for the whole of industry to be learned from that success. The question is how we address it. I am satisfied that the approach we have with HMRC in the lead is an effective way of bearing down on that problem. I am not saying it is not of interest but I do not have the levers to tackle it, HMRC does, and it is important they take it very seriously for the reasons the Committee has said.

Q671 Chairman: You accept it is not just necessarily a taxation issue, it is also an issue about quality and outcome as well.

Mr Timms: I do accept that.

Q672 Anne Moffat: One of the other things the Treasury has done is to change the system moving from photo-ID when you are onsite to online registration. UCATT, and I tend to agree, have said that will make the situation much worse. Would you like to comment on that?

Mr Young: I think this arises from the new arrangements from the CIS in 2007. One of the problems that has arisen is some of the interpretation as to what some of this documentation actually constitutes. One of the challenges that HMRC have informed me they are dealing with, and have done for many years, is the presumption that being registered with HMRC on their systems to be able to be processed as a self-employed person sometimes has been used by the individual concerned and accepted by the companies as them being self-employed as a matter of course, which HMRC have made clear was never the intention. One of the purposes of the new CIS, as I can call it, is to try and get away from the cards which were often used by individuals to say, "Here, I have got a card, I am self-employed". There are still operational arrangements that they have instigated under the new regime. In terms of the effectiveness of these operational arrangements, it is still quite early days under the new scheme. I know that they have still got groups in place with industry to look at the

operational aspects of the scheme if there are things that need to be looked at, and I am sure they will be interested to hear how the system is progressing.

Q673 Anne Moffat: I can understand wanting to improve the system, but what I cannot understand is how taking away the photo-ID will improve it. You can still have online registration. Being required to have ID, would that be something you would reconsider?

Mr Young: I think that is a matter for HMRC ultimately because they are the managers of the system. Certainly if this is a point that arises from evidence then I am sure they will take note of that.

Q674 Anne Moffat: Thank you. My next question is about the Gangmasters' Licensing Regulations. What are the arguments that that should not cover the construction industry?

Mr Timms: I know this is a point that UCATT have raised as well. It is one that they have raised with me. I do not think they raised the earlier point but they certainly raised this one with me. I think the right approach to take here is through the Vulnerable Workers' Forum with the help of UCATT and the Gangmasters' Licensing Authority because they are both represented on the Forum. It is clear that if there is a degree of illegality where there is clear evidence from a trade union or from anyone else I would argue that should be made available to the Vulnerable Workers' Forum which is looking at evidence of mistreatment, including within the construction sector. The aim is to identify options for improving the effectiveness of enforcement without increasing burdens on good employers. Once we have got the results of the Forum then we can draw some conclusions. I think that is the right approach, to get the evidence and see what conclusions we can draw.

Q675 Anne Moffat: Could the regulations themselves not do that? If you are a good employer then you are not going to be held back by the gangmasters' legislation because you will be adhering to good practice and the law.

Mr Timms: That is what the Vulnerable Workers' Forum is looking at, whether there are changes that ought to be made and whether those can be made without imposing additional burdens. We need to let the Forum do its work and then have a look at what they recommend.

Chairman: Another gear change to health and safety.

Mr Hoyle: With scaffolding!

Q676 Mr Clapham: Minister, could I take you on to the area of health and safety. There is a great deal of anxiety, and I do accept when one compares the construction industry in the UK with construction industry in other European countries we have a good record, but when one compares it with other industries in the UK the record is not so good. As you will be aware, a former Lord Chancellor made the point that health and safety is the cornerstone of a civilised society and yet we have seen accidents,

fatalities particularly, in the construction industry increase quite enormously: 77 deaths in 2006–07. Why do you think the record on fatalities has increased so much in construction?

Mr Timms: Well, Chairman, I think this is a very, very serious issue and one where there is a good deal of work that is needed. It is right, as you have done, to compare performance in the UK with performance elsewhere. It is also right to look at the record over a period. We have seen a good record of reducing the number of fatalities over an extended period and that is extremely welcome but, as you rightly say, in the past year that record went seriously in the wrong direction and we need to get it squarely back on track. That is extremely important. We are supporting the work of the Health and Safety Task Group of the industry's Strategic Forum. That is going to be pulling together a plan in order to respond to the Safety Forum that was convened by Peter Hain, the Secretary of State for Work and Pensions, last September. This is a very, very important issue for the industry and we do need to make sure that we get back on the track of the good trend of previous years. In terms of why, this is something we have talked about in the umbrella bodies meeting that I chair. There is some evidence, am I right in saying, that the housing refurbishment area in particular has been where we have seen problems. Perhaps Clive could say a little bit more about that. We need to understand where the problem is arising. It looks as though the problem is disproportionately there.

Mr Young: Arising from the sharp increase in fatalities compared to the previous years, HSE took on board a review of those figures in connection with the Strategic Forum, the DWP Safety Forum that was held in December, and looked at each individual case and tried to draw out lessons. One of the challenges looking at it dispassionately in terms of the actual figures is sometimes it is difficult to identify particular trends because there may be particular causes of fatalities in one year but they may not apply in the following year. Trying to identify possible interventions that need to be taken is quite difficult. Looking at the information for this year, I understand it is quite different from what was seen in the previous year. The lessons that can be learned from that period will need to be digested by the taskforce to look at the actions that need to be taken alongside the ongoing plan that HSE's Construction Division have put in place.

Q677 Mr Clapham: Minister, could that increase be because of the fall-off in resources of the HSE and the number of field inspectors available in construction? Have you had any discussions at all with the Secretary of State for the DWP who has responsibility for health and safety?

Mr Timms: I have not seen any evidence that the change that you have referred to and the risk-based approach now being taken by HSE has concluded. I think HSE would strongly refute the suggestion that was part of the explanation. I have not personally spoken to the Secretary of State for Work and Pensions, although my Secretary of State has done

and did so around the time of the Forum. I would just underline this is a really important issue for the industry and the government. The plan has been drawn up, it is a very important document, and it is absolutely essential we get back on the track of continuing improvement that we have seen in the last few years and I expect the changes being made in HSE to help us in that rather than hinder us.

Q678 Mr Clapham: I hear what you say, but bearing in mind how important health and safety is in the construction industry, is it not one of those areas where you ought to be meeting with the department that has responsibility for health and safety to ensure that guidelines on best practice are actually pushed through?

Mr Timms: There is certainly discussion between my Department and the HSE. As I say, John Hutton and Peter Hain have talked about this.

Q679 Mr Clapham: Could you say what the targets are for improving health and safety in construction?

Mr Timms: The target in my mind is getting us back on track for the continuous reduction in fatalities that we have seen in the construction industry, I think I am right in saying, looking back over the last 10 years or so. For the past three to six years figures have been very, very disturbing and we need to get back on track to cut those down.

Q680 Mr Clapham: Amongst the 77 fatalities I have referred to, I understand there were five people from different ethnic backgrounds and that rings alarm bells with regard to the way in which we ought to be protecting the migrant labour force within construction.

Mr Timms: Yes. I gave the figures right at the start for the proportion of the construction workforce that is made up of migrant labour. I forget what it was. Five out of 77 is not a long way out of line with that overall proportion. I certainly have not seen any evidence that the problems have disproportionately affected migrant workers. If that was the case it would be very concerning.

Q681 Mr Clapham: It would suggest the need for that extra protection and I understand there is some evidence from the unions to support this, that labour agencies are setting up very similar to those in agriculture and moving people into construction, so here again is the need to consider whether the Gangmasters' Regulations ought to be introduced into construction. It may be something for the Safety Forum to consider.

Mr Timms: It is certainly something for the Vulnerable Workers' Forum to consider. They recognise explicitly in the Forum that there are particular concerns around vulnerability for some migrant workers and that is the place where the evidence should be provided. The figure I gave at the beginning was in 2006 the proportion of migrants working in the construction sector was 7.7%, and 8% out of 77 is not far off. Five out of 77 does not suggest that there is a great disproportion.

Q682 Mr Clapham: My response to that would be nobody goes to work to be killed and we have to ensure we put in the best protective system possible.
Mr Timms: Absolutely. What is striking and what is very bad is the number 77. Five out of 77 is not out of line with the make-up of the workforce as a whole. What we have to do is reduce the 77.

Q683 Mr Clapham: My final question is with regards to the OGC. I understand the basis of awarding work on the health and safety record of people to whom the work is being given is very patchy. Are we looking at what we might do there to improve that and ensure that the health and safety record of companies to whom work is being awarded is taken into consideration?

Mr Pedlingham: The Achieving Excellence Guidance 10 actually identifies how client decisions can actually impact on health and safety, including the selection processes, and, in turn, how health and safety issues have a beneficial impact on the delivery of performance and value for money. More than that, we actually have created a series of case studies, one of which deals with how health and safety has been shown to improve the outcomes of effectively major projects, so I think we are doing quite a lot not only to raise its profile in the guidance, but also to celebrate, I guess, where good practice has occurred and delivery has been achieved.

Q684 Mr Clapham: So is this a sort of new approach because I understand from some of the documentation that we have read that it has been a rather patchy approach to actually looking at health and safety as a standard for awarding work?

Mr Pedlingham: I do not think there would be any question in my mind that one of the selection criteria that is being used by departments would be the record of the suppliers that are bidding for the business. Of course what you have is a very complex array of issues that one is assessing in terms of supplier performance, but I could not imagine that health and safety would not appear at some point in that assessment process.

Q685 Mr Clapham: Can we make sure that it does?

Mr Pedlingham: I think the guidance does make it very clear that it is important to take account of health and safety factors in the sorts of decisions that the client is making.

Q686 Mr Hoyle: Michael Clapham, I think, is absolutely right and he has touched on the problem, that one is too many and 77 is obscene, it is unacceptable. I think there is a direct correlation between the lack of number of inspections by field officers by the HSE and the issue on construction. People cut corners and people take chances, especially when they know there are less people to come and inspect, but it really is part of the problem. The other one is that it is my understanding that it is small companies that are now having the problems and that is where there is a bigger health and safety issue, so it comes back

to the question: are the sub-contractors and, as Mike Clapham said, the gangmasters part of the issue of why health and safety is becoming the big issue in construction again?

Mr Timms: Well, I think that the changes that HSE has made are enabling it to be significantly more effective with the resources that it has. Making sure that they are targeting inspection resources where there is risk, I think, is the right approach and I do not agree with, and I am sure that HSE, if they were here, would vigorously refute, the suggestion that the changes that they have made have contributed to this trend. I completely agree with you that one death is unacceptable, let alone 77, and we do need to get back on track, but I think it is wrong to look at the HSE for an explanation of what is happening. I think you are probably right, that it is in smaller companies that a chunk of the problem has arisen, companies working in the housing field, but I would be cautious about drawing too many conclusions without some evidence about exactly what is going on, and that of course is what the task group is working on.

Mr Hoyle: What, I think, you will find is that major construction companies at major construction sites will get a regular visit and it is the smaller sites that never get a visit because there are not enough inspectors in the field to go round and I think, if you begin to look at some of the statistics, they will actually prove that is the case.

Q687 Anne Moffat: Do you think there is a lack of awareness about the health and safety problems and the fatalities, the accidents and the injuries in the construction industry? These things seem to go unnoticed. If a police officer were killed in the line of duty, it would be all over the news, or if a soldier gets killed when he is at war. It is almost that people just do not know just how dangerous this industry can be and I think we need to do something to make people far more aware of that.

Mr Timms: Yes, I think it is right to draw attention to the fact that there has been a long, downward trend on fatalities in the industry resulting from a strong and absolutely proper focus on better health and safety over quite a long period now and the bad trend that we talked about has just been one year and we need to make sure that we are back on track for a reduction in the future. I think within the industry there is quite a big focus on this. It was a big issue at Terminal 5, their success on health and safety. Good employers and good projects like that one do draw a lot of attention to health and safety, put it up in lights and make sure that people do the right thing. Of course, to the vast majority of people in the industry, it is a safe industry, but I think what is important is to make sure that we carry on bringing those numbers down so that people can join the industry with confidence. What we do not want to do is to say to people, "Well, this is a dangerous industry". We need more people working in construction and more people willing to go into apprenticeships and so on.

Q688 Chairman: There are two last small, important points from me, if I may, about standards more generally and the private and the public sector promoting good standards. The Federation of Master Builders told us that you cut funding on the TrustMark scheme last year. I have to say, I had not heard of the TrustMark scheme before this inquiry, which shows how low this particular consumer's awareness was of the scheme. If we are talking about driving standards, we must talk about driving them up for the smaller builders as well and here is a scheme that does not even get the promotion it deserves, if it is worth having at all, so what is happening with the TrustMark scheme?

Mr Timms: Well, I think TrustMark is very important and I had a deputation at my surgery last Friday from the East Ham Pensioners' Association and I was talking about TrustMark and it was exactly what they wanted. We are working now with senior officials at TrustMark to help with developing a customer forum for TrustMark and, in particular, to raise TrustMark's profile. What is needed, I think, is now in place. It is possible now to go to the TrustMark website or indeed to ring Consumerdirect, which is particularly a web-based service, and find information about a reliable company to do the job that you want. Some 16,000 firms are registered and 25 scheme operators, and what we need to do now, and I think the point you made underlines it, is to raise its profile.

Q689 Chairman: But you have cut the money?

Mr Walker: The gentleman who gave evidence to the Committee earlier who mentioned this point about TrustMark is now on the TrustMark Board as a director.

Q690 Chairman: That is good news, is it?

Mr Walker: That is good.

Q691 Chairman: So the TrustMark scheme is virtually unknown, so that is why you cut the funding for it?

Mr Walker: No, it was designed as self-funding and this is now a supported scheme which is as it should be.

Q692 Chairman: So it is all going to be all right on the night, is it? I saw a Federation of Master Builders person rather than TrustMark because I know FMB and I have a respect for them, but TrustMark will sell?

Mr Timms: It certainly will, and it certainly hit the mark as far as the East Ham pensioners were concerned.

Q693 Chairman: The East Ham pensioners are a force to be reckoned with, I am sure, in your life. I know what my pensioner groups are like, so I am sure that they are. The other source of reassurance on standards is to do with the Constructionline database that your Department runs for potential suppliers and contractors. The Specialist Engineering Contractors Group told us that it has not delivered what the industry was looking for. Has it and why do they think it has not?

Mr Timms: Well, 14,500 contractors are members of it, ranging from sole traders to very big contractors, and 1,600 client organisations use it, so I think it is performing a useful role, but I would like to see that extended further.

Q694 Chairman: Well, gentlemen, we are there. The largest inquiry the Committee has conducted for many years is at the end of its evidence-gathering, but, before I conclude our proceedings, can I just ask if any of you have anything you would like to say or add to what has been a very wide-ranging evidence session, I know.

Mr Timms: Can I simply thank the Committee for the opportunity it has given to me and to congratulate the Committee on reaching the conclusion of such a long and important piece of work, and I look forward very much indeed to seeing the recommendations which the Committee will produce on the basis of all the evidence it has received.

Chairman: I say to you, Minister, and to your colleagues that we asked you for some specific additional information during the session and, if there is anything else that comes to mind in the next week or so, please do not hesitate to add that. That is also, through you, to the wider collaborators in this inquiry because it will be a little while until we reach our conclusions. We have quite a lot of evidence to crunch through and, like the agency, we are a lean and mean machine when it comes to staff time, so it will be late in the spring when we actually produce our report to which you in due course respond, so there is an opportunity to update any evidence you have given to us today or earlier, and that applies to all of our witnesses during the course of this very interesting inquiry. Thank you very much indeed, everyone, and thank you, Minister, and your colleagues, and we look forward to finding out what we are going to say. Thank you very much indeed.

Written evidence

Memorandum submitted by the Department for Business, Enterprise and Regulatory Reform (BERR), formerly the Department of Trade and Industry (DTI)

INTRODUCTION

1. This memorandum sets out for the Committee the Government's approach to the UK construction industry in the context of the issues raised in the call for evidence. We are grateful to our colleagues in other Government Departments who have helped prepare this written evidence. Where it is particularly significant to the questions posed by this Inquiry, the information they have provided is presented in Annexes.

2. After a brief discussion of the industry context, this memorandum seeks to cover each of the 11 headings set out in the Trade and Industry Committee's call for written evidence, focussing in particular on the key issues of long-term capacity, employment and payment practices, availability of and investment in skills, and regulation, with details of related policies and interventions.

THE UK CONSTRUCTION INDUSTRY

3. Construction is one of the pillars of the national economy and accounts for 8.7% of national gross value added. But its economic importance is wider than that—well managed and successfully delivered construction projects can improve the delivery of public services (such as health, education or transport), improve business productivity (more productive factories and offices) and improve standards of living and the natural environment.

4. There are over 270,000 enterprises active in the industry, employing over two million people. The industry is experiencing a period of sustained and high level activity and is responsible for nearly 20% of construction activity in the EU. A more detailed statistical summary is attached at Annex A and supplementary information at Annex B.

5. As Sir John Egan observed in "Rethinking Construction", at its best the UK construction industry is world class. The industry is flexible. Its workforce is willing and adaptable. Its ability to deliver the most demanding projects matches that of any other construction industry in the world.

6. However, the "traditional" industry is often considered to be one with a low and unreliable rate of profitability, which invests little in research and development, in capital or in training, and which works indiscriminately on the basis of lowest price. The extensive use of sub-contracting has bought contractual relations to the fore and made it more difficult to develop the continuity of supply chains which can be so important for efficient working.

7. Nowhere is this fragmentation clearer than within the construction industry's representative bodies—an informal survey commissioned by Wates (contractors) in 2006 uncovered a "whole cottage industry—over 300 organisations". It is for this reason that DTI works very closely with the construction industry through its umbrella bodies and the Strategic Forum for Construction.

DTI, THE STRATEGIC FORUM FOR CONSTRUCTION AND RETHINKING CONSTRUCTION

8. DTI's Construction Sector Unit (CSU):

- works with the construction industry and with Government to improve the industry's performance and deliver policy objectives; and ensures where appropriate, that the views of the construction industry feed into policy development across Whitehall and in the European Union; and
- acts as a critical friend to the industry, helping guide it through its relationships with Government. If there is an issue of concern to the industry, where CSU thinks industry has a sound case, it will take that up on the industry's behalf.

9. DTI's relationship with the construction industry is set firmly in the context of Sir John Egan's *Rethinking Construction* which was published in 1998. *Rethinking Construction* sets out an approach which leads to substantial improvements in quality and efficiency. Annex B contains some more information on this.

10. In 2002 the Strategic Forum's *Rethinking Construction: Accelerating Change* identified the 4 main areas of focus which were key to the widespread delivery of the Egan approach. They are:

- client leadership—clients procuring projects in a way that allows all in the integrated team to maximise the added value their expertise can deliver;
- integrated teams and supply side integration—created at the optimal time in the process to fully release the contribution each can make and share risk and reward in a non-adversarial way;
- culture change in "people issues"—a positive image, an emphasis on education and training and behaviour based on mutual respect; and
- a focus on the end product.

11. Increases in the efficiency of construction industry processes will also pay significant dividends for sustainable development. It is in the context of Rethinking Construction that DTI, working with other Government Departments and industry, is developing a strategy for sustainable construction. This will identify ways in which the industry and Government can ensure that the construction industry plays a full role in securing a sustainable legacy for future generations.

LONG-TERM CAPACITY FOR THE DELIVERY OF LARGE INFRASTRUCTURE PROJECTS ON TIME AND ON BUDGET/
DELIVERY OF THE GOVERNMENT'S CAPITAL INVESTMENT PROGRAMME

12. The report *Increasing Competition and Improving Long-term Capacity Planning in the Government Market Place* by Sir Christopher Kelly in 2003 made recommendations on public sector procurement in construction in the following three areas:

- Market Consultation—ways of engaging suppliers at an early stage in public sector procurement;
- Market Shaping—ways to help the market by identifying any pinch points and capacity issues; and
- Market Intelligence—ways of sharing supply and demand information to enable better future planning by suppliers and procurers.

13. OGC (Office of Government Commerce) has put in place systems to collect forward-look demand data. It also works with the supply side to consider its capacity to deliver.

14. DTI is a member of the Public Sector Construction Clients Forum (PSCCF) which, since its creation in December 2005, has led on this work. Membership of the PSCCF is drawn from key Government spending Departments, and from the construction industry through the Strategic Forum for Construction and Constructing Excellence.

15. OGC published a report in July 2006 on construction demand and capacity. The report examined the UK construction industry's capacity to deliver the public sector's built environment programmes between 2005 and 2015.

16. The report's key findings were:

- The UK construction industry was not expected to face significant general labour capacity constraints to 2015, on the assumption that there would be no restrictions on the use of migrant labour.
- Significant potential specific skills shortages were identified in project management. Other areas where skills could be in short supply were design (eg Mechanical and Electrical), civil engineering, bidding capacity and client-side leadership capacity).
- Olympics construction expenditure was expected to add on average 0.12% per annum to output price inflation and 0.2% per annum to tender price inflation in London between 2006 and 2010; inflation premium would peak at 0.6% during 2006–07.
- Energy and steel cost fluctuations could have a further impact on output prices.

17. The study produced an econometric model which can be used to model scenarios to inform investment decisions in public sector construction.

A more detailed note prepared by OGC is attached at Annex C.

18. DTI is working with the industry and clients on a number of initiatives to ensure the industry is well placed to meet demand. Widespread adoption of the Egan approach throughout the industry and the more effective use of offsite construction methods will have a significant impact on the capacity of the industry to deliver the right end product.

19. DTI works closely with the Strategic Forum, the umbrella bodies and Constructing Excellence to help promote the Rethinking Construction approach throughout the industry. We have worked particularly closely with the Forum in the areas of integration, sustainability, and health and safety.

20. Most recently this has resulted in the development of the 2012 Construction Commitments. DTI's ambition, which is shared with the Strategic Forum, is for the Olympics to act as a showcase for best practice construction and for this to catalyse change (and increased productivity) more widely throughout the industry.

21. DTI is also collaborating with the Department of Health to establish a managed innovation and knowledge transfer programme for the Local Improvement Finance Trusts Companies (LIFTcos) to deliver improved primary health care facilities. Please see Annex B para 8 for more information.

22. In addition DTI is working with OGC to support BuildOffsite, to promote offsite construction techniques which will help the effective delivery of public sector programmes. Please see Annex B paras 9—10 for more information.

23. OGC and DTI continue to work with Government Departments to embed the best practice encapsulated in the Achieving Excellence in Construction suite of Guidance documents.

24. Large scale regeneration programmes are taking place in all of the English regions and the Regional Development Agencies (RDAs) have a strong interest to make sure that the construction industry is able to operate as an effective partner in these schemes. Very large projects, such as the Milton Keynes South Midlands growth area, will place demands on the sector that could have a significant impact both on capacity and standards. The RDAs are working with the Sector Skills Councils to support the matching of industry skill supply and demand in their areas.

EMPLOYMENT AND PAYMENT PRACTICES

Payment

25. Cash flow is the lifeblood of construction and ensuring a fair payment culture throughout industry supply chains is an essential part of the implementation of the Egan agenda.

26. DTI has worked closely with the OGC and the industry, through the PSCCF, to gain a consensus view on what constitutes fair payment best practice and to develop a fair payment charter for use by clients and industry. It is also intended that supply chains on all Government construction projects will use these.

27. In addition, DTI is reviewing Part II of the Housing Grants Construction and Regeneration Act 1996 to identify potential improvements. We plan to publish a consultation paper soon setting out the precise legislative wording of our proposed changes on which we will welcome the views of the industry.

Employment

28. Respect for People—The Egan agenda highlighted the importance of showing care for the workforce, embracing health and safety, good site conditions, how people work with each other, and the provision of learning/development opportunities. DTI has worked closely with Constructing Excellence, supporting the development of Toolkits to help firms benchmark and improve their performance; with HSE and the industry to develop the Code of Good Health and Safety practice; and has championed “respect for people” as a core business value through awareness leaflets and Constructing Excellence workshops.

29. Self employment/direct employment—Construction can be characterised by long and complex supply chains. Nearly all the main contractors sub-contract specialist expertise and labour. Typically, firms responsible for carpentry, bricklaying, and other traditional construction trades engage workers either on a directly employed basis, or from recruitment agencies.

30. There may be occasions where it would be appropriate for contractors to engage self-employed contractors. All projects are different, so it would be wrong for Government to set blanket rules on direct employment either for public sector contracts, or more generally, and it has no plans to do so.

31. For many individuals in construction, self-employment is a natural and desirable career path. Where the arrangement is legitimate, this reflects wider Government policy to encourage enterprise.

32. Many construction companies such as specialist sub-contractors (roofing; flooring; painting and decorating) employ workers directly. Long-term “framework” contracts (eg repair and refurbishment) awarded by housing organisations provide a continuity of work that provides a sound business footing, enabling contractors to engage workers directly. This may also support a local procurer’s wider community employment objectives. Large scale projects (Terminal 5 is the oft quoted example) can also provide opportunity for contractors to engage workers directly. Advantages of direct employment often cited include the value of investment in the training of apprentices, for the company and the long-term needs of the industry, and clearer management control of health and safety.

33. However, false declaration of self-employment is wrong. HMRC leads on operation of the “new look” Construction Industry (tax) Scheme (introduced on 6 April 2007) There are new procedures to help firms to classify correctly the employment status of those they engage. Please see Annex D for more information.

34. The submission from the Department for Work and Pensions (Annex E) gives more information on employment-related issues.

AVAILABILITY OF, AND INVESTMENT IN, SKILLS

35. Government is committed to encouraging the development of skills in the workplace. As co-signatories of the Government’s Skills Strategy, co-sponsors of the Skills for Business network and through the Skills Alliance, DTI fully supports the reform of learning and skills provision, and recognises the importance of ensuring that provision, qualifications and access routes to training meet employer needs.

36. The four built environment Sector Skills Councils (SSCs): ConstructionSkills (building and civil engineering); SummitSkills (building services engineering), AssetSkills (facilities management); and Proskills (construction products) work together through the Built Environment Skills Alliance (BESA) of SSCs, to help to develop a shared vision for a framework of standards and qualifications. This memorandum focuses on issues facing construction, although other built environment industries have similar challenges.

Capacity aspects: Availability and suitability

37. Over two million people are employed in construction. This is expected to grow to more than 2.8 million by 2011. According to ConstructionSkills (the industry's Sector Skills Council), there is a requirement for around 87,000 skilled workers (at all levels) for each of the next five years, to deliver the expected growth and replace those who will leave the industry. The highest demand will be in Greater London, the South and the East of England, with the greatest increases in employment in the trade skills—bricklayers, cladders and roofers, painters and decorators, scaffolders and wood trade workers. There will also be a significant need for professionals and managers.

38. The Leitch Review of Skills, *Prosperity for all in the Global economy—world class skills*, published in December 2006, pointed to demographic factors that will come into play over the next 15 years and will affect areas of the economy which require skilled trades, such as construction.

39. The under representation of women and ethnic minorities remains a priority issue for the industry. Labour force statistics show that marginal improvements are being made, but the proportion of women employed in construction is only around 10%, and those working in manual trades only 1%.

40. Historically, the construction workforce has been largely unqualified, with workers building up their skills through experience on the job. But for some years the industry has been pushing for a fully qualified workforce. Partly as a way to improve quality of work, but also to improve the health and safety performance of the industry. In 1995 the industry decided that Qualifying the Workforce would be a priority action. The mechanism chosen for attaining this goal was the Construction Skills Certification Scheme (CSCS). Government welcomes the Qualifying the Workforce programme.

41. ConstructionSkills comprises the Construction Industry Training Board (which was first established in statute under the Industrial Training Act 1964 and has the power to raise a levy on employers to fund training); the Construction Industry Council and the CITB Northern Ireland. CITB is one of only two remaining statutory training boards. ConstructionSkills is the lead body, licensed by Government (the Sector Skills Development Agency) and responsible for developing and implementing strategies to tackle the skills/recruitment needs of the industry. ConstructionSkills, DTI and OGDs work closely together to address specific policy and operational issues as they arise (see Annex F).

Investment in improving skills

42. The importance of skills is recognised in DTI's vision of creating the conditions for business success. Skills are a key enabler for industry to achieve improvement in productivity, competitiveness, and sustainability.

43. The skill sets acquired by construction workers largely reflect the building and engineering processes and products laid down by clients and designers. These are mainly the traditional building skills; bricklaying, carpentry etc. These are likely to remain in highest demand for the foreseeable future. Innovative construction techniques and products, driven by a demand for greater sustainability, and the efficiencies of Modern Construction Methods, are increasingly being specified. These are highlighting the importance of ensuring that skills sets reflect, and keep pace with developments—eg off-site produced timber-framed dwellings, factory produced modular kitchens and bathrooms. Against the backdrop of a highly mobile labour force it is important to ensure that the industry invests in skills for the future.

44. Business interests look to DTI support on the skills agenda to help meet employers' expressed needs. DTI has strongly encouraged business to get involved in the demand-led skills agenda and to engage with the Skills for Business Network. We will continue to promote the demand-led approach for Train to Gain (a Learning and Skills Council service to employers—please see Annex F para 15 for more information).

REGULATORY MATTERS, SUCH AS HEALTH AND SAFETY AND THE BUILDING REGULATIONS

45. Cutting red tape and improving regulation is a key priority for DTI. Our aim is for a light touch regulatory environment, with less red tape and burdens on business, while protecting the public, consumers and employees. Much of the regulation impacting on construction for which DTI is responsible (in particular employment law, consumer law and company law) is common to all business sectors. DTI's regulatory simplification plan was launched in December last year. It seeks, where appropriate, to reduce red tape and burdens on business by simplifying the regulatory environment. DTI has identified initiatives to reduce the administrative burdens on business resulting from its regulations by £700 million. These include some of the proposals we may introduce to improve the operation of the Construction Act.

46. Constructionline is a DTI scheme designed to reduce significantly the time and cost for construction firms in tendering for contracts, by providing the ability to prequalify once using the scheme and then to provide registration details to the procuring organisations as proof of *bona fides*.

47. Other legislation and regulatory measures specifically relevant to construction include health and safety, and Building Regulations.

Health and Safety (HSE Annex G)

48. The construction industry is one of the most dangerous industries for workers accounting for 25% of workplace fatalities and 16% of major accidents in 2005–06. Improved health and safety performance is a priority for government and the industry. After a period of declining fatalities (59 in 2005–06), the figures for 2006–07 are expected to show a marked increase of around 20–25%.

49. The Health and Safety at Work etc Act 1974 provides equal protection for all employees. The Health and Safety Executive (HSE) monitors industry's compliance with health and safety legislation and focuses on standards achieved.

50. Since 2000–01, when construction fatalities and major injury rates rose, a step change to improve health and safety performance has been sought through a series of collaborative (industry, HSE and other government departments (OGDs)) initiatives. High-level summits have been held, including one that identified a key role that the public sector could play as a construction client in raising health and safety standards. Industry also set its own challenging targets. HSE is working in partnership with OGDs, eg with DCLG (Department for Communities and Local Government) (to promote health and safety through the building control and planning regimes), DTI (to promote integrated teams) and OGC (through the PSCCF). Following extensive consultation, new Construction (Design and Management) Regulations 2007 (CDM2007) came in to force on 6 April 2007. The Regulations were developed in close partnership with the industry and OGDs, including DTI and addressed concerns with the Construction (Design and Management) Regulations 1994. Implementation is expected to provide the environment for the construction industry to improve its health and safety performance.

Building regulations (DCLG Annex H)

51. The goal of the DCLG is that places and communities will be planned, built, upgraded and managed in a way which respects and sustains the global, national and local environments.

52. Building Regulations ensure the health and safety of people in and around buildings by providing functional requirements for their design and construction. In addition, the regulations promote energy efficiency, make buildings accessible and provide the construction industry with baseline standards to work to and ensure a level playing field.

53. In March this year DCLG launched a major modernisation of the Building Control System in its consultation document the "Future of Building Control".

UK DEPENDENCE ON IMPORTED LABOUR AND EXPERTISE

54. The demand for skilled labour has highlighted the contribution of overseas migrant workers across all levels: operatives and trade occupations, skilled engineers, surveyors and other professionals. Please see Annex B paras 11 and 12 for more information.

55. DTI and Home Office work closely with industry to ensure that skills needs are fully understood, and that specific issues and concerns about operational aspects of the visa/work permit mechanisms are addressed.

56. Migrant workers often face difficulties in understanding and asserting their rights. The Government has offered to work with the Governments of all the new Member States, to prepare bi-lingual "know before you go" leaflets, giving advice on the legal protections offered to workers including agency workers.

MAINTENANCE OF STANDARDS WITHIN THE SECTOR

57. Botched home improvement work wastes £1.5 billion annually and over 111,000 complaints about cowboy builders were registered with Trading Standards Officers in 2004. Recent independent research from the Which? organisation puts this figure even higher.

58. DTI developed the TrustMark initiative in partnership with the construction industry and consumer protection organisations to take forward the principles of the earlier Quality Mark, by setting acceptable standards of competency and customer care in an industry-inclusive structure, under a single recognisable badge. TrustMark membership has grown to 10 member organisations (eg trade associations) representing over 10,000 member firms, with a further nine organisations in the process of joining.

CONSTRUCTION R & D

59. There are two main issues:

- (a) limited investment in Research & Development (R&D) by the sector; and
- (b) poor knowledge transfer between the research base and industry.

60. The industry-led National Platform for the Modern Built Environment is the strategic voice of the industry on research issues and is developing a strategic research agenda, reflecting the conclusions of the Fairclough report.¹

61. There are a number of programmes to encourage R&D investment, and enhance business capacity for innovation. DTI provides grants to allow companies to participate in collaborative research and development, and supports companies in engaging expertise, and transferring knowledge, from the academic base. Small to medium sized enterprises can also receive direct grants for in-company R&D from their Regional Development Agencies. Companies are also able to receive Tax Credit for eligible R&D.

62. More research intensive organisations have obtained collaborative research funding from the Technology Programme in several generic areas like Materials, ICT, Design Engineering and Sustainable Production. Work is in hand to develop a proposal for a specific Built Environment technology application area and an Innovation Platform to advance technologies to produce buildings with a low environmental impact.

63. EPSRC (Engineering and Physical Sciences Research Council) funds most university based research related to construction and engineering. EPSRC gives businesses an opportunity to interact with the research base through collaborative research, projects to assess commercialisation, secondments, and strategic partnerships. EPSRC has a number of programmes relevant to construction in innovative manufacturing, creating more sustainable urban environments and in addressing climate change. Please see Annex B paras 22 to 25 for more information.

ENCOURAGING SUSTAINABILITY

64. The DTI is working with industry and other Government Departments to develop a Strategy for Sustainable Construction. The Department will shortly be issuing a Consultation Document for comment. The aim is to seek broad industry support for new strategic measures which will guide the industry through to the year 2020. Please see Annex B paras 26 and 27 for more information.

65. In 2004, more than a quarter of the UK's carbon dioxide emissions—a major cause of climate change—came from the energy we use to heat, light and run our homes.

66. The Code for Sustainable Homes was introduced by DCLG in April 2007 to drive a step-change in sustainable home building practice. It is a standard for key elements of design and construction which affect the sustainability of a new home. It will form the basis for future developments of the Building Regulations. Please also see Annex H, paras 20/21—DCLG.

67. All the RDAs also have an interest in sustainable development and are working with Government on the development of the Sustainable Construction Strategy. The RDAs operate a number of schemes and programmes to support innovation and business—these can and are used by construction sector firms.

BEST PRACTICE ON CONTRACT MANAGEMENT

68. Best practice project management is clearly critically important for the industry as it seeks to improve competitiveness and productivity. We continue to work closely with the Strategic Forum, with OGC and with other Government Departments to identify appropriate measures to ensure progress towards a more integrated industry. There is no single simple solution to this complex issue.

THE UK INDUSTRY'S PERFORMANCE AGAINST OTHER COUNTRIES

Summary of Key Findings of DTI-commissioned reports

69. In 2003 DTI commissioned two reports, one from Experian Business Strategies (EBS), and one from the University College of London (UCL) on estimates of average labour productivity (ALP) in the UK, US, Germany and France in construction.

70. EBS's conclusions were:

- The US is about 25–35% ahead of the UK and Germany in terms of average labour productivity (ALP).
- The UK is ahead of Germany in ALP on an output per worker basis, but not on an output per hour worked basis (this is due to Germans working fewer hours per week on average).

¹ Sir John Fairclough (2002), *Rethinking Construction Innovation and Research*, DTI and DTLR (Department of Transport, Local Government and the Regions).

71. The UCL study estimated:

- that the US leads the UK in ALP by 42%, with Germany level with the UK in ALP on an output per worker basis, but ahead on an output per hour worked basis.
- Productivity comparisons of the UK with France are subject to difficulties. Depending on the exchange rates used for conversion purposes, France is found to be well ahead of Britain on some measures of ALP (and indeed is close to the US) but on other measures French ALP is much the same as in Britain.

Please see Annex B paras 28 to 30 for more information.

Annex A

INDUSTRY STATISTICS

CONSTRUCTION STATISTICS

The DTI uses a wide definition of the construction industry to take account of the breadth of industry supply chains. This is:

- construction contracting;
- the mining, quarrying and production of materials and products;
- the retail and wholesale of materials and products;
- professional services (eg architects, surveyors); and
- plant hire

We refer to this as Construction and Construction products.

1. *Construction and Construction Products total and as a proportion of the economy*

These figures come from the Annual Business Inquiry (ABI), run by the Office for National Statistics (ONS). The ABI is the only source of consistent data on all industry sectors, and should be used when measuring a combined figure for Construction and Construction Products, and when calculating sectoral shares of the economy. Gross Value Added is the most commonly used measure for this purpose. This data is compiled on a definition agreed within DTI. The latest data available is for 2005. These figures are provisional and are not yet available for all detailed SIC codes. This data is taken from the provisional ABI published in December 2006.

	<i>C & CP</i>	<i>% of Whole Economy</i>
Number of Enterprises	274,038	
Total Turnover	£256,370m	
Gross Value Added	£94,846m	8.7%
Average Employment	2,126,000	
Total Net Capital Expenditure	£5,563m	

In addition there is considerable self-employment, particularly within the construction contracting sector. It is usually estimated at around 600,000, but there can be considerable seasonal variation.

2. *Construction Contracting Output (provisional)*

The DTI is responsible for producing statistics on Construction Output in Great Britain. This data is not consistent with the ABI, nor with measures of GDP, and so cannot be used to calculate sector share. It is the only official source of information on the type of building or civil engineering being carried out (eg housing, industrial, commercial), on regional construction, and on the split between public and private sector clients. DTI Output is also available earlier than the ABI, and so is provided to ONS to underpin their estimates of GDP, to the Monetary Policy Committee and to Eurostat under EU regulation. The latest annual data available is for 2006 for Great Britain and 2005 for Northern Ireland.

- DTI Output in Great Britain in 2006 was £113.6 billion;
- of this, 29% was publicly funded; and
- GB output in real terms rose by 1% in 2006.

Comparable figures for Northern Ireland are produced by the Northern Ireland Statistics and Research Agency. Output in Northern Ireland in 2005 was £3 billion.

3. *Orders for New Construction (final)*

DTI is also responsible for monthly statistics on orders and contracts in Great Britain. This data covers only new work and provides detailed information on the value of contracts placed, the site address, the type of construction carried out and whether the client is public or private sector. This data is also supplied to the Monetary Policy Committee and to Eurostat. The latest annual data available is for 2006

- Orders in 2006 were £47.8 billion;
- of this, the private commercial sector accounted for 37% and private housing for 28%; and
- GB orders in real terms rose by 6% in 2006.

4. *Building Materials (provisional)*

DTI produces statistics on the volume of building materials delivered or sold in Great Britain. In 2006, these were:

Sales of sand and gravel	77,856,000 tonnes
Deliveries of slate	78,516 tonnes (2003 figures)
Deliveries of cement	11,221,000 tonnes
Deliveries of bricks	2,399 million
Deliveries of concrete blocks	87,510 thousand square metres
Deliveries of ready mixed concrete	23,029 thousand cubic metres

5. *Construction Professions (final)*

Official data on construction professionals is limited because the Standard Industrial Classification does not distinguish them from other technical professions. Because of this, DTI and the Construction Industry Council co-funded the Survey of UK Construction Professionals 2001–02 to follow up a similar survey from 1995–96. This reported that:

- There were 23,500 firms providing construction professional services;
- such firms employed 225,000 people; and
- total fee income was £12.3 billion.

6. *Imports and Exports of Building Materials and Components*

DTI publish quarterly information on the import and export of 99 separate building materials and components, supplied by HM Revenue and Customs.

- In 2006 the UK imported building materials and components to the value of £10.6 billion. In this period, £5.9 billion of materials and components were exported, thus creating a trade deficit of some £4.8 billion.
- In current prices imports rose by 10%, whilst exports rose by 12% when compared to 2005.
- Around 82% of imports were products and components, the top five being electrical wires, central heating boilers, builders ironmongery, lamps and fittings, and air conditioning equipment. Semi-manufactures such as sawn wood and steel for fabrication formed 16% of imports, whilst raw materials accounted for the remaining 2%.
- 87% of exports are products and components, the leading five being electrical wires, structural steel units, paints and varnishes, air conditioning equipment and linoleum floor coverings. Semi-manufactures such as aluminium and steel for fabrication form 11% of exports and raw materials are accountable for 2%.

7. *Net Foreign Direct Investment (provisional)*

ONS carry out annual surveys to measure Foreign Direct Investment, both by UK firms abroad and in the UK by foreign firms. The latest data available is for 2005.

- In 2005, outward net foreign direct investment in the construction industry was worth £1,972 million; £1,192 million was invested in the USA and £143 million in the EU. Total inward net foreign direct investment for the same period was worth –£883 million; net investment from the EU was £219 million and from the USA was –£48 million.

8. *EU comparisons (final)*

Eurostat publish a monthly release covering the construction contracting sector in the EU. The latest release available is for Q4 2006. As of 1 January 2007, the European Union contains 27 countries, and the Eurozone 13 countries.

- UK is the second largest contributor to total EU construction after Germany, and is responsible for around 17.5% of total EU-27 construction.

COMPARATIVE GROWTH, Q4 2006 COMPARED WITH Q4 2005

EU27	6.8%
Eurozone	6.8%
UK	3.1%

Annex B

DTI BACKGROUND INFORMATION

Supplementary information, using the same topic headings as the main memorandum document:

THE STRATEGIC FORUM FOR CONSTRUCTION AND RETHINKING CONSTRUCTION

1. The principal role of the Strategic Forum for Construction (SFfC) is to coordinate, monitor, measure and report on progress under the headline targets which are set out in Rethinking Construction “Accelerating Change”. Where it is felt that sufficient progress is not being made under a particular target new initiatives are being considered. The SFfC does not act as an operational body. Its strategy is being implemented via Constructing Excellence, ConstructionSkills, the Construction Umbrella Bodies, National Platform and other implementation bodies together with the wider stakeholders in the construction industry where appropriate. The Strategic Forum maintains close relations with all relevant government departments. DTI acts as an observer at main meetings and other departments are consulted in line with the strategic issues being tackled by the Forum.

2. “Rethinking Construction” remains at the heart of the DTI’s relationship with the industry through the Strategic Forum for Construction and it continues to influence the agenda in key areas such as public procurement. For instance, most recently, the Strategic Forum has sought to ensure that the 2012 Olympics will be a catalyst in the widespread adoption of best practice across the construction industry by developing its 2012 Construction Commitments.

3. “Rethinking Construction” sets out an approach whereby substantial improvements in quality and efficiency can be made.

4. The business case for the Rethinking Construction approach has been made through a series of demonstration projects which are administered by Constructing Excellence. Demonstration projects have consistently outperformed the rest of the industry against a range of key performance indicators including on time and on budget.

LONG-TERM CAPACITY FOR THE DELIVERY OF LARGE INFRASTRUCTURE PROJECTS ON TIME AND ON BUDGET/ DELIVERY OF THE GOVERNMENT’S CAPITAL INVESTMENT PROGRAMME

5. DTI has supported the Strategic Forum in its efforts to promote more integration and greater efficiency and productivity throughout the industry. The Department funded a major workshop with key industry stakeholders in June 2006. This work is now being taken forward by the Forum’s integration working group—the Department is an observer on this group. DTI is also working closely with Departments responsible for major construction programmes to showcase and pilot the benefits of integration.

6. The 2012 Olympic and Paralympic Games offer a unique opportunity to showcase the very best of Britain. The construction industry expects to make an outstanding contribution that delivers sustainable, exemplary projects with long-term benefits for the local community and the nation. The Construction Commitments bring together the six key areas vital to delivering the Games’ vision in time, safely and to budget. They represent the principles by which we will endeavour to achieve a better industry and exceed current best practice. The Commitments will be developed by the client and the industry in a practical and realistic way to suit the needs of the Olympic delivery programme and projects and to provide for relevant targets. DTI shares an aspiration with the Strategic Forum to see the Commitments adopted very widely across the industry so that the Olympics leave a legacy of best practice for the construction industry.

7. The DTI is further seeking to enhance the Government’s ability to deliver major projects through knowledge transfer. As part of this policy, the DTI is investigating whether introducing managed innovation and knowledge transfer programmes into construction-led public sector procurement programmes will result in significant cost savings and/or increased value for money for the public purse.

8. The DTI is therefore collaborating with the Department of Health to establish a managed innovation and knowledge transfer programme for the Local Improvement Finance Trusts Companies (LIFTcos). The programme is focused on LIFTcos actively involved in the delivery of facilities. An 18 month trial programme to refine the principles is currently in progress with 12 LIFTcos; once complete it is hoped to roll this out across all LIFTcos by March 2008. We are liaising with the Department for Education and Skills (DFES) to establish a parallel programme for primary and secondary education facilities.

9. "Offsite" construction methods (sometimes called MMC—Modern Methods of Construction) are already delivering measurable improvements in quality, cost and time predictability, and improved health and safety, in respect of construction projects in the private and public sectors. To employ offsite solutions successfully the procurement process needs to take account of, and plan for, the use of manufactured assemblies produced under factory controlled conditions. Procurement of offsite construction is not necessarily more difficult than onsite build, but the procurement process is different. It is important that clients and their professional advisers fully understand how to plan procurement programmes to achieve the full benefits offered by offsite techniques. Offsite Construction (major building assemblies constructed in factories and transported to site for final installation) can potentially improve the performance of the construction sector in key areas such as, quality, predictability and health and safety. As such, promoting the use of offsite construction is a DTI priority under construction sector sponsorship agenda. To accelerate the take up of these innovative techniques the DTI in partnership with industry has established and jointly funded 'Buildoffsite' to act as knowledge transfer organisation for better procurement of offsite product. This increasing influential member based organisation has met with the construction minister to advise on the impediments to the take up of these techniques and is now working with DTI and OGC to bring together public and private sector clients into a forum to develop and share best practice in procurement for offsite products.

10. In order to accelerate the take-up of offsite construction methods the DTI is working with OGC to support BuildOffsite in developing a forum of private and public sector clients to share knowledge and best procurement practice for offsite solutions.

REGULATORY MATTERS, SUCH AS HEALTH AND SAFETY AND THE BUILDING REGULATIONS

No additional information.

UK DEPENDENCE ON IMPORTED LABOUR AND EXPERTISE

11. Industry tells us that overseas workers have much to offer, and many are hard working, diligent, and competent. Unions express concern about the rates that overseas workers (mainly at the operative/trade level) are paid, in the context of the collective agreements they negotiate with employers.

12. At the professional level, industry has an interest in the effective operation of the visa and Work Permits regimes, which they rely on when they need to engage overseas specialists, and where they are unable to recruit personnel from the UK. Migrants working legally in the UK are entitled to be paid the National Minimum Wage.

MAINTENANCE OF STANDARDS WITHIN THE SECTOR

Construction Products Directive

13. CPD was adopted in 1988 and implemented into UK law under the Construction Products Regulations 1991 and amending Regulations in 1994. Its purpose is twofold. To ensure that all construction products incorporated in a permanent manner in the finished construction works are fit for their intended purpose. And to reduce technical barriers to trade in the European Economic Area (EEA) that where such products are CE marked as compliant with the essential requirements and the level of attestation set down by harmonised European standards (and thus "fit for purpose") the provisions of the CPD prohibit further testing.

14. Of about 600 product standards under development a little over 300 have been harmonised. In addition there are some 1500 supporting standards mainly relating to test methods.

15. Over most of the EEA the use of CE marked construction products, where the relevant standards are harmonised, is mandatory. The UK, alongside Sweden, Finland and Ireland, has chosen a voluntary approach. The UK Building Regulations require that materials are suitable for their intended purpose and accompanying guidance sets down a number of ways such suitability may be demonstrated including CE marking. The UK industry is broadly happy with the *status quo*.

16. Eurocodes.

- The Eurocodes are a series of design standards for structures. They cover nine key areas:
 - Basis of Structural design (overarching guidance);
 - Actions (on structures, assumptions for imposed loads, snow wind etc);
 - Concrete;
 - Steel;
 - Composites;
 - Timber;
 - Masonry;
 - Geotechnical;
 - Earthquake; and
 - Aluminium.

Background of the Eurocode programme

17. In 1975, the Commission of the European Community decided on an action programme in the field of construction based on article 95 of the Treaty. The objective of the programme was the elimination of technical obstacles to trade and the harmonisation of technical specifications.

18. Within this action programme, the Commission took the initiative to establish a set of harmonised technical rules for the structural design of construction works which, in the first stage, would serve as an alternative to the national rules in force in the Member States and, ultimately, would replace them.

19. For 15, the Commission, with the help of a Steering Committee containing Representatives of Member States, conducted the development of the Eurocodes programme, which led to the publication of a set of first generation European codes in the 80s.

20. In 1989, the Commission and the Member States decided, on the basis of an agreement with CEN, endorsed by the SCC, to transfer the preparation and the publication of the Eurocodes to CEN through a Mandate, in order that they would, in the future, have the status of European Standards.

21. In the UK, like CE marking under the CPD, Eurocodes are not mandatory. They maintain the same standing as British Standards and Codes of Practice. Sector support has been patchy. Concrete and Timber have seen them as a vehicle to promote their products. Steel has been more reticent and have dragged their heels in developing UK guidance.

CONSTRUCTION R & D

22. The sector, certainly in terms of construction contracting firms, is generally regarded as under-investing in Research and Development (R&D), particularly in relation to longer-term, strategic R&D. Although structural differences in domestic construction sectors may differ, the following table shows comparative R&D investment (see Table 1).

	<i>UK</i>	<i>Netherlands</i>	<i>Finland</i>	<i>Denmark</i>	<i>France</i>	<i>Japan</i>	<i>USA</i>
R&D as a proportion of output (%)	0.02	0.05	0.28	0.05	0.05	0.18	0.03

Construction Contracting R&D as a percentage of output 2003²

23. R&D is more evident among UK design and consulting engineers, and product manufacturers. This is borne out by the 2006 DTI R&D Scoreboard, where the top 20 construction and building materials firms have a mean R&D spend of 0.5% of sales; only two of these are contractors.

24. The lack of formal R&D is understandable in a large, project-based and fragmented sector, comprised mainly of small firms, requiring durable assets in a highly regulated environment. Clients and lenders are often incidental and risk-averse. The sector does however excel at “innovation” in the form of site-based problem solving, but this is rarely regarded as formal R&D.

25. The sector suffers from poor transfer of knowledge from the research base to industry, between firms and within firms, and often fails to capture the learning from project innovation, when project teams disperse. DTI is funding a Knowledge Transfer Network for the Modern Built Environment, focusing on Health, Office and Infrastructure-related construction, aiming to make key connections between knowledge providers and businesses.

² Source: OECD R&D expenditure in industry database.

ENCOURAGING SUSTAINABILITY

26. Following publication of the Review of Sustainable Construction in 2006, an aim was set to develop a new Strategy for both Government and Industry. Our key objectives will be to: improve and promote rapidly the sustainable built environment; build on the construction industry change agenda to enhance its efficiency; and support the development of a committed, skilled and adaptable workforce. We aim to achieve these objectives by encouraging industry to respond positively and by helping it to propose its own targets—where industry will go and what industry can do. In turn, this will provide an effective basis on which to create future government policies and thereby ensure their relevance to the construction industry.

27. We are promoting other work through the Sustainability Forum (an industry advisory body that reports to the Strategic Forum for Construction). Its remit focuses on knowledge transfer of current ‘best practice’ to the construction industry. It has recently commissioned new guidance documents and has published (in collaboration with the Planning Officers’ Society): Planning policies for sustainable building—guidance for Local Development Frameworks and will shortly be publishing: *A Designers guide to Waste Minimisation*. A number of “regional states of readiness” documents have also been prepared, including one for EMDA which has the RDA lead on construction matters.

BEST PRACTICE ON CONTRACT MANAGEMENT

This is covered by material under other headings—in particular on the Strategic Forum and Egan, and Long Term Capacity.

THE UK INDUSTRY’S PERFORMANCE AGAINST OTHER COUNTRIES

28. The DTI asked Experian Business Strategies (EBS), and University College London in conjunction with the consultants Davis Langdon (UCL/DL) to analyse the international competitiveness of the UK construction industry. The two reports commissioned investigate the relative position—in terms of labour productivity and total factor productivity—of the UK construction industry compared to the construction industries of France, Germany and the USA.

Problems with International Comparisons

29. There are difficulties in conducting this type of analysis that are hard to surmount; for example, it is unlikely that labour inputs are well measured in any country because of migration, ‘the hidden economy’, etc, and results are sensitive to exchange rates. In many ways cross-country comparisons of productivity levels across the whole construction industry are not comparing like with like since the composition of construction output differs greatly from country to country. It is therefore hard to construct reliable national rankings based on aggregated data for construction given the present state of the data.

30. The DTI is currently investigating alternative methodologies that would lead to more robust productivity measures and at the same time would enable the identification of the underlying causes for differences in performance.

Annex C

OFFICE OF GOVERNMENT COMMERCE (OGC)

TRANSFORMING GOVERNMENT PROCUREMENT

1. Transforming Government Procurement (TGP) was launched by the Financial Secretary to the Treasury on 23 January 2007 to set out government’s vision for the future of procurement and, through this, OGC’s new role. That vision is based on Government’s determination to step up its drive to deliver high quality public services that are good value for money and sustainable; and that procurement is an important means of delivering those objectives.

2. TGP sets out to raise the level of skills by transforming the Government Procurement Service itself.
- The OGC Chief Executive will head a reinvigorated service across Government, modelled in line with the established Government Economic Service and the Government Statistical Service;
 - His professional links with the commercial directors and heads of procurement in departments will be strengthened;
 - The GPS will be more flexible, with resources concentrated where they can be best deployed by facilitating secondments within the public sector and between the public and private sectors;
 - There will be common standards and skill sets across government procurers, through more systematic training and development; and
 - There will be a new graduate entry route into the civil service.

3. As well as recruiting and developing the right quality of procurement professionals, departments will be required to:

- Give a clear direction from the top of the central importance of procurement in delivering their objectives;
- Set out a clear procurement framework of standards and processes, that are consistent with OGC best practice and that they will follow in their procurement operations; and
- Collaborate with cross-government procurement initiatives, such as single source purchasing, minimum standards, supplier performance assessment and data collection.

4. Procurement Capability Reviews are now being piloted prior to being rolled out across central government. These will assess how far procurement meets the demanding standards required to deliver value for money now and in the future. The reviews will involve the deployment of a small team of high quality experts engaging intensively with departments over a short period to assess their current operating capability within their procurement functions.

5. TGP also sets out plans to establish a Major Projects Review Group in the Treasury, composed of commercial experts from within government, which will:

- Examine projects at the early stage of development, to identify issues that are likely to be critical to their subsequent deliverability and affordability;
- Review projects before tender, to test the specification is clear, all procurement options have been explored, and prospects of success are realistic; and
- Check contract decisions before contract signature are likely to deliver what is needed on time, within budget and with value for money.

6. To meet these challenges and opportunities OGC will have stronger powers to:

- Set out the procurement standards departments should meet;
- Monitor departments performance through procurement capability reviews, and ensure that remedial action is taken where required; and
- Demand departmental collaboration when buying common goods and services, including via OGC buying solutions, the Government Procurement card and other single source purchasing.

7. To achieve these changes OGC is being reformed, it is becoming a smaller, more focused, higher calibre organisation, with the skills and authority needed to drive through the necessary transformation in central government, where its levers are greatest. An important part of this agenda will be a transformation of the government estate through the High Performing Property initiative that was launched by the Chief Secretary in November 2006 and an Implementation Plan has recently been published.

8. OGC will continue to lead on procurement discussions and negotiations at World Trade Organisation and EU level, and to provide general expertise on Directives and procurement law.

9. *Public Sector Construction Clients' Forum (PSCCF)*

10. The PSCCF was established in December 2005 as a result of one of the recommendations in the NAO's report *Improving Public Services through better construction* published in March 2005. This recommended that OGC should take the lead in establishing and supporting a single departmental forum at senior management level to strengthen the leadership and co-ordination of public sector construction activity. The PSCCF also addresses one of the First Kelly Market Report recommendations—Increasing Competition and Improving Long-term capacity planning in the Government Marketplace. This proposed that a senior stakeholder group, whose role included a market analysis function, should be established to receive and consider construction demand data and advise departments on the market implications of programme implementation. OGC is responsible for driving forward the First Kelly Market (Construction) programme.

11. The work of the PSCCF is supported by a series of limited-life working groups that consider and develop proposals on delegated themes:

- WG1—public sector demand and industry capacity to deliver. [This work is complete and the resultant database and econometric model are in use.]
- WG2—whole-life value for money. [Work almost complete. It is planned to disseminate the draft guidance prepared by this group during Spring 2007.]
- WG3—better embedding best practice.
- WG4—fair payment. [Work complete. Launch event being planned.]
- WG5—procurement strategies.
- WG6—capacity/capability.

12. Each working group normally has a life of 3-12 months and disbands once it has fulfilled its purpose.

13. At its last meeting PSCCF agreed to the formation of a short-lived, small working group to consider how Transforming Government Procurement translates to construction and to work with OGC to develop and draft a plan for discussion, approval and commitment of departmental resources at the next PSCCF meeting in June.

14. It is envisaged that OGC and PSCCF will continue to drive improvements in the following areas:

- Market engagement, analysis and shaping will be vital to implementing Transforming Government Procurement by ensuring that the infrastructure and the information exist, which will provide a forward look of construction demand across the public and private sectors, and industry capacity, to enable the central government construction clients to make informed investment decisions about their programmes. With the infrastructure and information in place the PSCCF will be more focussed on its market analysis role, so that central government construction clients can operate in a more collaborative environment, where their individual prospective demands are viewed “corporately”, cognisance being taken of the impact of their respective programmes on each other, on industry capacity and prevailing market conditions. Just as importantly industry will be given the medium/long term view of their likely demand it has been asking for in the past, for it to be able to make informed investment decisions. Central government clients working together will be able to avoid unrecognised inflationary pressures from uncoordinated demand derailing their programmes.
- Standard setting, whole-life-performance monitoring and benchmarking will also be key elements in implementing TGP. OGC and central policy departments will refresh the Common Minimum Standards for the procurement of built environments in the public sector (CMS) and commit to embedding them in their procurement activities to ensure that their procurements fully comply with them. PSCCF will use CMS as the vehicle for taking forward work on whole-life procurement and sustainable construction agendas, as well as, potentially, fair payment, and project insurance and construction inflation.
- The infrastructure that PSCCF has developed with OGC for market engagement and shaping will provide the means to collect, analyse, monitor and report benchmarking platform for in-project as well as in-use performance. This will be used as a vehicle for knowledge sharing, raising awareness and encouraging application of whole-life considerations, especially total financial and environmental costs, and through-life fitness for purpose.
- Client Capacity/Capability are critical issues that the 2005–15 Construction Demand/Capacity Study identified as needing to be addressed if to avoid serious delivery problems. Skilling is an issue that has also been identified as a key issue to be addressed by central government departments in TGP. The recently established Working Group 6 of PSCCF on capacity/capability will take this forward.
- Sustainability generally, and climate change in particular, are now at the core of government’s policy development for the built environment. Construction procurement will have an important role to play in helping government to achieve its goals in this area. PSCCF will collaborate closely with DCLG, DEFRA, and DTI in delivering a step-change in performance towards government’s aspirations.
- The Procurement Strategies used by public sector construction procurers were also sited as critical issues by the 2005–2015 Construction Demand/Capacity Study and again more recently in TGP as having the capacity to adversely affect construction project delivery and which government needs to address. The recently established Working Group 5 of PSCCF will take this forward.

Summary

15. In summary PSCCF working with OGC, construction clients, the industry, as well as the Centre will be able to:

- (a) Identify, analyse and plan around the robust knowledge of:
 - what is planned to be procured;
 - by whom;
 - when and where;
 - industry’s ability to deliver and at what cost to government and industry;
 - whether better VFM can be obtained by managing demand;
 - the suppliers delivering to central government clients; and
 - how the central government client is performing in delivering construction and construction-enabled services on a whole-life-basis.
- (b) Set and Monitor/Benchmark agreed Standards and whole-life-performance;
- (c) Improve the government Client’s Capacity/ Capability;

-
- (d) Be more capable and better equipped to deliver sustainable, whole-life value for money construction projects;
 - (e) Be more collaborative in their procurement approaches.

16. Collectively these measures should help government achieve the outcome of delivering world-class public services that are affordable, sustainable and represent value for money.

Annex D

DTI EMPLOYMENT BACKGROUND

ADDITIONAL BACKGROUND—EMPLOYMENT

National (collective) agreements

1. There are a number of national collective agreements in place in the construction industry. From time to time representations are received from the main construction unions (Union of Construction Allied Trades and Technicians (UCATT); Amicus, and T & G) about the status of these agreements.

2. Collective agreements are voluntary, and are not legally enforceable. There are therefore no statutory provisions to ensure that employers who are not party to such agreements are covered by them (by so-called “extension clauses”). This approach has been a long-standing tradition in this country, which both unions and employers have supported. This is because both sides want to keep the law away from industrial relations as far as possible, and to maintain some flexibility when applying collective agreements.

False self-employment

3. A person has a status of self-employment where the relationship between the person and the company or individual for whom they are undertaking work is governed not by employment but by commercial law. The terms, conditions and the reality of the relationship are crucial. For the individuals concerned, the issue is essentially about tax. For the contractors engaging the individuals, the arrangement provides greater flexibility in terms of engagement and termination of the contract. The main employer organisations and the unions concur that false declaration of self-employment is wrong.

4. HMRC leads on tax aspects. There are different tax arrangements for the self-employed, and those engaging them, in construction compared to PAYE. Under the new Construction Industry Scheme (implemented April 2007), there are new procedures to help firms to classify correctly the employment status of those they engage. In making their monthly returns, contractors will be required to consider the employment status of the individual concerned, and make a “solemn declaration” in that regard.

It is not for Government to set blanket rules on direct employment either for public sector contracts, or more generally, and have no plans to do so. The type of employment should reflect the underlying reality of the relationship between worker and employer.

Annex E

DEPARTMENT FOR WORK AND PENSIONS (DWP)

EMPLOYMENT IN THE UK CONSTRUCTION INDUSTRY

SUMMARY

The labour market is highly dynamic with 6.5 million people starting a new job each year, and 10,000 vacancies notified to Jobcentre Plus every day—with at least as many through other channels. In the construction industry, 549,000 people started a new job in the sector in 2006 (around 8% of all job starts), and there were around 10,000 vacancies notified to Jobcentre Plus in the month of March 2007 (around 3% of all vacancies notified to Jobcentre Plus).

Around 90% of employees in the construction industry are male and above 90% of employees work full-time (both higher than nationally). Self-employment makes up 36% of all employees—three times as many as nationally. There are more people in the construction industry that hold trade apprenticeships, low or no qualifications and with less holding level 4 qualifications.

Migration accounts for a small but important contribution to the UK labour market, including in the construction sector where the proportion of migrant workers has increased over the last 10 years from 2.7% in 1997 to 7.7% in 2006.

Training in work is the most effective way of increasing skills, and employer-led, site based approaches to training such as the National Skills Academy for Construction aim to increase participation from under represented groups.

Note on figures provided

1. Figures provided below are from the quarterly and 2-quarters longitudinal Labour Force Survey datasets. These are not usually the best source of information for industries, but are used here as they give us information on the characteristics of individuals.

2. In terms of migrant workers, the LFS will tend to underestimate the number of migrants (for example, the number of temporary migrants) so figures should be treated somewhat indicatively.

Background

3. The labour market is highly dynamic with 6.5 million people starting a new job in the last year, and over 10,000 new job opportunities notified to Jobcentres every working day—with at least as many going through other channels—across a wide range of different sectors of the economy.

4. This is reflected in considerable movement up and down the labour market. Of the 1.4 million people who changed occupations between the summer 2005 and third quarter of 2006, more—around 56% moved from low skilled low paid occupations to higher skilled higher paid occupations and 44% moved from high skilled high paid occupations to lower skilled lower paid occupations.

Employment in the Construction Sector

5. Similar levels of dynamism can be found in the construction industry— around 549,000 people were recruited to the construction industry in the past 12 months, equal to around 8% of all new job starts, and compared to around 2.3 million people employed in the industry.

6. Recruitment has been largely flat with a slight decline since 1997. Employment in the construction sector has risen from around 1.86 million in 1997 to 2.29 million in 2006 (equal to about 8% of all employment in the whole economy). These trends suggest that the duration of employment in the construction sector has risen over this time.

7. Around 10,000 vacancies were notified to Jobcentre Plus in March 2007 for the construction sector (around 3% of all vacancies notified to Jobcentre Plus)—despite some fluctuation the trend has been relatively flat. Meanwhile, unfilled vacancies in Jobcentre Plus for the construction industry rose in 2004, but since October 2004 have fallen steadily to around 10,000 in March 2007. This contrasts to the ONS survey of all unfilled vacancies in the economy, which show unfilled vacancies in the construction sector remaining flat since March 2005, and standing around 20,400 in March 2007. This may reflect less vacancies being notified to Jobcentre Plus.

8. In December 2006, around 36% of employees in the sector were self-employed, rising slightly from under 34% in 2001. This compares to 12.6% nationally, which has also increased from 11.5% in 2001.

9. A higher percentage of people work as full time in the Construction sector—around 92.7% compared to the national average of 76.2%. Average total usual hours have been trending downward from around 45 hours per week in 1997 to around 42 in 2006.

10. Wages have been increasing by similar percentages to the whole UK labour market.

11. The proportion of permanent employees in the industry (96.8%) is reasonably similar to the national average (94.1%).

Types of people employed in the Construction Industry

12. Overall, employment in the construction industry is similar to that in the economy as a whole. Age distribution is largely similar to the national average with around 60% prime age (25–49) workers. The majority of workers in the construction industry are white, 96.3% compared to the national average of 91.5%.

13. However, there are some important differences. In particular, the vast majority of employees in the construction industry are male, at around 90%, compared to 54% for the whole economy.

14. There is a more even distribution of qualifications amongst employees working in the construction industry. More people in the construction industry hold trade apprenticeships (19% compared to 6% nationally), low or no qualifications (11.2% compared to 8.3%) and less holding level 4 qualifications (15.1% compared to 32.5%).

³ DfES and DWP: A shared evidence base, the role of skills in the labour market.

Availability of, and investment in, skills

15. Evidence on the role of skills in the labour market⁴ stresses the importance of training at work as the most effective way of increasing skills amongst lower-skilled individuals.

16. Those with low or no qualifications are the least likely to receive training at work however—programmes such as Train to Gain could play an important role in ensuring that those with low skills get the opportunity to receive training once in work.

17. The National Skills Academy for Construction, is an employer led, site based approach to construction training in Bishopsgate, and aims to increase participation in the sector from under represented groups.

UK Dependence on imported labour and expertise

18. Migrants have made up a gradually rising proportion of the UK working age population over recent years, accounting for 12.5% of the UK working age population in Q4 2006, up from 9.6% in 2001.

19. While the proportion of migrants working in the construction sector has increased since 2001 from 4.6% to 7.7% in 2006, the sector still predominantly employs those born in the UK—over 90% of workers in the construction industry are born in the UK.

20. The proportion of migrants working in the construction sector in London has increased since 2001 from 21.5% to 41.9% in 2006. The proportion of migrants working in the construction sector outside of London has also increased since 2001 from 2.9% to 3.8% in 2006, but still remains very low. Thus, the large majority of migrant construction workers tend to work in London, but overall the sector still predominantly employs those born in the UK.

21. Migration has long made a small, but nevertheless important, contribution to the employment needs of the UK labour market. This is likely to continue in the future. It helps to ensure the labour market is flexible and can adjust to the needs of employers for new jobs and new skills.

22. However, there has been no discernible effect of A8 migration on claimant unemployment. Nearly all the applicants to the Worker Registration Scheme are in full-time employment and undertaking jobs in sectors where continued growth has led to recruitment difficulties. Virtually none are claiming benefits.

Annex F

Department for Education and Skills (DfES) and Department of Trade and Industry (DTI)
Additional background—skills and associated issues.

GENERAL

1. The construction industry is highly fragmented. A large proportion (over 90%) is comprised of micro (taken as employing 0–9 people), or small enterprises:

Micro	0–9	91.1%
Small	0–49	98.9%
Medium	50–249	0.9%
Large	250 +	0.2%

Source: ONS, 2005 (includes Northern Ireland and PAYE-only enterprises)

2. Construction is project based, and the need for workers may be short term. There is a high level of mobility, with workers moving from project to project. Employers need people with the right skills, at the right time. Margins are typically 2–3%, so industry is very sensitive to cost, including labour. Historically, construction workers have been highly mobile, moving from project to project not only around the UK, but overseas to gain experience, and where there is financial advantage.

3. As co-sponsors (with DfES and devolved administrations) of the Skills for Business Network, DTI recognises the importance of the role of Sectors Skills Councils (SSCs) in delivering skills and qualifications strategies, and the potential of National Skills Academies in raising the quality of training. It is essential that SSCs have the capability to represent the interests of their employers and this remains a key challenge, particularly if their role in raising employer demand is to be maximised.

4. Through our work with key sectors and business generally, we continue to urge the effective involvement of employers and ensure their voice is heard strongly in the reform of the learning and skills system, for example through the Regional Skills Partnerships, and the planning of regional and local supply through the Learning and Skills Council which meets employers' needs.

⁴ DfES and DWP: A shared evidence base, the role of skills in the labour market.

5. The Construction Industry Training Board (CITB) was established in 1964. It broadly covers the building and civil engineering industry in Great Britain. As the industry's training board, it is branded CITB-ConstructionSkills.

6. CITB-ConstructionSkills is the lead partner in ConstructionSkills, the Sector Skills Council for construction (along with the Construction Industry Council and CITB-Northern Ireland), and as such is responsible for developing and implementing strategies to tackle the skills/recruitment needs of the industry. ConstructionSkills is also part of the wider Skills for Business Network (of 25 Sector Skills Councils licensed by the Sector Skills Development Agency).

7. CITB-ConstructionSkills is managed and operated by employers from the industry. Their main source of income comes from a levy on employers within its industry. Each levy order requires the approval of both Houses of Parliament and is renewed annually.

8. Construction needs half a million new entrants by 2011. ConstructionSkills offers a wide range of services to employers, including setting occupational standards and developing vocational qualifications, delivering Apprenticeships and paying direct grants to employers who carry out training to approved standards.

9. ConstructionSkills offers Apprenticeships and Advanced Apprenticeships in 25 different trades for around 16,500 16–25 year olds in England.

10. An Apprenticeship is a structured programme of training which gives young people the opportunity to work for an employer, learn on the job and build up knowledge and transferable skills and gain nationally recognised qualifications that will be needed throughout a working life. Apprenticeships are supported by Government and industry as a high level, high quality technical qualification which will increase the technical skills base in the labour market.

11. According to ConstructionSkills, only around 25% of construction companies are directly engaged in training apprentices. Around 10,000 people complete one of the apprentice schemes provided by the various providers (mostly the ConstructionSkills managing agency, plus Carillion and Henry Boot). ConstructionSkills tell us that they have more prospective apprentices than they are able to provide work placements for. A key element of the apprenticeship programme is work experience, so the active participation of companies is crucial to an effective apprenticeship programme.

12. ConstructionSkills along with other Sector Skills Councils, has developed a Sector Skills Agreement (SSA) which has been negotiated as a series of agreements between training providers, employers and Government, designed to address the construction industry's current and future skills needs. Skills-related policy issues arising from the development of SSAs are taken up with the Sector Skills Development Agency (SSDA), the Learning and Skills Council and DFES.

Investment in skills

13. The recruitment challenge applies at all levels; from trades people, though to graduate professionals such as engineers, surveyors, and project managers. ConstructionSkills, OGC, and industry partners have sophisticated econometric modelling techniques in place to forecast future labour requirements, at a national and regional level. The overseas labour market; especially the new Accession states, has been an important source of skilled workers, but carries uncertainty of continued availability. There is increasing recognition that a long-term strategy, with new approaches, is needed to ensure the industry can meet its future recruitment needs. These include adult recruitment from other industries, and ex-service personnel. The gender imbalance in construction, where the proportion of women is only around 10% (and only 1% of trades people), and the low proportion of those from Black and Asian Minority Ethnic (BAME) groups, are other areas where more work needs to be done. Overall, the key challenge is to encourage people into the industry; provide adequate training opportunities; and retain people for sufficient time to maximise the benefit of the investment.

14. A raft of programmes have been put in place by ConstructionSkills to encourage young people to choose construction as a career, and provide core training. Programmes include National Construction Week; and the National Construction Academy.

Other related issues

15. *Train to Gain*—The Train to Gain is a demand-led programme of the Learning and Skills Council, which employers, especially small employers, can use to diagnose their skills needs and source appropriate training. This includes free training for those employees without a first full level 2 qualification.

16. *Construction Skills Certification Scheme (CSCS)*—Under the Construction Skills Certification Scheme (CSCS), workers are required to show their competency against a benchmark of appropriate NVQ standards (or equivalent for professionals), and pass a health and safety test.

17. The major contractors are taking a strong line that all workers on their sites must have an appropriate card. There are now around 950 thousand CSCS cardholders.

Government champions adoption of Respect for People, providing guidance and case study material that presents the business case for respect for people as a core business value.

Annex G

HEALTH AND SAFETY EXECUTIVE (HSE)

OCCUPATIONAL HEALTH AND SAFETY IN THE UK CONSTRUCTION INDUSTRY

Summary

1. The UK construction industry is one of the most dangerous accounting for 25% of workplace fatalities and 16% of major accidents, in 2005–06. In the last 25 years, over 2,800 people have died from injuries they received as a result of construction work. Many more have been injured or made ill. Improved health and safety performance is a priority for government, the Health and Safety Executive (HSE) and the industry. Accordingly, since the turn of the millennium, HSE has been working with stakeholders to bring about change and there has been a substantial decline in accident and injury rates over this period.

2. HSE (together with Local Authorities) is responsible for regulating health and safety in the sector. The principle legislation is the Health and Safety at Work etc Act 1974 (HSWA) and construction specific legislation. HSWA provides equal protection for all employees (including legal and illegal migrant workers) irrespective of their status. HSE influences, monitors and regulates the sector through local inspection and enforcement activities, investigation of accidents and complaints, early involvement on major projects and co-ordinated interventions with large companies.

3. The nature of the industry presents challenges for the improvement of health and safety standards. It is diverse, highly fragmented, itinerant and casualised. Whilst there is a large number of competent and legitimately self-employed workers who provide a valuable contribution to GB's construction industry, there is also a large informal economy which contributes to the challenge facing all stakeholders seeking to improve standards. However, in a legal, practical and policy sense, the main responsibility for reducing the level of accidents and ill health in construction lies with the industry and a major cultural step change is needed to improve its health and safety performance. Over the years since 2000–01, when 105 construction workers were killed and many thousands more suffered a major injury or ill health as a result of their work, this step change has been sought through a series of collaborative initiatives involving the industry, HSE and other government departments (OGDs):

- In 2001, the Deputy Prime Minister, John Prescott and Bill Callaghan, Chair of the Health and Safety Commission (HSC) held a high-level Construction Summit bringing together key stakeholders in the industry. Umbrella organisations drew up individual action plans and the industry set its own challenging targets⁵ (more challenging than the Government's pan-industry Revitalising Health and Safety targets⁶).
- In 2005, recognising that the targets the industry set for itself were not likely to be met without additional effort, the then minister with responsibility for health and safety agreed that a second Summit should be held. The event theme was "Ownership, Leadership and Partnership". This event launched the Respect for People Code of Good Working Health and Safety Practices developed by the industry to provide a focus for everyone to take action under eight leading issues.
- The 2005 Summit identified a key role that the public sector could play as a construction client in raising health and safety standards. With up to 40% of construction work procured in the UK by Government, the latter is ideally situated to "lead by example" and set high health and safety standards in public sector projects. In 2006 a "Buying for Life—Construction in the Public Sector" event was held to spread best practice in government construction procurement.
- HSE is working in partnership with other government departments, eg DCLG (to promote health and safety through the Building Control and Planning regimes), DTI (to promote integrated teams) and OGC (through the Public Sector Construction Clients' Forum).

⁵ To reduce, by 2010

- the incidence rate of fatal and major injury accidents by 66% (40% by 2004) ie 10% year-on-year;
- the incidence rate of cases of work-related ill health by 50% (20% by 2004);
- the number of working days lost per 100,000 workers from work related injury and ill health by 50% (20% by 2004).

⁶ The Revitalising Health and Safety initiative was launched by the Deputy Prime Minister and Bill Callaghan in June 2000 to inject new impetus and relaunch the health and safety agenda, 25 years after the Health and Safety at Work etc. Act 1974. It was designed to achieve a step change in health and safety performance in all workplaces over the next decade.

4. Construction is a priority for HSE and this is reflected in the fact that construction accounted for more than 40% of all HSE's prosecutions in 2005–06(p). HSE's Construction Division, which focusses solely on construction activities, has developed an intervention strategy⁷ and, based on intelligence gathered, a programme of work for 2007–08 and beyond that through a variety of projects, targets key priority areas of highest risk such as house building, refurbishment work and small and medium-sized enterprises.

5. In tandem with the initiatives described above, and with a view to supporting cultural change, HSC has been seeking, with the industry, to address the concerns raised with the Construction (Design and Management) Regulations (CDM) 1994. These were seen as unclear, complex and bureaucratic. Following extensive consultation, new CDM Regulations (CDM 2007) came in to force on 6 April 2007. Through a focus on managing risks on site, reducing paper work, encouraging team work and getting the right people for the right job at the right time, implementation is expected to provide the environment for improvement in health and safety performance. Enforcement will be proportionate and targeted at serious problems, in line with Government principles and HSC/E enforcement policy.

6. Since the first Summit, there has been encouraging progress with the rates of fatal, major and over three-day injuries for 2005–06 reaching their lowest levels ever. These outcomes would therefore appear to endorse the initiatives described and the HSE-targetted approach and intervention strategy. However, preliminary estimates for 2006–07 indicate that the number of construction fatalities increased by about 20%. There is therefore still much to be done despite the GB industry fatal injury rate per 100,000 workers comparing favourably with the EU average (3.6 compared with 10.6 in 2003 (the latest available figures)).

7. It is vital that all government departments, with an interest in construction, work together to support and encourage the cultural step change required and help the industry to demonstrate leadership and take ownership of its own health and safety performance.

8. The increase in the level of economic activity in the construction industry inevitably puts more pressure on the workforce and raises concerns that this will lead to deterioration in health and safety performance. With the anticipated demands on the industry to deliver large-scale projects such as the Olympics and Thames Gateway, the need for better-managed projects and exemplary health and safety performance will be clearly to the fore. HSE has already put in hand arrangements to help ensure delivery of the Olympics from an occupational health and safety perspective,⁸ including the setting up of an internal co-ordinating group (chaired by the Chief Inspector of Construction) to oversee the work of HSE, and early engagement with the client and the Olympic Delivery Authority.

9. Compliance with the new CDM 2007 Regulations provides a sound basis on which the industry can continue to work towards the step change necessary to see improved health and safety standards. HSE will continue to work with the industry to improve awareness of, and compliance with, the Regulations.

Annex H

DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT (DCLG)

OVERVIEW

1. The Department for Communities and Local Government's goal is that places and communities will be planned, built, upgraded and managed in a way which respects and sustains the global, national and local environments. We also have a key role to play in meeting the Government's targets of a 20% decrease in CO₂ emissions by 2010 and a 60% decrease by 2050. The UK construction industry is key to the delivery of these goals and we consult with them when developing our policies. Outlined below are the policy areas the Committee have indicated an interest in.

PLANNING

2. Planning is of fundamental importance to the quality of people's lives. Since 1997, we have made significant progress in improving our planning system. We have put sustainable development at the heart of planning. We have been able to achieve a substantial increase in new house building to help meet growing demand while minimising urban sprawl and maximising the use of brownfield land. Through our town

⁷ The intervention strategy helps deliver the targets industry has set for itself and to achieve this, HSE has adopted new ways of working, including changing the way in which we plan our work and focus our interventions. The Strategy includes intervening with clients (including property developers), designers, planning supervisors and principal contractors to secure a greater commitment to the effective planning, resourcing and management of health and safety on site and throughout the lifetime of the building or structure; taking a more holistic approach to larger and more complex projects and working in partnership with intermediaries.

⁸ We have set up an internal co-ordinating group (chaired by the Chief Inspector of Construction) to oversee the work of HSE in relation to Olympics 2012. Included in the aims and objectives of the Group are to provide practical assistance to Ministers and the Olympic Delivery Authority (ODA), and to work closely with other regulators to ensure a consistent, coherent and joined up approach. In developing this approach we considered the lessons from the Sydney Olympics and Manchester Commonwealth Games as well as our own experience with major projects like the Channel Tunnel, Heathrow Terminal 5 and Wembley Stadium. We have also allowed for additional management resources to oversee our input to the Olympics work at the appropriate stage.

centres first policy and revised compulsory purchase powers we have helped to regenerate and revitalise our town centres, and increase their amount of retail floor space. And we have replaced the three tier plan-making structure with a simpler system based on regional spatial strategies and local development frameworks.

3. But the long-term challenges for planning are increasing. Over the coming decades debate and decisions about where development should take place are likely to become more difficult. Later this spring, the Government will set out in a White Paper its proposals in response to Kate Barker's recommendations for improving the speed, responsiveness and efficiency of land use planning, and for taking forward Kate Barker's and Rod Eddington's proposals for reform of major infrastructure planning.

4. For key national infrastructure, we propose to set out a new single system of planning for major infrastructure, with clear national policy statements which balance economic, social and environmental objectives, effective public consultation and a more efficient and transparent decision making process. These reforms should make the infrastructure consent system more predictable, allowing the construction industry to better plan for the construction of major infrastructure projects.

HOUSING GROWTH

5. In our response to Kate Barker's Review of Housing Supply, we set a challenging ambition to increase the supply of new housing to at least 200,000 a year by 2016.

6. However, flourishing communities are not created by new housing alone. In order for them to be sustainable, they need a range of supporting infrastructure, from public services including health, education and transport.

7. DCLG has been working with HM Treasury on the 2007 CSR Policy Review into Supporting Housing Growth, which has been working to ensure that this infrastructure will be provided.

8. A central finding of the Policy Review has been for the need for better infrastructure delivery planning by local authorities, in discussions with the house builders and the property federation and other key local partners. These stakeholders should be more involved, earlier, in helping to identify and prioritise infrastructure requirements, recognising that they often fund key infrastructure.

9. We have supported HMT in the stakeholder engagement of the Policy Review. The Review has engaged industry through an initial call for submissions, then through a series of case study visits, and again via interactive seminars in November 2006 and February 2007 to test emerging findings.

REGULATORY MATTERS

Impact of Building Regulations on the Construction Industry

10. Building Regulations ensure the health and safety of people in and around buildings by providing functional requirements for building design and construction. In addition, the regulations promote energy efficiency and accessibility in buildings. The quality, variety and performance of buildings in this country are a testament to the past success of the system and the people that operate it.

11. Building Regulations provide the construction industry with baseline standards to work to and ensure a level playing field. Standards provide certainty where uncertainty would otherwise prevail, and where temptations to erode those standards in the face of competition would otherwise exist.

12. The building regulations are outcome focussed, rather than prescriptive. This allows flexibility and encourages innovation.

13. The Secretary of State sets out in guidance what she sees as appropriate and reasonable measures as asked for by the regulations, but this is a wholly devolved system and other means are allowed of showing compliance. It is for building control (local authority or private approved inspector) to decide what is acceptable.

14. In developing the Building Regulations we produce a Regulatory Impact Assessment for all revisions. This assessment must demonstrate overall cost effectiveness (ie benefits outweigh the costs).

15. We also consult very widely on any proposed changes so that the construction industry always have early warning of the changes and can make representations as to the appropriateness, practicality and timing of any changes.

Review of the Building Control System

16. Building control bodies (local authorities and approved inspectors) have a duty to check whether those carrying out building work have complied with the requirements of the Building Regulations to ensure that buildings are safe, healthy and sustainable. Where work is not compliant local authorities can take a criminal prosecution or serve a notice on the building owner requiring the work to be brought up to the required standard.

17. Over the last year, we have been talking to the people who operate and use the Building Control System and we have been gathering views on how it needs to change. They have told us that the system is not broken but it has some failings and weaknesses that must be tackled if we are to ensure that it remains fit for purpose in today's world and in the future.

18. In response we have begun to modernise the Building Control System and published, in March this year, the Future for Building Control. This package of options include simplifying procedures and introducing a planned timetable for, and approach to, reviewing guidance to create a more effective system that minimises burdens on the end user. We will be developing this into a fuller consultation paper later in the year and specifically seek the views of the UK Construction Industry.

SUSTAINABLE BUILDINGS

19. Sustainability in buildings has become an important issue, particularly in relation climate change. In 2004, more than a quarter of the UK's carbon dioxide emissions—a major cause of climate change—came from the energy we use to heat, light and run our homes. Construction and use of our homes has a range of other environmental impacts, created for example through water use, waste generation and use of polluting materials.

New homes

20. The Code for Sustainable Homes (the Code) was introduced in April 2007 following extensive consultation with the construction industry and other stakeholders to drive a step-change in home building practice. It will become the single national standard for sustainable homes, used by home designers and builders as a guide to development, and by home-buyers to assist in their choice of home. The Code will also form the basis for future developments of the Building Regulations in relation to carbon emissions from, and energy use in homes, with the goal of all new homes being 'zero carbon' by 2016.

21. All new homes built with Housing Corporation funding and those developed by English Partnerships and with the direct funding support of the Department for Communities and Local Government, will be built to Code level 3. This will promote innovation in the design and construction of new homes.

Non-domestic new buildings

22. Having begun to tackle sustainability in the domestic sector, we are now keen to start looking at sustainability in the new non-domestic sector.

23. We believe it should be technologically and economically possible for all new non-domestic buildings to achieve substantial reductions in carbon emissions over the next decade and in many cases to achieve zero carbon on non-process related emissions. Buildings outside of dense urban areas and those with low appliance energy requirements, such as warehouses, distribution centres and some retail outlets, should be able to be built to a zero carbon specification more easily. Other building types may take longer to get there.

24. We are working closely with industry through our task group to learn the lessons from existing exemplars that individual organisations have built, so we can fully understand the costs involved and the barriers to progress. We will use this knowledge to set in place an action plan and milestones towards a major de-carbonisation of new non-domestic buildings.

Existing Buildings Review

25. We also recognise that improving the sustainability of the existing building stock is critical to achieving the carbon targets and to helping to minimise the impact of new development on natural resources, including water. Buildings have a long life. Current and predicted rates of construction and demolition suggest that much of the 2050 building stock already exists. We estimate that around two-thirds of the housing stock that will exist in 2050 has already been built. So widespread retrofitting of the existing stock will be essential to delivering the carbon emission reduction target.

26. Encouraging building owners and occupiers to improve and manage their buildings better is not necessarily a matter for regulation, indeed the Building Regulations are focussed on setting standards for the building process, not on modest upgrading of existing fabric, fixtures or fittings. The existing buildings review is looking at the barriers to uptake of energy and water efficient products, and encouraging owners and users to improve the sustainability of their buildings. A mix of education and incentives will help to drive the demand for new and better products, so encouraging innovation in and transforming the market for "green" technology. The scale of refurbishment we are trying to encourage would create a significant market for existing and innovative new materials and technologies. [The outcome of work on improving the sustainability of existing dwellings will be included in the Energy White Paper when it is published in May].

**Supplementary memorandum submitted by the Department for Business, Enterprise
and Regulatory Reform (BERR)**

When Stephen Timms appeared before the Select Committee on 22 January, he agreed to let the Committee have notes on (a) sustainability in the Government and carbon pricing; and (b) on construction R&D. I am attaching notes on these two issues and a supplementary note on the Employment Agency Standards Inspectorate.

The note at Annex A outlines the Strategy for Sustainable Construction which the Government and the construction industry hope to announce this summer. It also notes that the Government is currently formulating its response to the conclusions of the PAC report on the Government Estate and outlines current Green Book guidance.

The Consultation Document on Sustainable Construction which we published last summer was signed off by BERR, CLG, DEFRA and DCMS and by the Strategic Forum for Construction on behalf of the construction industry. We expect a similar level of support when we launch the Strategy this summer. We are in discussions with the Secretariat to the Forum (currently provided by the Construction Products Association) about combining this event with the relaunch of the construction industry's Accelerating Change targets, most of which ran to the end of 2007. The benefit of this would be to demonstrate that sustainability is not an add-on but intrinsic to the way the industry conducts its business. The more we can mainstream sustainability, the better.

The note at Annex B:

- explains the reasons why the DTI decided in 2003 to move from a sector-based approach to R&D support to one based on support for strategic technologies under the Technology Programme and the Technology Strategy Board (paras 1–11). Stephen Timms also explained the rationale for this in his answers to Qs 643, 644 and 647;
- describes the support given to construction under the new arrangements through the Technology Programme, including collaborative R&D support, the Innovation Platform, the Knowledge Transfer Network for the Modern Built Environment, the EPSRC and European funding (paras 12–18);
- outlines current levels of construction related public R&D funding (well over £70 million per annum);
- explains that the Fairclough report concluded that the Government should focus its support on collaborative funding programmes and longer-term strategic development, leaving shorter-term work to be funded by the industry (para 5); that the concerns of RTOs about the decline in funding for general industry guidance notes and incremental research have not been substantiated by evidence to the Department of damage to the construction industry, nor supported by the Strategic Forum for Construction (para 19); and that the UK continues to play an important part in international discussions on construction standards (paras 20–21);
- notes the OECD figures (Q 650) presented to the Committee which relate to construction contracting only (para 22);
- notes there is no clear evidence that migrant construction workers are having a negative impact on R&D investment (para 23); and
- cites the Pearce report of 2003 which put UK total factor productivity as being on a par with France (para 24).

6 February 2008

EMPLOYMENT AGENCY STANDARDS INSPECTORATE

The Department for Business, Enterprise and Regulatory Reform's Employment Agency Standards Inspectorate (EAS) enforces the legislation governing employment agencies (ie the Employment Agencies Act and the Conduct of Employment Agencies and Employment Businesses Regulations 2003). The EAS's remit covers employment agencies in GB in all sectors except shellfish, horticulture, agriculture and associated food processing and packaging, which are the responsibility of the Gangmasters Licensing Authority.

The Inspectorate follows up every complaint it receives which indicates a possible breach of employment agency legislation, and undertakes spot checks in those sectors where, on a risk-based analysis, it considers that breaches of the legislation are likely to occur.

While most agencies are compliant with the law and the bulk of those who are not, agree swiftly to correct their procedures and put matters right, the Inspectorate also has powers to prosecute where an agency refuses to comply and can also seek prohibition of persons considered unsuitable to operate an agency.

Every complaint received by the EAS Inspectorate is treated in confidence and the identities of complainants would only be given to the agency if the persons making those complaints gave their written permission. Advice to workers is available in Polish, Lithuanian and Portuguese as well as English and the Government plans to produce a further summary leaflet shortly to be available in other languages.

There is a dedicated EAS Helpline, which provides advice to workers, agencies, employers and other interested parties on the legislation and work of the Inspectorate. The helpline number is 0845 955 5105. BERR would advise anyone who has a problem with an agency in the construction or any other sector covered by the EAS to contact the Helpline.

CURRENT DEVELOPMENTS

Following a consultation exercise last year on measures to protect vulnerable agency workers, Amendment Regulations to the Conduct of Employment Agencies and Employment Businesses Regulations 2003 were made last December. These are practical steps intended to address key abuses affecting vulnerable agency workers and will come into force on 6 April.

We are also proposing measures in the current Employment Bill to increase penalties for offences against the Employment Agencies Act 1973 and to improve investigative and enforcement powers for the Inspectorate.

These additional rights will be backed by additional resources for enforcement. In September 2007, John Hutton announced plans to double the number of inspectors in the Employment Agency Standards Inspectorate and recruitment processes are in train. This will enable the Inspectorate to investigate a greater proportion of agencies in sectors where there is perceived to be a higher risk of breaches of the legislation.

Annex A

SUSTAINABLE CONSTRUCTION, THE GOVERNMENT ESTATE AND CARBON PRICING

Sustainable Construction

1. At the BERRC committee hearing on the 22 January 2008, Stephen Timms agreed to send the Committee further information regarding public sector construction projects, and how this Department is driving forward sustainability in the construction sector.

2. The main way that BERR is driving forward sustainability in this sector, is via the development of the joint industry/cross-Departmental strategy for sustainable construction. We are doing this at various levels.

3. First, there is a Ministerial commitment which reflects the priority of this work. The draft strategy which went out to public consultation in July 2007 was endorsed by four separate Ministers (representing CLG, DCMS, Defra and BERR).

4. On the content of the Strategy, BERR has ensured that the Project Board which is overseeing development of the strategy, is comprised of representatives of industry, as well as senior officials from Defra, OGC and CLG and BERR. There is collective ownership of the work.

5. The strategy will comprise a series of targets with named organisations—both public and private sector—being responsible for their achievement. There will be a commitment for progress against all of these targets which will be monitored and reported upon at two yearly intervals. The strategy is not simply aspirational; stakeholders are accountable for delivery.

6. The strategy will be working within the umbrella of the Government's overall sustainable development strategy, and will be in line with existing Government commitments, including those as laid out in the Sustainable Procurement Action Plan. By leading the development of the Strategy, BERR is reinforcing existing commitments, adding new commitments, and giving greater clarity to the construction industry regarding the sustainability agenda.

GOVERNMENT ESTATE

7. The Committee also discussed compliance of the Government estate with requirements to obtain certain BREEAM ratings. In particular, the NAO report "Building for the future: Sustainable construction and refurbishment on the government estate" (20 April 2007) indicated that for all projects underway in 2005–06, only 9% met the required BREEAM standard. The Committee asked what the figure would be if just new projects were considered, rather than all projects.

8. In undertaking its report, the NAO considered 441 projects, of which 106 were new build and 335 major refurbishment projects. Of those 106 new build projects, 14 met (or expect to meet) the required "Excellent" BREEAM rating. That is equivalent to about 13%.

9. The Committee sought to understand why mandatory standards appear not to be being met. As the Committee is aware, on 15 January the PAC published its report on this NAO investigation. The Government (OGC/DEFRA) is currently formulating its response to the conclusions and recommendations and will respond in due course.

10. The Committee also asked about the price of carbon featuring in the appraisal of public sector projects.

11. The price of carbon—and broader sustainability issues—are being increasingly factored into decisions made on public sector construction. The Government has already published some guidance on this and further work is being undertaken.

12. HMT's "Green Book —Appraisals and Evaluation in Central Government" sets the policy for all investment decisions. On 2 March 2007 HMT published a "Simple guide to value for money and sustainability" to build on the longstanding government policy to achieve value for money when buying goods and services:

http://www.hm-treasury.gov.uk/economic_data_and_tools/greenbook/data_greenbook_money_sustainability.cfm

13. The document states that value for money must be assessed over the lifetime of a project, including disposal, and that costs and benefits should be estimated for society as a whole, not simply those directly relevant to the purchaser. It acknowledges that this evaluation can be challenging and that its success is dependent on the need for high calibre people with appropriate skills. Ultimately, as well as value for money assessments, each department needs to take account of what is affordable within its overall budget, allocating resources in accordance with its own priorities and needs, to deliver its business objectives.

14. The Green Book site links to DEFRA's work on "the social cost of carbon" (August 2007), subsequently updated by the "shadow price of carbon" (December 2007). Further details can be found at: <http://www.defra.gov.uk/environment/climatechange/research/carboncost/index.htm>

15. This guidance sets out how procurers take carbon into account in their investment decisions. Specifically, this document, "Climate Change: Valuing Emissions" (published December 2007) states that:

"Defra has published full revised guidance on how to value greenhouse gas emissions in government appraisals. This is for use in all policy and project appraisals across government with significant effects on carbon emissions. The guidance adopts the concept of the Shadow Price of Carbon (SPC) as the basis for incorporating carbon emissions in cost-benefit analysis and impact assessments. This replaces all guidance referring to the Social Cost of Carbon (SCC). This is an update of the interim guidance published in August 2007".

16. CLG is leading on the implementation of the Energy Performance of Buildings Directive (EPBD). This will be commenced during 2008 and apply initially to all public buildings over 1,000 square metres. The requirement to publicly disclose the energy performance of these buildings should raise the profile of this important issue significantly. From April 2008 OGC is putting in place mandatory benchmarking of the performance of all office building over 500 square metres on the Government's Civil Estate through the OGC property database ePIMS. It is planned to link ePIMS to the EPBD register recording building energy rating and performance.

Annex B

CONSTRUCTION R & D AND R & D EXPENDITURE

1. At the BERR Select Committee hearing on the 22 January 2008, Stephen Timms agreed to send the Committee a note setting out more fully the rationale for the departure from a sector-based approach to the Department's support for R&D.

2. Prior to the 2001 general election, the Construction Research and Innovation Programme ("The Programme") was a programme of the Department of Environment, Transport and the Regions (DETR). The Programme had a budget of around £22–23 million per annum, allocated approximately evenly *via* three main funding streams:

- the BRE (Building Research Establishment) Framework programme, a five year framework (1997–2002) guaranteeing a certain level of research work to the BRE following its privatisation;
- Partners in Innovation—an annual competition; and
- Competitive/direct tenders including support for the Construction Best Practice Programme and other process and project management support initiatives.

3. The Programme funded not only research, but a wide range of knowledge transfer and best practice activities, eg materials testing, development of Codes and Standards, general guidance, network groups, work underpinning building regulations and development of sustainability assessment tools.

4. There were four key factors which led to the closure of the programme:

5. First, the Fairclough Review ("Rethinking Construction Innovation and Research: A Review of Government R&D Policies and Practices"). The former Government Chief Scientific Adviser, Sir John Fairclough was commissioned by the DETR to give an independent view of the role Government should play in supporting construction research. Sir John recommended that:

"the industry should take greater responsibility for defining and funding the research needed to support its future competitiveness, including making better use of the infrastructure of its Professional Institutions. Government should target collaborative funding programmes carefully and selectively at the key competitiveness issues, including longer term strategic development.

Outside these areas Government should progressively withdraw funding support, leaving shorter term knowledge transfer and research on incremental improvements to be funded by the industry”. (Review, p 34).

6. The Fairclough Review also made recommendations in respect of the construction research base. It concluded that:

“refocusing of priorities will mean less Government demand for some of the more traditional construction research competencies. There will be some transition from the traditional areas of conventional materials research to newer fields looking at process, management and behavioural aspects. As Government support becomes more focused on key competitiveness issues, traditional research organisations will need to pool resources and work more closely with one another in order to thrive financially and be able to attract the best talent . . . In the future it seems likely that more of the research that Government funds will find a natural home in university departments, in collaboration with industry, because of its longer term strategic nature. Expertise from outside construction, and from overseas, will also come more into play”. (Review, p 35).

7. Secondly, the transfer of responsibility from the DETR to the DTI in 2001. This brought construction sponsorship alongside other sectors handled by the DTI. The part of the Programme which related to research underpinning Building Regulations remained with the new DTLR (now CLG).

8. Thirdly, a fundamental review of DTI in 2001–02 identified a number of issues with the way in which DTI managed its business support activities. DTI launched a *Business Support Transformation Programme* (BSTP, 2002–04) to enhance the economic impact of its business support, make access easier, and reduce delivery costs. The Transformation Programme sought to concentrate funding on business support products that addressed market failures and improved the productivity of the economy. The number of DTI business support products was reduced from 100 separate products to less than 10.

9. Finally, the DTI Innovation Report—“Competing in the global economy: the innovation challenge” (December 2003) concluded that a step change was required in the UK’s rate of innovation to create competitive advantage. It recommended the formation of a business-led Technology Strategy Board (TSB) to ensure the technology strategy and Government investment reflected business needs and was informed by business processes. The success of the programme is seen as depending on close alignment with priority market areas, such as construction (including sustainable buildings), which was identified as a key area in the report. The first step in delivering the new strategy was the re-engineering and reduction in number of support products in order to release funding for the technology programme.

10. The advisory Technology Strategy Board was established in October 2004 to operate on a cross-Government basis, advising the Secretary of State for Trade and Industry on business research, technology and innovation priorities for the UK, and the allocation of funding.

11. In July 2007, the Technology Strategy Board was established as an executive body to promote business investment in, and use of, science, technology and innovation in the UK, with the aim of increasing economic growth and improving the quality of life. Its Governing Board brings together business and other stakeholders and includes a senior member from the construction sector in Professor Jeremy Watson, Director of Global Research, Arup. The Technology Strategy Board draws on advice from a number of sources in developing its strategy and supporting activities, which include funding for collaborative R&D projects and Knowledge Transfer Networks. Sources of advice include the Business Relations units in BERR, given their close links with industry, Research Councils and other stakeholders.

12. The TSB focussed initially on technology areas with cross-sector application such as ICT, materials, advanced manufacturing, energy, and sustainability etc—all of which are of great interest to the Construction and the wider Built Environment sector. Last year the TSB identified a number of specific key technology application areas including one for the Built Environment.

13. There have been a number of collaborative R&D support competitions relevant to the Built Environment. Research relevant to the sector has received some £31 million over the first three years of the Programme’s operation in key areas such as materials, ICT, waste minimisation, and ground remediation. The decision to remove ring-fenced research funds for particular sectors allows the Technology Strategy Board greater flexibility to apply funds in a strategic way and to fund technologies with a broader application.

14. The Technology Strategy Board has established a Modern Built Environment Knowledge Transfer Network, led by BRE, which aims to increase the rate of technology and innovation take-up by the sector.

15. The Technology Strategy Board will launch shortly a Low Impact Buildings Innovation Platform—focusing on improvements to the energy efficiency of both new and existing buildings. This Innovation Platform has been developed in close partnership with stakeholders including business, academia, and the Departments for Communities and Local Government (CLG), Business, Enterprise and Regulatory Reform (BERR) and Environment, Food and Rural Affairs (DEFRA). In the light of extensive road-mapping work—identifying areas for research, development and demonstration support, linked to procurement opportunities and the development of relevant regulations—the Low Impact Buildings Innovation Platform may provide up to £8–10 million support per annum. Innovation Platforms create an opportunity to bring together key partners (Government and business) to address a major societal challenge

and to open up market opportunities to increase business investment in R&D and innovation. Each Platform focuses on a specific area of opportunity and is designed to align policy, regulation and government procurement in support of innovative solutions. In this instance, the Thames Gateway Programme and Local Authority Refurbishment are options being considered on which to focus.

16. The TSB no longer funds guidance booklets and other best practice activity as the former Construction and Innovation Programme did. This is consistent with the approach taken in the Fairclough review and in the DTI Innovation Report. There are also a number of other public funding streams supporting research in the Built Environment, including that of the Engineering and Physical Sciences Research Council (EPSRC) (£31 million per annum) which has seen a significant increase in research spending since 2000, in line with the prediction in the Fairclough review that academic led research would increase; that of CLG (£5 million per annum in support of Building Regulations), the Highways Agency (£8 million per annum) and others. Although no central statistics are kept of spend across Government by sector, Annex A gives an indication of current R&D investment levels—which are comparable to surveyed Government research spend reported in 2001.⁹ This indicates there has not been any major shift of money away from construction but rather some redistribution.

17. There are further funds available through the European Research Framework Programmes. This is an area from which the UK construction industry could derive more benefit, and represents a significant opportunity. In the European Framework Programme 6 (2002–06) for example, although a modest group of UK construction companies became engaged as participants, we have only identified two projects led by UK construction firms.

18. There is a general expectation that the industry and its supply chain will make better use of the substantial funding available in Framework Programme 7 (2007–13). The sector now has a European Construction Technology Platform (ECTP), and a complementary industry-led UK National Platform for the Built Environment to define the industry's research priorities over the next 10–15 years. These developments should help influence research calls relevant to the sector. Recent competitions in FP7 have shown real opportunities arising—in resource efficient buildings, industrialisation of construction processes, smart construction materials, new mineral-based products, environmental design concepts, and waste prevention.

19. BRE, BSRIA (Building Services Research and Innovation Association) and CIRIA (Construction Industry Research and Information Association) have expressed concern to Construction Ministers and their officials on several occasions over recent years about the decline in funding for general industry guidance notes and incremental research. This has not been substantiated by evidence of damage to the construction industry; nor were their claims been supported by the Strategic Forum for Construction, which discussed this in September 2004.

20. CLG continue to support attendance at selected European standards meetings through their Building Regulations Framework Contracts (currently with BRE and Faber-Maunsell). DIUS provides support for UK delegates at CEN and ISO meetings through its Assisted International Travel Scheme (AITS), which is considered essential by claimants in order to justify (in some cases to their companies) the time and additional costs of participation.

21. The UK is represented on nearly all the European (CEN) and International (ISO) Technical Committees. BSI has the Secretariat of the CEN Committee on Eurocodes (CEN/TC 250), which is well supported by UK structural engineers. BSI also takes the lead on influencing at senior policy levels in CEN and ISO, where it is represented on all major policy committees. The UK also currently provides the Construction Sector Rapporteur.

INTERNATIONAL COMPARISON OF R&D SPEND AND OECD DATA

22. It is difficult to make direct international comparisons of R&D funding levels, particularly from the public sector; statistics are not routinely collected on a “sector of application” basis. The OECD figures presented to the Committee measure only intramural R&D (that is, R&D carried out within business), and relate to construction contracting only. Some intramural R & D is publicly funded. These figures do not include the main sums invested from public funds in support of R&D relevant to the sector (please see Annex A for the UK).

23. There is no clear evidence that migrant construction workers are having a negative impact on investment in R&D. Provisional statistics from the Office of National Statistics shows that contractors' R&D spend for 2006 (two years after EU expansion) as a percentage of GVA (Gross Value Added) will be 0.05%. This is the same as the 2003 figure, and only marginally lower than the rate recorded in 2001 and 2002 (0.06%).

24. The 2003 Pearce report¹⁰ noted that—despite the apparent discrepancy in research intensity of UK construction in comparison with USA, France and Finland—the UK's total factor productivity levels were similar to those of our main competitors France and Germany.

⁹ The Funding and Provision of Research and Development in the UK Construction Sector. Technopolis 2001.

¹⁰ The Social and Economic value of construction—The Construction Industry's contribution to Sustainable Development—nCRISP (2003).

CURRENT LEVELS OF CONSTRUCTION-RELATED PUBLIC R&D FUNDING

There are no central statistics kept within Government (or within TSB) of research spending related to construction (which in any case is difficult to define)—the following table is however indicative of current levels of public sector investment in relevant R&D (it is not fully comprehensive).

Technology Strategy Board activities	c £10 million per annum to Built Environment	Funding through generic themes; Materials, ICT, Sustainability (incl. Brownfield Remediation, Waste and Energy Efficiency). Additional sums available through Knowledge Transfer Partnerships
	c £1 million per annum (x3)	Modern Built Environment— Knowledge Transfer Network (Grant with BRE, BSRIA, CIRIA, Arup)
EPSRC	c £32 million per annum	Wide portfolio of academic-led research including: <ul style="list-style-type: none"> — Innovative Manufacturing Research Centres (c £10.5 million per annum) — Sustainable Urban Environment consortia (c £2 million per annum) — Other target schemes—incl Carbon Vision Buildings (c £8 million per annum) — Responsive funding (c £10 million per annum) — Network grants (c £0.5 million per annum)
Communities and Local Government	c £5 million per annum	Research Underpinning the Building Regulations—structural integrity, fire, energy usage, ventilation. Majority of work to BRE through established frameworks.
Highways Agency	c £8 million per annum	Portfolio moving towards asset management issues including construction techniques, materials, maintenance, safety
Environment Agency	c £4 million per annum	R&D Flood Management issues
Carbon Trust	c £4.5 million per annum	Includes applied Research, Carbon Vision Buildings programme and Technology Acceleration (DEFRA funded)
RDAs (Grant for R&D)	c £0.5 million per annum	Funding mostly to construction SMEs undertaking product development research.
MIRO (Mineral Industry Research Organisation)	c £1.5 million per annum	Mineral Industry Sustainable Technologies Programme (ALSF Funded)*
Department for International Development	c £10 million per annum	Mostly academic led research into overseas built environment topics—water, transport, energy
National Measurement System	c £0.2 million per annum	Primarily Structural Health Monitoring

Additional research commissioned by CABE and procuring departments—ie Dept of Health, MoD, DCSF as well as Energy Savings Trust etc. HEFCE provide significant base funding to support Construction Research Departments in UK HEIs (Higher Education Institutions).

Supplementary memorandum submitted by the Department for Business, Enterprise & Regulatory Reform (BERR)

I understand the BERR Select Committee Chairman has kindly agreed to consider a paper setting out our proposals to reform the Construction Act, as part of the Committee's inquiry into the construction industry.

It remains our intention to introduce these measures as soon as Parliamentary time allows. I plan to release draft Bill clauses to the construction industry for comment and I expect to be in a position to do so by early June.

I look forward to the Committee's report on the construction industry and to the Committee's views on our proposals.

THE EXISTING STRUCTURE OF THE ACT

1. The aim of Part II of the Housing Grants, Construction and Regeneration Act 1996 (the Construction Act) is to ensure prompt cash flow through construction supply chains (employer-contractor-sub-contractor) and to encourage swift resolution of disputes. It achieves this by providing a statutory right to refer disputes to adjudication and setting out a payment framework, including the right to be paid by instalments, with which payment provisions in a construction contract must conform.

2. When the Act came into force it covered the whole of Great Britain but has now been devolved to the Scottish Parliament. This Construction Act does not apply in Northern Ireland but separate similar legislation was introduced in 1999.

ADJUDICATION

3. Section 108 of the Construction Act provides that a party to a construction contract has the right to refer a dispute arising under the contract for adjudication. "Dispute" is defined as including any difference. Subsections 108 (2) to (4) specify the basic framework for adjudication with which such contracts should comply. Section 108(3) states that a contract "shall provide that the decision of the adjudicator is binding until the dispute is finally determined by legal proceedings, by arbitration (if the contract provides for arbitration or the parties otherwise agree to arbitration) or by agreement." Section 108(5) provides that "if the contract does not comply with the requirements of subsections (1) to (4), the adjudication provisions of the Scheme for Construction Contracts apply".

4. An adjudicator's jurisdiction is derived from his appointment by the agreement of the parties. The adjudicator only has jurisdiction to determine a dispute referred to him arising out of a construction contract. The question whether an adjudicator has the necessary jurisdiction is not itself a dispute arising under the construction contract and any decision of the adjudicator as to his jurisdiction is not binding. An adjudicator must determine the dispute by reference to the contractual terms. Decisions of adjudicators are enforced by way of summary judgement. The courts have taken a robust attitude and will enforce any decision where it is within jurisdiction.

5. Section 108 makes no provision in respect of costs of the adjudication.

PAYMENT

6. Sections 109–113 set out the payment framework.

- Section 109 introduces the right to instalment, stage or periodic payments.
- Section 110(1) requires the construction contract to have an adequate mechanism for determining what will become due and when and for the contract to provide a final date for payment in relation to any sum which becomes due.
- Section 110(2) requires the payer to give the payee early communication of what will be paid.
- Section 111 provides that the payer may not withhold money unless he has communicated in a notice the amount he intends to withhold from the sum due and the grounds for withholding payment to the payee within an agreed period (or no later than the period prescribed in the Scheme). A payment notice under section 110(2) may suffice as a notice of intention to withhold payment so long as it complies with the requirements of section 111.
- Section 112 provides that the payee may suspend performance when the amount due is not paid by the final date for payment.
- Section 113 prohibits contractual terms which make payment dependent upon the payer being paid.

SECONDARY LEGISLATION: THE SCHEME FOR CONSTRUCTION CONTRACTS (ENGLAND AND WALES) REGULATIONS 1998

7. Section 114 of the Act empowers the Minister to make by regulations a "Scheme" containing provisions about the matters referred to in the preceding provisions of Part II of the Act. Section 114(4) provides that where any provisions of the Scheme apply in default of contractual provisions agreed by the parties they have effect as implied terms of the contract. The Scheme for Construction Contracts (England and Wales) Regulations 1998 is secondary legislation.

8. The Scheme for Construction Contracts (England and Wales) Regulations 1998 (SI 1998/649) came into force on 1 May 1998. In respect of Scotland, the Scheme is found at the Scheme for Construction Contracts (Scotland) Regulations 1998 (SI 1998 No. 687). The Scheme will apply where the construction contract does not provide for any of the matters set out in sections 108(2), (3) and (4) (provisions relating

to the right to refer disputes to adjudication), sections 109(1) and (2) (entitlement to stage payments), section 110 (1) (adequate mechanism for the determination of what and when payments become due) and section 110(2) (the requirement for a payer to give a payment notice).

9. As a consequence of the amendments we will be making to the primary legislation, there will need to be some consequential amendments to the secondary legislation. The Welsh Assembly now has devolved responsibility for the secondary legislation in Wales. There is already separate secondary legislation for Scotland. For both Wales and Scotland, the respective administrations will be required to conduct their own consultation on secondary legislation.

BERR'S PROPOSED AMENDMENTS

10. Our proposed new provisions would:

- a. Remove the requirement for the construction contract to be in writing.
- b. Introduce a statutory framework for costs of the adjudication.
- c. Prohibit agreements that interim or stage payment decisions will be conclusive.
- d. Introduce greater certainty and clarity into the payment framework.
- e. Limit the decision of the House of Lords in *Melville Dundas v Wimpey* to insolvency situations.
- f. Improve the right to suspend performance.

ADJUDICATION

"In writing"

11. Our proposed new provisions remove the restriction of the application of the Act to contracts in writing. The Act will apply to contracts which are agreed wholly in writing, only partly in writing, entirely orally or are varied by oral agreement.

12. The policy objective is twofold:

- to allow more disputes under construction contracts to be referred to adjudication; and
- once the adjudication is underway, to remove the potential for one of the parties to challenge the adjudicator's jurisdiction on the grounds that the entire contract is not in writing.

13. The adjudication scheme will continue to be in writing. Where there is no written contractual adjudication scheme, the statutory scheme (which is set out in secondary legislation) will apply. The reason for this is that we believe it is important that there is absolute clarity about the procedure under which the adjudication is being carried out.

14. The notices set out in the statutory payment framework (payment notice, withholding notice and notice of intent to suspend performance) will continue to be required in writing. This is to help ensure clarity of communication.

Stakeholders—This is seen as one of the two most important amendments we are making to the Construction Act. Adjudicators, professionals, sub-contractors are strongly in favour. Contractors are against. Some of the sub-contracting bodies would prefer it if we went further and allowed the adjudicator to decide, finally and conclusively, whether or not he had jurisdiction. We believe it is right to retain the ability to question an adjudicator's jurisdiction.

Statutory framework for the costs of Adjudication

15. The Construction Act currently makes no provision on the costs of adjudication. It is left as a matter for contract. The contract may provide that one of the parties is to bear all or part of the costs of the adjudication regardless of the outcome. Often such clauses are included at the behest and to the advantage of the party in the strongest bargaining position. This can be used to create a disincentive for a party to refer disputes to adjudication.

16. Our policy objective is therefore to:

- remove these disincentives.

17. However, at the point of referring a dispute to adjudication, the ability of a party to exercise commercial muscle has greatly diminished—the objective of the “inferior” party has changed from winning the work to getting paid. We therefore enable the parties to make any agreement they see fit after they have referred the dispute to the adjudicator.

18. In broad policy terms this is a relatively simple proposition. We are simply reinstating the parties' ability to make an agreement. There is however some legal complexity.

19. There are two types of costs in issue: the costs of a party (which typically will include the fees of others whom a party has engaged eg a quantity surveyor or an architect) and then the fees and expenses of the adjudicator. These require different treatment.

The costs of the parties:

20. We are prohibiting any provision of a construction contract which would have the effect of requiring a party to the contract to pay all or any part of the adjudication costs of another party, unless it is made in writing after the appointment of the adjudicator.

21. The underlying legal position, if the parties do not reach agreement in writing after the appointment of the adjudicator, is that each party should bear their own costs. Where the parties have entered into an effective agreement that one party should bear all, or a proportion of the others costs, we give the adjudicator the power to disallow any unreasonable costs within the agreement.

The costs of the adjudicator (the fees or expenses of an adjudicator in relation to the adjudication of a dispute arising under the contract):

22. As above, we prohibit any provision of a construction contract, which would have the effect of requiring a party to the contract to pay all or any part of the adjudicator's costs unless it is made in writing after the appointment of the adjudicator.

23. The underlying position is that responsibility for an adjudicator's fees and expenses will be determined by the terms of the contract which he agrees with one or both of the parties to the construction contract. Normally the adjudicator's contract will be with the party which refers the dispute to the adjudicator. Our new provisions make the parties jointly and severally liable for the adjudicator's fees for work reasonable undertaken and expenses reasonable incurred by him.

Stakeholders—There is almost universal support for our proposal to make ineffective any contractual clause on the allocation of the costs of adjudication. Some bodies—notably those representing sub-contractors—would prefer our prohibition to be total. Others—in particular those representing main contractors—believe our proposals strike the right balance between preventing mischief and giving the parties freedom to enter into sensible commercial arrangements.

Prohibiting agreements that interim or stage payment decisions will be conclusive

24. A contractual practice is emerging in the industry where a decision about the amount of an interim payment can be made final and conclusive—and therefore unadjudicable. Some in the industry have suggested that this practice will increase as we tighten up other aspects of the Act. Our policy objective is simply to close the loophole and ensure that all disputes on interim payments can be put to adjudication.

25. We are therefore prohibiting agreements that a decision can be conclusive of the amount of a stage payment. This prohibition will not apply where agreement has been reached after the decision has been taken and communicated to the parties.

Stakeholders—There was strong support for prohibiting final and conclusive agreements. Contrary views, such that there were, tended to favour a time limited period in which all decisions (ie including those on final payments) could be opened up and reviewed by and adjudicator.

PAYMENT FRAMEWORK

26. Our introduction sets out the existing statutory payment framework. The main issues uncovered over the course of the review were:

- The payment notice (early notification of the amount due) was frequently not issued and there was no sanction.
- There was a lack of clarity about the status of the payment notice.
- The interaction between the payment notice and withholding notice could be unclear.
- That “pay-when-certified” clauses could be used to circumvent the prohibition of pay-when-paid clauses.

27. The conclusion of our analysis of the consultation responses is these factors, individually or collectively, can make the statutory payment framework ineffective in its intention to introduce greater certainty about what will be paid and when.

28. Our policy objectives are therefore to:

- remove the statutory restrictions about which party can issue payment notices.
- Ensure that there is always early communication of the sum due.
- clarify the status of the payment notice.
- clarify the interaction between the payment and withholding notices.
- prohibit pay when certified clauses.

29. As a package, these amendments introduce much greater clarity and simplicity into the payment framework and its underlying interaction with common law.

Notices

30. Under the current framework the payer is obliged to issue the payment notice. Comment during the review was that this could run counter to common commercial practice. The underlying policy objective behind introducing the payment notice requirement in the first place was to ensure there was early communication of the amount to be paid. The notice enables early discussion of any differences with the hope that they will be resolved before the payment date. We are therefore retaining the requirement for a payment notice but removing the limitations on who can issue it. Who is responsible for issuing the notice (payer, payee or third party certifier eg architect or engineer) will be a matter for the parties to agree in their contract.

31. We also make it clear that the amount in the payment notice is the “sum due” for the purposes of withholding and suspension. This removes some uncertainty which had crept in under the current framework about various deductions and whether they should be communicated through the notices. For instance, you are required to issue a withholding notice when withholding money from the sum due but if the money was never due in the first place (perhaps because it was unsatisfactory) you would not need to notify it in a withholding notice.

Stakeholders—As you would expect, this proposal is the one where opinions are sharply divided. It is also viewed by many as being one of the two key things we are proposing. Some (generally main contractors) are opposed to any changes at all to the payment framework. Others (generally sub contractors) would rather our proposals went much further. In short they want the payee’s application for payment to set out the sum due. Broad consensus is at the heart of the Construction Act and our provisions therefore seek a middle path between these two views. Those with less of a direct interest in the main contractor sub contractor interface (professionals and adjudicators) tend to think our proposals strike a sensible balance between interests.

Statutory fallback provision

32. One of the weaknesses of the current framework is that there is nothing to ensure the payment notice is issued. There is no remedy when it is not served. We have therefore introduced a “fall back” provision. Where the contract makes provision for the payer or third party to issue a payment notice to the payee before the final date for payment and he fails to do so the payee may at any time before the final date for payment give a notice to the payer specifying the amount of the payment he considers to be due and the basis on which that amount is calculated. The amount in that notice will then become the sum due for the purposes of withholding and suspension.

Stakeholders—This measure is popular with sub-contractors though some feel it does not go far enough. It is deeply unpopular with main contractors who object to the amount in the notice becoming the sum due. However, it is clear that the lack of an effective remedy when a payment notice is not issued fundamentally undermines the effectiveness of the Act.

Payment by reference to other contracts

33. We are prohibiting so called “pay-when-certified” clauses. The content and timing of a certificate issued under a superior contract may simply be invisible to those under an inferior contract yet the amount and timing of payment could be dependent on it.

34. The policy objective is to:

- ensure there is more clarity about when payments become due as well as what the sum due is.

35. We are therefore simply stating that a contract does not have an adequate payment mechanism where payment is conditional on:

- (a) the performance of obligation under another contract, or
- (b) a decision by any person as to whether obligations under another contract have been performed.

Stakeholders—Sub contractors broadly welcome this proposal though some would like us to go further and outlaw all “conditional” clauses. Main contractors do not like the proposal as it reduces their ability to offset the risk of non payment by their customer. The original act was clear in its intent to outlaw pay-when paid clauses.

36. The judgement of the House of Lords in *Melville Dundas vs George Wimpey* raised two areas of uncertainty:

- (i) whether the Construction Act provisions on withholding (section 111) applied only where the contract is determined (ie terminated) in cases of insolvency; and
- (ii) whether the provisions should apply to all other grounds for withholding in respect of final payments.

37. In terms of the HoL judgment in the Dundas case, our policy objective is:

- to ensure that a withholding notice is required where the payer intends to pay less than the “sum due” except in cases of insolvency.

38. This limits the effects of the HoL decision to the facts of the case (in Dundas, the contract was determined upon the appointment of an administrative receiver) and prevents the payer from relying on any other ground which gives rise to a lawful right to withhold payment.

39. We are therefore introducing an additional subsection which provides that the only circumstances in which a withholding notice is not necessary, where the payer intends to pay less than the sum due, is where:

- a) the contract provides that the payer may determine the contract upon the insolvency of the payee;
- b) the payee is insolvent; and
- c) the insolvency occurred after the expiry of the prescribed period for giving a section 111 notice;
- d) it was not possible for the payer to give the notice before the expiry of the prescribed period.

Stakeholders—The consultation responses supported our position.

IMPROVING THE RIGHT TO SUSPEND PERFORMANCE

40. We are improving (ie making more equitable) the right of a party to suspend performance of his obligations under a construction contract where he has not been paid. We are therefore providing:

- a) that the payee need not suspend all of his obligations when exercising the right;
- b) a statutory right for the suspending party to be compensated for reasonable losses caused by the suspension; and
- c) an extension of time in the contractual time limits for any delay caused by the exercise of the right to suspend.

41. The policy objective is to ensure the costs of suspension fall more equitably.

Stakeholders—There was strong and consistent support from almost everyone for this proposal.

2 May 2008

Memorandum submitted by ARUP

1. LONG-TERM CAPACITY FOR THE DELIVERY OF LARGE INFRASTRUCTURE PROJECTS ON TIME AND TO BUDGET, SUCH AS THE OLYMPICS

1(a) *In order to deliver large infrastructure projects on time and to budget, the UK needs a strategic plan and a rolling 20-year programme of investment*

1.1 Strong leadership from within Government is also required. Infrastructure projects need to be delivered through existing bodies and not new delivery agencies; Special Project Vehicles (SPVs) have little wider industry understanding and seem to operate in isolation. But at the moment it is not clear which department would be responsible for creating a strategic plan.

The Treasury is hampered by short-term investment cycles. EU environmental legislation will help to change this because it will necessitate long-term planning. Indeed, sustainability could well be the issue that drives the creation of a long-term strategy for major projects. Young people are concerned with environmental issues and are willing to invest in long-term sustainable development. This will drive longer term political commitments in the future.

1.2 The UK must get better at bringing its large infrastructure projects to fruition. Too often schemes are active and swallowing up money without getting nearer completion. Continued studies and re-thinks cost time and money. Programmes must be pulled by an achievable end date.

1.3 We need to learn from successful infrastructure projects. BAA, for example, are good at delivering large infrastructure projects such as Heathrow Terminal Five because they have a programme of long-term investment. The Channel Tunnel Rail Link (CTRL) was successful because: there was a low level of

Government interference; the project had clear objectives; planning permission was obtained before spending started; the procurement strategy balanced resource availability; contractors were matched to the work available and only hired when that work was clearly defined; the risks inherent in the project were given to the people most able to handle them.

But the success of CTRL was not built on. For example, the project brought together six major tunnel contractors. But after completion there was no more work for them because Crossrail was not ready to go. If a strategic plan was in place, the construction industry could make better use of resources like this.

1.4 Of course, the industry must be encouraged to get involved in major projects in the first place. Optimum sized tenders need to be part of a transparent and attractive procurement strategy. It is important to ask for the right number of bidders. Ask for too many and companies will think the chances of them winning are too small to justify the expense of bidding. It is also important not to have contractors in the consortium for a major project. This discourages others from spending millions to bid because they think the work will simply be handed to one of the contractors.

1.5 Other countries have a greater long-term capacity for the delivery of large infrastructure projects on time and to budget than the UK. French railways achieve this through a strategic rolling programme of work. Individual stages, such as the Paris-Strasbourg line opened recently, build to form a solid capacity. Similarly, the Hong Kong Mass Transit Authority probably spends more than the UK on major infrastructure but arguably gets better value for this money through improved delivery. It achieves this by being a competent technical client and maintaining good communication with its consultants to minimise delays.

These countries may have greater long-term capacity for the delivery of large infrastructure projects but UK technical skills are second to none. UK consultants get more work internationally than those of any other country. This is partly because there is not a supply of major projects in the UK for them to work on. The result is that capacity within the UK is reduced because skilled consultants are tied up on projects overseas. We must reverse this trend and capitalise on UK expertise.

1.6 The UK is still suffering from a construction skills shortage. As a result we have imported skills from Eastern Europe. Without these workers, our capacity to deliver major projects would be severely reduced. Unfortunately, the situation is getting worse. This is partly an issue of training. We must produce more skilled construction workers if we are going to deliver major projects consistently.

1.7 Putting a long-term strategy for major projects in place will help ensure we have the capacity to deliver them. Creating large infrastructure takes a long time, even when things run to schedule—CTRL took around fifteen years. But the construction industry is not self-determining; it responds to others' investment programmes. These must become longer-term in order to support a strategy for the delivery of major infrastructure.

1.8 Less investment will be needed if we choose to build new infrastructure rather than upgrade existing systems because this requires less capacity. For example, if a company is upgrading a railway line over which trains are still running, as was attempted with the West Coast Main Line, all its workers must be railway safety trained. This is not necessary if, as with CTRL, your line is not joined to the network until it is finished.

1.9 Over-ambition can also affect capacity to deliver major infrastructure projects. The Olympics project is trying to move railways, cables and clean up the Lea valley. This is certainly a good thing in the long run. But we must ask ourselves whether this is necessary in time for the opening ceremony. Complicating projects makes them less appealing to contractors and they become harder political decisions to take. A strategic programme of major infrastructure projects would ideally be led by a de-politicized body.

With this in place we could enjoy a future of total systems delivery. The construction industry would not deliver roads or railways but, piece by piece, a total transport system. The next generation will see the outcome of this leap. But we must begin to make it now. The industry, through the forum of the Major Projects Association, talks about what is needed. But we must also have some action. In order to secure the UK construction industry's long-term capacity for the delivery of large infrastructure projects on time and to budget:

1.10 Summary:

- Government must instigate and manage a strategic plan;
- Industry and government must address the construction skills shortage;
- We must all focus on delivering projects rather than just starting them;
- Major projects must be part of a sustainable future of total systems delivery; and
- We must learn the lessons from successes such as CTRL.

2. REGULATORY MATTERS, SUCH AS HEALTH AND SAFETY, AND THE BUILDING REGULATIONS

2(a) *Increasing levels of competence and co-operation will help to maintain and improve standards of health and safety in the UK construction industry*

2.1 Government should lead by example. It procures 40% of construction work in the UK and must prioritise health and safety in this work. At the same time, the construction industry needs to change its culture and become an innovator. Government and industry must work together to foster the foresight and innovation that will move the industry forward.

2.2 We must recognise that health and safety adds value to a project by reducing delays caused by accidents, structures the thought process and is an integral part of the business of construction. If companies see health and safety as an integral part of their business then standards will improve. Clients such as BAA and BP recognise this. They put health and safety at the centre of the design and build of their projects. Designer and contractor work closely in integrated teams where health and safety is given proper consideration.

2.3 Modern health and safety is about setting goals to change behaviour and moving the industry forward. Prescriptive legislation will not help. The Health and Safety Executive (HSE) are recognising this and becoming more pragmatic. They are acknowledging that the industry needs to self-regulate. The revised CDM (Construction Design Management) regulations launched on 6 April 2007 are a positive step to improving health and safety. They represent evolution not revolution. They simplify processes and cut bureaucracy by focussing on the perceived risks in the design, development and operation of construction projects.

Crucially, the revised CDM regulations place responsibility for health and safety with the client. Some clients are resistant to this. They have had 18 months to comment on the proposals before they came into force. David Cameron's early day motion tabled for 10 May seeks to extend this period. But this will be counter-productive for the industry. We must now go forward, with the construction industry supporting their clients with their health and safety responsibilities.

2.4 Legislation in the UK is arguably leading the world—the Far East and Australia have based their regulation upon it. But the industry does not enjoy a level playing field across Europe. CDM regulations came about as the result of a European Union (EU) directive in the early 1990s. But implementation varies across the EU, putting the UK construction industry at an unfair disadvantage. Similarly, areas outside the EU do not work to a common standard—the current construction boom in the Gulf region has seen many accidents. Levelling the playing field would help move our industry forward in the global market.

With good legislation in place the challenge now is to ensure that regulators adopt it and cut out unnecessary paperwork. We need to achieve consistency in implementation across the UK, and across all sectors. Despite an improving health and safety record in recent years, the UK construction industry suffered an increase in the number of construction deaths in 2006. The unconfirmed total is 77 fatalities. This increase can be attributed largely to the small to medium enterprise (SME) sector engaged in refurbishment and retro-fitting. This is a warning sign. We need to make sure that all parts of the industry understand and implement the regulations.

2.5 Competence is a key issue for health and safety within the UK construction industry. Line managers are responsible for health and safety. This means that knowledge of best practice must be widespread throughout the design and construction workforce. Regulators and industry have focussed on raising competence. Construction Skills Certification Scheme (CSCS) cards have helped lead the way and the Royal Institute of British Architects (RIBA) have embraced CDM.

However, the construction industry is diverse and knowledge of health and safety varies considerably across it. We need a consistent approach across all levels and everyone needs to recognise their responsibilities. Legislation has given the client a key role to play, but designers must take responsibility for educating clients about health and safety. Less experienced managers and smaller practices must also be given the support they need.

The most concerning area for the industry in terms of competence is in universities. Industry needs graduates who have an understanding of the fundamental principles of health and safety. The Civil Engineering Consultants Health and Safety Forum (CECHSF), of which Arup is a member along with Atkins, Mott MacDonald and Halcrow, is campaigning for universities to make students aware of health and safety as part of their training. As in other areas, continued co-operation between academia and industry will be essential if we are to continue to raise the levels of health and safety in construction.

2.6 Co-operation between industry and government will also be vital. The construction industry has an opportunity to comment on the proposed merger of the Health and Safety Commission (HSC) with the Health and Safety Executive (HSE). We believe that it should raise serious concerns about this plan. The HSC was formed under the Health and Safety at Work Act and has independence from government. As well as a loss of this important independence, the planned change could result in a reduction in the number of health and safety inspectors, funding to commission and carry out research could be threatened and advancement in health and safety could be hindered.

2.7 Health and safety in the UK construction industry continues to improve. In order to maintain this improvement, and deliver the resultant benefits to business:

2.8 Summary:

- Industry must work to improve competence across sectors and support the client in their responsibilities towards health and safety.
- Government must ensure regulators adopt and implement legislation consistently.
- Government must campaign for a level playing field of health and safety legislation across the EU and beyond.
- Universities training graduates for the construction industry must look to include health and safety in their curriculum.
- Designers and contractors must work together to place health and safety at the heart of their industry.

3. ENCOURAGING SUSTAINABILITY

3(a) *The UK construction industry is encouraging sustainability but, together with Government, it must do more*

3.1 The UK was the first country in the world to have national headline sustainability indicators. We are probably on a par with the rest of Europe in terms of encouraging sustainability. Like them, we have the opportunity to take the lead. To do this, Government must encourage sustainability in partnership with the construction industry.

3.2 The public sector is the construction industry's biggest client. It can take a strong lead by procuring sustainable development, helping to enlarge the market for sustainable construction and bringing costs down. This is already happening in the social housing sector, where the ethic is to promote best practice at a low cost. More Government procurement of sustainable construction would be a much more powerful way to encourage sustainability than by regulation or legislation. It would also save the taxpayer money because the long-term running costs of sustainable buildings are lower. Green taxes, on the other hand, focus on energy-efficiency and ignore the wider issues of sustainability.

Planning authorities have a key role to play in encouraging sustainable development but their quality varies across the country. Some are well-versed in sustainability but others are not. In either case, they have few resources and little time to deal with the wealth of sustainability information produced by measures such as Environmental Impact Assessments. Lack of continuity in the civil service prevents it from building a knowledge base. Changing personnel every couple of years is not sustainable.

3.3 Building control, codes and standards can actually inhibit sustainability. It can take years to get a British Standard through the system. By the time it is published, technology has moved on. The latest sustainable technology often cannot be used because it does not comply with standards. This discourages the industry from innovating.

But sustainability is not just an issue for new development. Sixty-six percent of the housing stock that will exist in 2050 has already been built. Government and industry need to encourage owners of the UK's existing buildings to make them sustainable. Initiatives like the Clear Skies grants for energy efficiency are good. But they are more likely to be taken up by better educated and more affluent people who know how to apply for them. Government needs to make sure their help gets to the right people.

3.4 Government sustainability targets are necessary. It must set challenging but realistic goals. Carbon neutrality achieved by offsetting CO₂ is not true sustainable development. Ultimately, encouraging sustainability in the UK construction industry is a business issue. If an organisation is not profitable then it is not sustainable. Government and industry must promote the existing economic benefits of sustainability and work to create a market place which makes sustainable construction the logical choice for all development.

3.5 Green building, energy, climate and waste have attracted attention within the industry. But they are treated in isolation. We must put sustainability into the fabric of everything we do. As well as the environmental and natural resources we must consider the wider social or economical factors affecting sustainability, including health, well-being, transport, food, and economics. In order to do this, the industry needs a cultural change in the way we design, procure and operate construction projects.

We must, however, make sure that we encourage genuine sustainability. There is currently a rush to label everything as sustainable, even where it is not. This will degrade the concept of sustainable development and lower standards. While the industry remains fragmented, companies willing to push the boundaries of sustainability are likely to be undercut by those willing to compromise it.

3.6 Construction suppliers are leading the way in encouraging sustainability. They have made their supply chains and distribution networks more sustainable, saving money in the process. They are also undertaking long-term research into more sustainable building materials. Individuals within the senior management of these companies are driving this change as they anticipate pressure from stakeholders to demonstrate sustainability.

3.7 Investors in the construction industry must accept longer-term returns in order to encourage sustainability. But the UK is driven by short-term economics. Construction is procured on capital costs; long-term running costs are ignored. This means that sustainable construction—with higher capital costs but lower running costs—is not chosen. To encourage investment in sustainability we need to foster sustainable economics.

3.8 The industry must speak with a strong voice if it is to campaign for such measures. But currently there is no single unbiased voice that the construction industry can use to drive change and influence opinion—organisations like the Association of Consulting Engineers (ACE) speak only for their part of the sector. As a result, the industry's clients and investors, those procuring the buildings and paying for them, are not getting the message about the commercial advantages—cost savings and marketability—of sustainable development.

This is perhaps a reflection of the fact that the industry is generally conservative. It is one of the few business sectors that welcomes legislation to make change. But legislation is geared to the lowest common denominator; it does not encourage rapid improvement in sustainability. The industry must begin to drive change if it is to pick up the pace of progress towards a sustainable future. It has some of the UK's leading thinkers. Now it must do as well as think.

3.9 Summary:

In order to encourage a more sustainable future:

- The construction industry must speak with one voice and drive change.
- The public sector must create a market for sustainable construction through procurement.
- Both must take a long-term holistic view of sustainability and avoid a focus on energy and the environment at the expense of other factors.
- Investors must be encouraged to take a long-term view and put their money into sustainable development.
- The UK must take this opportunity to lead the way.

May 2007

Memorandum submitted by the Association of Colleges in partnership with the British Association of Construction Heads

THE ASSOCIATION OF COLLEGES

AoC (Association of Colleges) is the representative body for colleges of further education, including general FE colleges, sixth form colleges and specialist colleges in England, Wales and Northern Ireland. AoC was established in 1996 by the colleges themselves to provide a voice for further education at national and regional levels. Some 98% of the 425 general FE colleges, sixth form colleges and specialist colleges in the three countries are in membership.

THE BRITISH ASSOCIATION OF CONSTRUCTION HEADS

The British Association of Construction Heads represents heads of construction departments in colleges and private training providers.

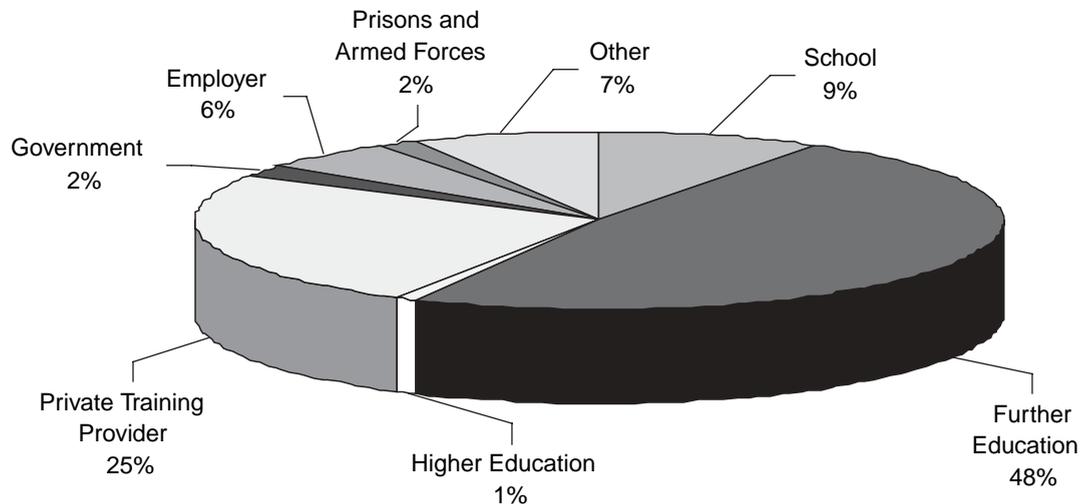
FURTHER EDUCATION COLLEGES

Further education colleges have a major role in the existing efforts to equipping people of all ages with the skills they need for working life. The central role of colleges in education and training is evident from the following facts. Colleges:

- enrol the largest numbers of 16–18 year olds in full-time education and account for more than 40% of entrants to higher education;
- are the main providers of work-related learning for all ages. They deliver part-time vocational education to 15% of 14–16 year olds and support 48% of the learners who gain vocational qualifications each year (see chart).

- are the main option for any adult wishing to learn part-time. Colleges are the main providers of foundation degrees, learndirect, basic skills, technical skills at level 2 and 3 and general adult education.

WHERE PEOPLE GAIN VOCATIONAL QUALIFICATIONS



Source: AoC analysis of DfES statistics on vocational qualifications

GENERAL COMMENTS

1. The UK construction industry is a major economic sector, accounting for 8% of gross domestic product and employing two million people.
2. This evidence from the AoC and BACH contributes to three elements of the Select Committee's inquiry:
 - the availability of, and investment, in skills;
 - the delivery of the Government's capital programme; and
 - encouraging sustainability.

AVAILABILITY OF, AND INVESTMENT IN, SKILLS

3. The UK college sector has a major role in construction training. There are 108,000 individuals on college construction courses and another 60,000 on work-based apprenticeships. 150 colleges offer construction training.

College of North West London

The establishment of the Building One Stop Shop (BOSS) was one of the College of North West London's (CNWL) major successes in developing its construction provision. The BOSS, established in partnership with Brent Council, plays a dual role—employers identify the skills they require and the BOSS addresses those needs by sourcing skilled, qualified people through the local community. As a result, over 700 local people, including many women, now have long-term, sustainable, skilled employment in construction and engineering. Some of these worked on the new Wembley Stadium and a large number on the White City Development. Following this success six more BOSS centres were established across London in 2006, each led by a local college which is a construction Centre of Vocational Excellence. This expansion will enable more colleges to recruit local people into education and training for the construction and engineering skills needed for the Olympic Games in 2012. About 85% of all BOSS outcomes involve people from ethnic minority backgrounds. This is particularly impressive because the construction industry has on 4% of its workforce from an ethnic minority.

4. Construction training is a challenging task for colleges because of the nature of the industry and the structure of employment. There are several reasons for this:
 - the industry is fragmented into more than 200,000 companies, 90% of whom employ fewer than 10 people. 60% of skilled construction workers are self-employed;
 - construction work is project-based which makes it difficult for companies to predict their workload or guarantee training places;

- the industry is cyclical. Turnover and employment has grown consistently since the mid-1990s but this followed a prolonged recession. A downturn in the property market, significant increase in interest rates or reduction in Government capital expenditure in the future could change the demand for employees;
- there is a culture of employing family and friends with recruitment by word of mouth rather than through formal qualifications. This affects incentives to complete training;
- health and safety considerations mean that initial training has to be off-the-job unlike some other sectors where new recruits can start work almost immediately;
- although the industry, uniquely, retains a training levy system, there are few regulatory controls on construction occupations. This flexibility has made it easy for the construction industry to fill vacancies with migrant workers but, again, affects incentives to train; and
- the vast majority of the workforce is male which makes it difficult to attract women and which can affect its attractiveness to young men.

5. Looking specifically at education and training in construction, there are three particular problems:

- *Training supply is insufficient to meet demand.* According to the Adult Learning Inspectorate in 2005, the construction industry in England needed to recruit and train 88,000 entrants each year up to 2010, spread across a variety of trades. An additional 30,000 people a year are needed in the next few years to meet Olympic requirements. The number of apprentices starting training is about 20,000 a year compared to 100,000 apprentices a year in the 1970s.
- *Success rates are lower than in other sectors.* This compounds the problem of low throughput of skilled people to the industry. The gaps are filled with migrant workers, with inadequately trained individuals and with do-it-yourself. OFSTED and Adult Learning Inspectorate inspections show that teaching and learning is good or better in most colleges. There are other explanations for the lower success rates: Construction qualifications and the construction apprenticeship framework are more complicated than in other sectors. Many small or specialised contractors struggle to meet the stringent work-based evidence requirements in NVQs at all levels.
- *The existing workforce is insufficiently skilled.* The characteristics of the construction industry are long-standing. Approximately 55% of people who work in the industry are not qualified to the standard of an NVQ at level 2, or equivalent. There is an urgent need to develop and fund a bite-sized unit-based framework to support the industry.

6. The college sector is not complacent in face of these challenges. Colleges have the major role in providing initial training for school leavers and for those retraining for construction work. Colleges work in partnership with employers and ConstructionSkills (the construction sector skills council, formerly known as the Construction Industry Training Board) to train apprentices. Colleges provide a range of courses to upskill the existing workforce. There are a number of specific actions that colleges have taken to address the skills requirements of the UK construction industry:

- Colleges have expanded the number of construction training places that they offer and have developed new facilities to meet demand. According to the Adult Learning Inspectorate, “Some colleges have particularly impressive accommodation for practical training, which closely resembles work environments. Such workshops provide controlled and safe conditions in which learners can practise aspects of their crafts and increase their skills”.

Cambridge Regional College

The SmartLIFE centre at the College’s Science Park campus was transformed into a true to life building site for a pilot scheme to allow students to work in a realistic and modern construction environment. The site was supervised by a professional site manager and students were made aware of the real construction site conditions as they completed their individual tasks and became familiar with all relevant health and safety site regulations. This was the first time the different construction disciplines will be working alongside each other on a true to life building site with a full size jib crane and industry standard tools and equipment which together provided the realism necessary for high quality provision in modern methods of construction and sustainable development. This pilot scheme formed an integral part of students’ construction courses.

SmartLIFE is an innovative transnational project. In collaboration with the County Council, the College is delivering training in modern methods of construction and providing new demonstration housing sites to compare the advantages of wood, steel and concrete methods compared to traditional build. It won the European “Starfish Award” for the best innovative partnership project in its field last year. The College will be starting its first full-time course in Modern Methods of Construction and Sustainable Development in September 2007.

The College is also one of three which together form the Cambridgeshire Centre of Vocational Excellence (CoVE) in construction the others being Peterborough Regional College and Isle College. The CoVE has the following focus: “Together with Construction Industry Partners, we will create a skilled workforce capable of meeting current and future industry needs across Cambridgeshire”.

- Staff have been recruited to handle the growing numbers of students, generally directly from industry. Colleges have made good use of the Government's golden hello scheme in this regard.
- Colleges have worked with the Learning and Skills Council to develop 54 Centres of Vocational Excellence (CoVE).
- Colleges have taken action to improve quality and performance. Success rates in construction courses have risen from 57% in 2003–04 to 68% in 2005–06.
- Colleges have worked with ConstructionSkills to raise the status of the industry, to deliver off-the-job training for the ConstructionSkills' apprenticeships and to qualify the workforce through the On-Site Assessment and Training programme.
- Colleges are involved in almost all the partnerships that will be offering the construction specialised diploma in 2008–09.
- Colleges have developed foundation degrees to meet the demand for higher-level skills.

Leeds College of Building

Leeds College of Building has offered higher education provision for over 10 years which commenced with Higher National Certificates in Building Services Engineering and a specialist Fire Degree with Leeds Metropolitan University. In addition, the College runs more prescribed HE provision such as the Chartered Institute of Building Site Supervisor/Management courses and Teacher Training. Two years ago the College developed new Foundation Degrees in partnership with Leeds Metropolitan University including in Building Services, Construction Project Management and construction Operations Management. These are being phased in to meet employer demand as they were jointly developed with employer input. NG Bailey, Shepherd Engineering Services and SMEs are amongst the employers specifically involved in the provision of foundation degrees. Lains, Maitland Construction and Southdale Homes are involved in general HE provision. The College currently has 9,700 enrolments across five sites, works nationally through on-site assessment and training arrangements and is the sector lead for construction in the West Yorkshire Lifelong Learning Network.

7. There are a number of threats to these college successes:

- College expansion has not been fast enough to meet demand. According to the Adult Learning Inspectorate, waiting lists can be attributed to "lack of workshop capacity in colleges, difficulties in recruiting skilled craft teachers and the scarcity of employers prepared to provide work placements".
- Although apprenticeship completion rates have improved, the current apprenticeship framework is excessively complicated and includes external key skills tests which are rarely valued by either employers or trainees.
- Although designed with the help of employers, the new specialised diploma contains few practical elements and could fail to engage many young people in schools.
- The Learning and Skills Council is cutting funding for adult further education and is shifting spending towards its priorities (basic skills, level 2 qualifications). This is forcing some colleges to close construction courses at foundation level, although they work well as preparatory courses for those who leave school with few qualifications.
- The LSC is increasing spending on its Train to Gain scheme, which is a programme which rewards assessment more than training.
- Government policy towards publicly-funded apprenticeships assumes that employers will pay a greater share of costs for those over 19. Colleges have found great reluctance from employers to pay more, particularly given the role of the Construction Skills levy.
- The likelihood that a construction bust will follow the current boom is likely to affect the sustainability of current provision, particularly as government funding will increasingly follow the learner. This could make it difficult for colleges to sustain current progress.

DELIVERY OF THE GOVERNMENT CAPITAL PROGRAMME

8. The college sector provides an interesting case study of a successful public sector capital programme. Colleges have built new facilities on time and within budget and have taken the opportunity to transform their operations.

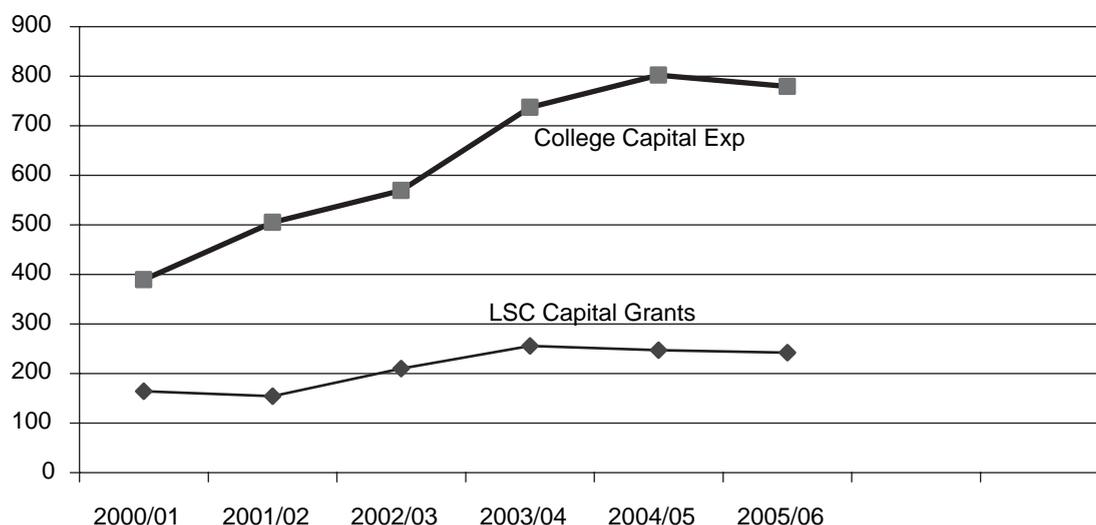
9. Colleges run their courses from more than 5,000 buildings and learning centres across England; their main buildings with large industry-standard facilities are major community assets. Smaller learning centres in remote locations are often one of the few accessible public services for over-16 learners. The college estate is a genuine asset to the nation. Over the years, the Government has been able to launch initiatives like Skills for Life and the 14-19 curriculum reforms confident in the existence of facilities across the country which could support expansion.

10. Over the last 13 years, colleges have transformed their buildings to make them fit for the twenty-first century. When colleges left local authority control in 1993, the state of their buildings was far from adequate. A national survey commissioned by the Further Education Funding Council (FEFC) from Hunter and Partners reported that a significant part of the college estate was unsuitable, that 20% of college buildings were unsafe and that available space was poorly used. The report costed necessary improvements at £800 million. The FEFC kick-started a capital programme that has been carried forward by college governors and managers in the years that followed. The achievements of this programme have been:

- the modernisation or renewal of more than 60% of college buildings, which started in the early years with the correction of health and safety issues;
- a 15% reduction in the space used by colleges at a time when full-time student numbers have increased;
- work to make college buildings accessible to those with disabilities;
- the wholesale redevelopment of many colleges, in some cases involving landmark buildings contributing to local regeneration. Good examples of this can be found in Southend (South East Essex College), Birmingham Eastside (Matthew Boulton College) and Manchester; and
- the use of the Centre of Vocational Excellence programme to renew and create work-related teaching facilities in colleges. Grimsby, Barnfield, Cambridge Colleges, Leeds College of Building and College of North West London are four examples of colleges who have used the CoVE initiative to upgrade their facilities and offer to employers.

11. College capital expenditure has been funded from a variety of sources. Government grants from the Learning and Skills Council have risen to more than £200 million a year. The LSC has paid an average grant of 35% towards project costs but the exact amount varies depending on other sources of finance. Colleges use borrowing, land sales and cash generated from their operations to fund the rest. Total capital expenditure doubled between 2001 and 2005 to more than £800 million. Borrowing plays a growing role in funding projects—a sign of the financial track record of colleges but also a source of greater risk. Perhaps significantly, the relatively small size of college rebuilding projects means that very few projects have involved public-private partnerships. Only one college in England has been rebuilt under a Private Finance Initiative contract. Many more involve partnerships and transactions with developers but the programme as a whole has been successfully managed by relatively small clients (the college) under the scrutiny of a national funding body (the LSC).

12. CHART: College capital expenditure and LSC capital grants (£ millions)



Figures up to 2005–06 are taken from consolidated college accounts

13. The transformation of the college estate contributed to a rise in participation, attendance, achievement and standards. Government funded research has proved a link between capital investment and higher success rates for individual colleges. More generally, the major college capital investment programme in the first half of the decade has coincided with a transformation in college performance. Success rates and inspection judgements have risen; high satisfaction levels have been maintained.

14. The FE capital programme has also had financial successes. Although it is difficult to be precise about the figures, there is clear evidence that colleges have reduced running costs by moving to new buildings. Colleges have financed projects from their own resources and from loans because of the confidence that new buildings will be cheaper to run and will generate more income. The LSC has been rigorous in requiring colleges to limit building costs to £1,000 per square metre and running costs to £30 per square metre. Projects have only been approved if they meet stringent investment appraisals.

ENCOURAGING SUSTAINABILITY

15. The college sector has a number of good examples of sustainable development in its capital programme. Walford and North Shropshire College uses biomass, solar power, geothermal sources and methane from its cattle herd to supply energy to its new £2.5 million Harris Centre. Somerset College of Arts and Technology's Genesis centre displays a number of sustainable construction techniques, which are being used to facilitate students' learning. Both colleges use their new buildings to showcase new technologies and facilitate research projects to students and businesses, for example in foundation degree courses. Bournemouth and Poole College is planning to take the same approach on a larger scale in the £60 million building that it is planning.

16. These are positive examples but several report that tight building cost limits and training space norms imposed by the LSC in the recent past required it to eliminate environmentally desirable features, for example solar panels and rainwater recycling. Up to now, the LSC approval process has focused on efficient, cost effective, construction. This has limited the scope for innovative design, though this is something that the LSC is seeking to change through the addition of 10% to its cost limits.

17. More generally, pressures placed on colleges to deliver financially-viable projects in an uncertain political and funding environment, inevitably pushes them to place a greater weight on short-term considerations. Although buildings are expected to last for 30–50 years, college governors and managers know that success or failure will be judged over a much shorter period—perhaps five years.

FURTHER INFORMATION

18. AoC would be pleased to arrange for the Committee to visit construction facilities at a College featured in this evidence or an alternative.

May 2007

Memorandum submitted by Association for Consultancy and Engineering

1. Construction is the UK's largest industry, employing over three million people on-site, in material supply, and in professional services. The industry is worth £100 billion each year and contributes almost 10% of UK GDP.

2. The consultancy and engineering sector comprises 10% of this total. The Association for Consultancy and Engineering (ACE) represents the business interests of the consultancy and engineering industry in the UK. We are the leading business association in this field, counting over 800 firms—large and small, operating across many different disciplines—as our members. Providing the professional services necessary to make construction a thriving industry, our members, through ACE, are in a unique position to comment on its health.

3. ACE welcomes the Trade and Industry Committee's inquiry and the opportunity it provides to highlight the importance of consultancy and engineering to the construction industry. There are a number of key issues that are affecting the competitiveness of this sector, and we hope this opportunity to make strong and aspirational recommendations to government is not missed.

KEY POINTS

4. The UK Government has to act to create and maintain the best possible business climate to allow UK industry to thrive. In the case of the UK construction industry, the following issues are key to achieving this:

- (a) ACE members are finding it increasingly difficult to recruit and retain graduates with skills in specialised areas across all engineering sectors. These specialisms will grow in importance and failing to fill these skills gaps now will be to the detriment of the UK economy in the future.
- (b) In the current economic climate, consultants and engineers are being overcharged for Professional Indemnity Insurance (PII). They are bearing the burden of a higher proportion of risk on construction projects than they should. The law needs to be amended on this issue to ensure liability is apportioned in a more equitable and proportionate manner.
- (c) Late payment of contracts and low fee levels across the industry significantly impinge on consultancy and engineering firms' productivity levels. Government needs to look at the guidelines that need to be put in place to ensure payment terms are fair.
- (d) The period of transition from British Standards to Eurocodes needs to be extended to allow the construction industry—especially the 100,000 engineers who need to retrain—to become familiar with the new regulations. The UK government should assist in implementing training schedules for this, which should include extending the implementation period.

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- (e) Public procurement processes put onerous demands on the construction industry as a whole. pre-qualification questionnaires and accreditation schemes require large amounts of resources to complete without any guarantees of work at the end.
 - (f) Sustainability needs to be ingrained into every aspect of the construction industry. Consultants and engineers are best placed to take the lead on this. Government should support consultancy and engineering firms in research and development to provide innovative solutions to sustainability questions.

RECRUITMENT AND RETENTION (SKILLS)

5. Skills shortages are an issue throughout the construction industry, whether for semi-skilled workers such as bricklayers and plumbers, or for graduate consultants and engineers. As the business association representing the interests of consultancy and engineering firms, ACE is particularly concerned with the latter of these areas. Our 2006 State of Business survey showed that three quarters of firms ranked internal resourcing and recruitment as one of their top five concerns. Of those with a turnover of over £10 million per year, nearly nine out of 10 firms faced issues in this area.

6. The shortage is exacerbated by UK engineers being targeted by overseas firms, the higher wages on offer in other professions, especially finance, and clients moving work in-house. The dubious practices carried out by some recruitment companies in recruiting engineers from consultancy firms leaves a lot to be desired.

7. This situation has been worsened by the recent removal of engineers from the list of professions allowed for UK work permits.

8. ACE would welcome the opportunity to give oral evidence to the committee on the key issue of recruitment and retention in the consultancy and engineering sector. We are currently undertaking an extensive survey with our members looking at skills shortages affecting the industry, including a comparison of the UK construction industry with other countries. The results will be ready in time for oral presentation to the committee.

PROFESSIONAL INDEMNITY INSURANCE

9. Excessive levels of Professional Indemnity Insurance (PII) have been highlighted as a top five concern by consultancy and engineering firms. The levels paid out, not just in terms of premiums but also excesses, will have an impact in terms of an organisation's profitability, and inevitably will have a knock-on effect in other areas of concern such as internal resourcing, recruitment, skills shortages as well as the level of fees.

10. These excessive premiums are due in part to a general hardening of the insurance market over a number of years. However, the current legal system is intensifying this difficult situation for consultants and engineers.

11. English common law does not recognise the doctrine of proportionate liability, instead recognising the rule of joint and several liability. Where a number of contractors, sub-contractors, consultants and other parties are engaged on a construction project, if loss or damage is suffered by the plaintiff, then, relative to the plaintiff, all the parties are individually liable for the full amount of any loss. The plaintiff can recover the full loss from any of those liable, irrespective of their share of the liability. This leads to a situation where insured consultants, for instance, are bearing the risk of the insolvency of others who may have been equally, if not more, responsible.

12. ACE conducted a survey in May 2005 on joint and several liability, revealing that it occurs in nearly a quarter of all cases against consultants and engineers. On average, liability in such cases is apportioned equally between contractors and consultants. However, this is unfair for consultants and engineers in two ways:

- The frequency which consultants are apportioned liability is higher than for contractors. This is not due to consultants being negligent in any way, but due to the higher likelihood of contractors becoming insolvent, leaving consultants to carry the full burden of the claim.
- Contractors invariably get paid a much higher proportion of the overall project value but, with consultants and contractors each carrying on average one-third of the liability, their liability as a percentage of their income is much smaller. Consultants are effectively being disproportionately disadvantaged.

13. In the formulation of its 2004 report on the case for reform, ACE sought the advice of Sir Michael Latham, author of the 1994 joint government/industry report *Constructing the Team*. Sir Michael advised that the peculiarities of the construction industry made proportionate liability a reasonable proposition, whereas in other areas it has been concluded not to be.

14. With the above in mind, ACE believes the Government should promote a bill to change the law on joint and several liability relating purely to the construction industry and specifically to commercial and public developments. This should include a full consideration of the rational statutory capping regime to alleviate the problems of disproportionate liability.

PAYMENT PRACTICES

15. Over the last few years, consultancy and engineering firms have highlighted a number of poor payment practices carried out by clients, both public and private. The major concerns include delays in payment and low fee levels.

16. Increasingly, clients are expecting consultancy and engineering firms to increase payment terms from 30 to 60 days. This move impacts on the profitability and competitiveness of such firms. ACE believes such an increase is unfair and unwarranted.

17. Further concerns stem from calls from clients and contractors to insert pay-when-certified clauses into contracts, whereby appropriate payments are triggered by the receipt of a certificate reflecting the work done. ACE believes there are no circumstances in which this is appropriate.

18. Pay-when-paid clauses are not beneficial to the construction industry, leading to more insolvencies than is necessary. The parties in direct contract with each other should bear the risk, and everyone in a supply chain should be expected to take the necessary steps to ensure the credit-worthiness of their own payers.

19. The payment framework should provide a mechanism for fair and adequate payment. The payee knows how much is to be paid and in what time period there needs to be certainty of payment. An adequate mechanism should be expressly required to include terms stating:

- what amounts constitute the payment under the contract;
- when a payment is to be assessed under the contract;
- how are the amounts to be determined;
- the period of time that should elapse from the point assessment of the payment is to be ascertained before the final date for payment; and
- what information is to be communicated between the parties (who provides what, to whom and in what level of detail during the process).

20. Low fee levels are affecting the entire consultancy and engineering sector. Increased responsibility from the introduction of such regulatory standards as BREEAM has increased the responsibility on their shoulders. This increase has not been met with an increase in fees, with many clients assuming these new responsibilities are included within the current contract framework.

21. Clients need to be better educated about the increased responsibilities of consultants and engineers and be prepared to raise fee levels in accordance with this increase.

REGULATORY FRAMEWORK

22. Firms will need to invest in training plans to ensure all aspects of the new Eurocodes are explained. Yet with so little time to educate its staff, by 2010 many engineers will still be unfamiliar with them. The industry will be exposed to the risk of design errors and structural failures.

23. This training will be a requirement for over 100,000 engineers employed in the construction industry in the UK. With no government assistance, the responsibility for integrating the largest ever code change into industry practice falls directly and heavily on individual companies. A study by the Institution of Structural Engineers (IStructE) estimates that each fee earning staff member will require 15 days to familiarise themselves with the codes. The UK Government should assist in implementing training schedules.

24. Compounding this will be the obvious loss of productivity the engineering sector will have to absorb. An industry already under great financial and staffing pressures can ill afford the intensive period of training that is required over the next three years. The IStructE estimates a 10% loss of productivity during this period. Extending the transition period will decrease the annual cost of training to engineering firms.

25. As a solution, we propose that each structural design code be reviewed by the relevant BSI committee and updated prior to 2010. These should then be allowed to run up to 2015. This would provide sufficient time for the industry to fully retrain and complete the switchover to Eurocodes with confidence.

PROCUREMENT PRACTICES

26. An ACE survey of UK consultancy and engineering firms shows that more than two thirds of all firms have been asked by clients to register with accreditation bodies.¹¹ Of these more than half have been asked to register with multiple schemes, with 12% being asked to register with four different accreditation agencies.

27. Companies being asked to sign up to four schemes can be paying more than £8,000 in fees. This could cost UK firms around £40 million. These figures take no account of the costs in terms of resource and lost revenue from fee earning work as each accreditation body is governed by its own rules and regulations and requires incremental effort for registration.

¹¹ Such bodies include ConstructionLine, LinkUp, Achilles, Exor and BiP.

28. The figures also take no account of non-third party accreditation schemes, such as those used by the Highways Agency and NHS Estates. The average financial investment for each firm accrediting with CAT 2 was £66,000, with an average of 259 man days being spent on gathering enough information for the accreditation to be possible.

29. The consultancy and engineering sector is an industry with resource shortages and working at a utilisation rate of 80%. Under these circumstances the costs of burdensome accreditation system combined with duplications in the pre-qualification stage, will inevitably pass to clients in the form of increased fees or reduced choice.

30. ACE recommends the implementation of a single accreditation body to which all public and quasi-public sector clients can refer. The role of this body should be extended to ensure a reduction in the number of questions which firms are required to complete at pre-qualification stage. ACE is happy to engage government in a dialogue on how such an accreditation body could be established.

SUSTAINABILITY

31. The construction industry will play an important role in the future development and implementation of the UK's sustainability strategy. Consultants and engineers provide a sensible, informed voice on sustainability issues. They are the key implementers of sustainable development policy in the construction industry.

32. Consultants and engineers believe there needs to be a ramp up in client buy-in to climate change issues. There is a growing enthusiasm across the UK in all sectors to engage with the sustainability agenda, but there is a lack of education on the understanding of what actions can and should be taken. Engineers do and will continue to play a critical role in improving this understanding.

33. Research and development is one of the main drivers of innovation in the construction industry, and will be key to meeting sustainability targets. However, despite this importance, a low level of investment is evident in construction R&D due to a lack of reporting of expenses and unawareness of the achievement of milestones. Government should prioritise and grandstand the construction industry as an exemplar of sustainable development in action, and support the industry to further develop sustainable products and processes, spurring on the industry to further improve its performance in this critical area.

34. Further to this, environmental policies need to be developed which allow the construction industry to use resources more efficiently. Incentives, such as reduction in stamp duty for domestic householders and businesses, should be provided to encourage them to improve the energy efficiency of their properties.

CONCLUSIONS

35. This inquiry is very timely, coming as it does at in a period of increasing workload for the construction industry across the UK. If they are to be delivered on time, planned major infrastructure developments—be they transport, buildings, energy, water, or the London 2012 Olympics—demand a strong and dynamic UK construction industry.

36. ACE believes work is required from government to ensure this demand is met. Without immediate action, there will not be a sufficient skills base available to UK consultancy and engineering firms. Without the development of new liability legislation for the construction industry there is the strong possibility of insolvencies amongst these same firms. And without an investigation of current payment and regulatory regimes, there will be continued imbalance at the heart of the UK construction industry.

37. ACE calls for government to make these necessary changes if the UK construction industry is to be able to meet its future challenges.

38. ACE hopes that government will make these changes. We believe they are necessary if the UK construction industry is to be able to meet its future challenges.

39. We welcome this opportunity to engage the select committee in dialogue and would be delighted to be involved in any of your future discussions. If there are further ways we can input into your deliberations we would be more than willing to assist.

40. As previously highlighted in this submission ACE would welcome the opportunity to meet with the committee to discuss how our sector can work with you and to share our thoughts on how we can continue to keep the UK construction industry ahead of the field in a competitive business environment.

Memorandum submitted by Bentley Systems

BENTLEY BACKGROUND

Bentley Systems are world-wide providers of IT technology for the planning, design and construction of capital infrastructure and its subsequent operation and management. Our clients include many of the World's major owner-operators of transportation, building and plant infrastructure.

Our personnel work closely with many of these organisations to deploy techniques and technology to improve the efficiency of their activities and have gained a great deal of experience and expertise that we believe would be valuable to the investigation.

PROCESS CHANGE

Our experience has shown that the risk of cost and time over-run so often experienced in the industry can be mitigated through enhancements to process and the deployment of technology commonplace in other industries such as manufacturing and aerospace.

In simple terms, this involves a holistic approach to any project involving all stakeholders and enabling efficient collaboration and communication through the management of project and asset data throughout the infrastructure lifecycle.

For many years, we have been working with private companies and national organisations who have introduced this approach with success, helping with the re-definition of the construction business process and supplying the technology that assists and supports such an aim.

We are very happy to share with you this international experience for the benefit of the UK industry.

BENTLEY'S UK INITIATIVES

For some time we have been working at the core of the UK construction industry, attempting to promote such a change. These activities include:

- We maintain close contacts with AVANTI (data and standards).
- We are active members of COMIT (mobile communications within construction).
- We have contributed to the re-writing of BS 1192 (construction standards).
- We have led the formation of a rail standards group (comprising Network Rail, Cross Rail, London Underground, Uniclass).
- We are currently consulting with ODA and LOCOG for applying a revised business workflow to Olympic 2012 projects.
- Our staff have been collaborating with the Institute of Civil Engineers on a white paper regarding efficiency (draft paper is enclosed).
- We will be giving a paper on how efficiencies of PPP road projects can be delivered. (Mitigating Construction Risk Within PPP Road Projects—London 21 May 2007).

This activity has given us a uniquely independent perspective on the issue that, we believe is of significant value.

In essence we believe the construction business process needs to change from acting and thinking as a series of discrete processes—to a model that thinks and acts in the best interest of the overall deliverable—which for example could be the provision of a transport link from A to B for 25 years.

When working with individual organisations (both public and private) we find that these concepts are readily accepted but are practiced in isolation; overall industry progress remains slow and compromised.

To move a national industry sector along this path, Government must take a greater lead in promotion of whole-life contract types and standards that support this we therefore strongly welcome a Government led coordinated approach that would enable all key parties who can make change happen to work together.

An indication of our views is given in the enclosed document "Return on Interoperability: the new ROI" (not printed). This was written by Bentley's COO Malcolm Walter.

In addition I have enclosed the content of a presentation about to be made at a conference which will be promoting efficiency within PPP Road projects. This presentation puts the case for a revision to the core contractual and working practices found in the construction industry today and discusses what is required to engender change (not printed).

Finally, I have already mentioned our close involvement with the Institute of Civil Engineers, I have enclosed a draft white paper that was co-authored by our personnel that is intended to stimulate discussion of the issues I raise above (not printed). The co-author of this is Phil Jackson of Bentley who together with Malcolm, would be able to provide you with deep industry experience from around the world. I have copied all supporting documents onto the enclosed CD.

May 2007

Memorandum submitted by Building Research Establishment (BRE), Building Services Research and Information Association (BSRIA), Construction Industry Research and Information Association (CIRIA), Timber Research and Innovation Association (TRADA), and The Concrete Society (CS)

1. Construction is a growing, vibrant business. It underpins most of our economic activity and makes a growing contribution, currently some £90 billion, (10%) towards GDP. For comparison, manufacturing as a whole contributes 16% towards GDP, defence only 4% and agriculture just 1%.

2. Recently a major driver for this growth has been the increase in public sector activities pivotal to government achieving its objectives in such areas as hospitals, schools, housing, transport, the Olympics and urban regeneration. Over 40% of government expenditure is now focussed on new construction and refurbishment.

3. Not only is expenditure and economic contribution high but so are the environmental costs and opportunities with, for example, buildings accounting for around 50% of total greenhouse gas emissions and production of materials accounting for a further 10%.

4. Much construction activity is “world class” and modern buildings are more comfortable and efficient, utilise more natural lighting, are better ventilated, more flexible, cheaper to heat (and cool) and use significantly less energy. In addition most of its basic materials are now well understood and, where appropriate, long lifetimes can often be achieved simultaneously with low maintenance costs.

5. Construction’s success is further witnessed by its substantial exports, some £10 billion per annum, arising particularly from the activities of constructors, engineers and architects who deliver stunning buildings and amazing infrastructure projects worldwide. Its design skills alone generated over £3.8 billion export income per annum through such projects as the Berlin Reichstag building, the man-made river project in Africa, the Denver Millennium and Tsing Ma bridges, Mei Foo station and Hong Kong International airport.

6. This standing and economic strength have not been achieved by chance. They have been achieved from the education and training of first class design and construction professionals underpinned by a substantial product manufacturing base and a skilled workforce. The leading technology edge and continuous improvement in what we do has been maintained primarily by innovative manufacturers and constructors and through a strong applied research and innovation base provided by a network of applied research and innovation organisations working collaboratively between government, industry and the universities.

7. Given the nature of the industry (fragmented, project driven, SME dominated, weak IPR protection, cost driven procurement and low barriers to entry) this applied research base has, for seventy five of the last 80 years, received significant government support. The market failures which led government in the UK to support “common good” applied research, innovation and related “change” activities are well understood, have not gone away, and are reflected in the research and innovation funding support almost all advanced societies provide to their construction related industries.

8. A more detailed analysis of why construction is different to other “industries”, in terms of R&I dynamics and investment is set out in Appendix 1 to this note. It is for these reasons that the industry has failed to gain significant benefit from the “Generic Research and Innovation” schemes funded by the DTI, it simply does not “fit” the prescribed standard model. It is this “lack of fit” which has led to almost all developed (and most developing) societies to develop specific support mechanisms for construction R&I.

9. Until 2001 the UK also provided such sector specific support (indeed it pioneered such intervention in the early 20th Century) which was instrumental to the success described above and which has led to strong centres of excellence at BRE, BSRIA, CIRIA, SCI, TRADA, CIBSE and others which have provided the standards, knowledge base, applied technology publications, guides and training that currently underpin much of what we do technically both nationally and internationally.

10. The need for such support was reviewed and confirmed by Sir John Fairclough in his 2002 government review. Whilst welcomed by government and industry, Sir John’s recommendations have not been implemented by government. No reason has been given for this, nor does anyone appear to take responsibility for the non-implementation.

11. Since the transfer of the Construction Directorate to the DTI in 2001 this long standing government support has now fallen away, not through a considered analysis of the issues, but rather ‘down the cracks’ between government departments.

12. The construction related applied science technological and sustainability issues we face as a society are immense and the need to deliver real value in schools, hospitals, housing, infrastructure and transport whilst minimising carbon emissions (for which the built environment is responsible for over half) are pressing. However, new knowledge needs to be continuously created to address new market, social and political demands and utilise new materials and technologies, for instance:

- How to combine whole life costing with environmental impacts?
- Does “micro generation” via small scale wind turbines use more carbon in its manufacture than it generates in its lifetime?
- How to design shared occupancy (eg old persons) housing to allow doors to be left open without causing a fire risk?
- How do we get to zero carbon buildings in just 10 years?
- Do “low/very low energy cements” work as well as traditional products?
- How to ventilate schools properly and yet achieve acceptable acoustic performance with low mass structures?
- How to design hospitals to minimise cross infection and make cleaning easy?
- How to reduce waste and landfill?
- What can we learn from world wide research and innovation?
- How to make buildings and the environments around buildings more secure?
- How to economically bring our stock up to date to meet the carbon challenge?
- Can we agree “standard” component interfaces to open up the market for MMC?
- How to import less timber and make better use of UK resources?

etc etc

13. Given the industry dynamics (see Appendix 1) a company gaining advanced knowledge and capability in these subjects cannot generally capitalise on that knowledge in terms of higher prices or greater market share. That being the case industry will not step forward and outright fund research and Innovation in these areas, they rightly see that as a “common good” applied science activity for government to fund. What they have shown time and again however is that they will generously support such research with time, expertise and materials.

14. Following the demise of the long term government/industry collaborative R&I programmes, work on providing solutions to these questions is now at best academically biased and patchy rather than focussed on applied science and practical tools and solutions developed with industry wide collaboration. There is no obvious market driver to provide this knowledge and we are, through lack of new knowledge and under utilisation of existing knowledge, embarked on building a generation of assets with poor sustainability characteristics which we will have to live in and with for many years to come.

15. Whilst there is awareness within government, and in some areas agreement as to the problem, there does not appear to be the political or administrative will (possibly because the issue is not “sexy” or “immediate” and no one department of government “owns” the issue) to address the issue on a pan-governmental basis.

16. The consequences of this policy “oversight” have been dire, as exemplified by the breakdown in knowledge flow to the industry to allow it to confidently take advantage of new techniques and technologies.

17. The following table prepared by the industry RTO’s (Research and Technology Organisations) makes the scale of the collapse clear:

	<i>Titles</i>	<i>Typical new titles per year 2000–05</i>	<i>New titles 2006</i>
BSRIA	186	21	2
Concrete Society	69	9	5
CIRIA	450	35	15
TRADA	119	21	16
BRE	1,276	87	25
Total	2,100	173	63

In presenting these numbers one should emphasise that whilst on the face of it the decline is from 173 to 63 new titles per year (a decline of 63%) the underlying situation is somewhat worse as a much larger proportion than hitherto of the “new” titles are now just makeovers/updates of older documents. The increased flow of research funding to the universities does not impact on these figures as it is not their role to, and they do not, produce “applied science” based guidance documents for industry.

It is important to appreciate that, as a general rule, technical publication is not in itself a commercially viable enterprise if the cost of the research is included in the budget.

18. This then is a “slow” crisis in which, over time, this fragmented industry will lose access to up to date knowledge and thus it’s ability to improve and remain competitive internationally. Given the size of the sector, its related VFM issues for government as a client and its underpinning role in UK plc’s infrastructure, it is clearly important that Government considers the consequences of its (accidental?) withdrawal of support for this type of activity. If the competitive and sustainability consequences are serious—and we have demonstrated that they are, then they must be addressed, however difficult that might be given the lack any government department willing to accept responsibility or Minister ready and able to address the issues on the behalf of government as a whole.

19. The sums required to help fund this sort of “public good/industry sponsorship” research have been very modest (£23 million in 2002) in the context of the size of our industry when compared to the support given to other sectors (such as agriculture at *circa* £240 million per annum through DEFRA and the £200 million per annum available to “high tech” industries through the DTI innovation support programme). There are appropriate (that is generated through construction activities) internal government funding streams, such as the carbon tax, aggregates levy and landfill tax credits, some of which could be used for this rather than other purposes, without additional taxation.

20. This is not a matter of additional spending, it is simply a matter of intelligent, joined-up government.

APPENDIX 1

RESEARCH AND INNOVATION IN THE CONSTRUCTION INDUSTRY

21. Government’s (ie DTI’s) generic assumptions regarding R&I mechanisms do not work well in the context of construction, which is fundamentally different from manufacturing in the following ways:

<i>Construction</i>	<i>Manufacturing</i>
Delivers contracts.	Makes products and ships them.
One off designs for one client.	Generic design.
Contractors, sub-contractors and sites.	Fixed production/assembly lines.
Application specific.	Generic products—application specific rare.
Location driven solutions/requirements.	Minor variants for export markets.
Local.	International.
Profit = target profit—(actual costs—estimated costs) + savings on specification + contract variations +/- litigation.	Profit = price—cost of manufacture—cost of sales.
Innovation—process or new materials/products; market pull usually a weak driver.	Innovation—incremental or substitution; market pull often a powerful driver.
Marketing based on planning permissions, experience and risk averse clients.	Marketing based on classic four Ps (product, price, place, promotion).
PI insurance (contract very rare).	Product liability insurance.
Building Regulations, CDM, H&S at work, “Standards”.	Product safety, H&S at work.
Itinerant labour force.	Static labour force.

22. All differences affect the R&I landscape, but in particular:

- All construction activity is “project” rather than “product” based. Disparate teams come together for the duration of a project and often do not work together again. For technological progress to be made in such a changing environment teams need clear, reliable, independent, freely available advice on the “how” and the “what” if they are to confidently integrate new technology into the end product.
- Construction is a high risk endeavour where the potential liabilities greatly exceed the profits enjoyed by the partners. Litigation/claims are rife in our industry. Designers and constructors are generally unable to trial prototypes and may never have designed nor built a similar end product previously. In such an environment insurance is very expensive and there is a natural conservatism regarding the use of the “new and untried”.
- Unlike in manufacturing, “first mover advantage” is minimal as IPR is difficult to protect and little capital or time is required to copy another’s improved processes, technological integration etc. Most contractors who tried the technology driven “first mover advantage” approach to growing their turnover and profits over the last 20 years have now given up doing so.
- Clients, unsurprisingly, prefer certainty to experimentation. Indeed, their first question is often “how much insurance do you have?”.

-
- There is only weak linkage between the universities (deliverers of basic research) and industry. Industry requires “applied outputs” from trusted intermediaries that they can readily use to make progress whilst defraying their risk. We are unaware of any such “applied guidance” emanating from the universities.

23. These are the fundamental reasons why the construction industry does little company based R&I. However, in the context set out above and for reasons based on a sense of shared social/sectoral responsibility, in the past the industry has often been an active contributor to shared R&I actions within a sector or grouping.

24. The reasons set out above also explain why the construction Research and Technology Organisations (RTO’s) exist in the form that they do and why governments around the world generally have special applied science support arrangements for construction.

30 April 2007

Supplementary evidence from the Building Research Establishment (BRE)

THE CRISIS IN CONSTRUCTION R & I

The issue

Construction differs from Manufacture. It delivers one-off bespoke designs using borrowed capital through one-off teams of multiple designers and contractors into local conditions using an itinerant work force. The risk of adopting innovation is high and the ability to protect innovation is low.

Consequently, other than in the product manufacturing part of the construction supply chain, the usual commercial drivers which result in businesses investing in R&I are missing or very weak. This is clear from UK construction’s R&I investment performance (only 0.05% of turnover) which, in turn, is mirrored around much of the world.

This “market failure” in R&I expenditure has been understood and recognised worldwide for over fifty years and has led to most advanced societies collectively investing in applied construction R&I “for the competitiveness of the industry and society as a whole”. These days, such “industry improvement funding” is usually in the form of government co-funding with industry against a stakeholder led agenda.

From 1926 to 2004 the UK government co-funded such a programme with industry. In 2002 the value of that support was about £23 million per annum. Much of this supported the maintenance of the “knowledge economy” function of construction consultancy which has net exports of £3.8 billion per annum (2003).

In 2004 the programme was terminated by the DTI without industry consultation and in direct contradiction to the recommendations contained its own *Fairclough Review* that “such support should continue at at least the current level”. Although the Review was welcomed by Ministers and Government, who have since recognised the value of Fairclough’s conclusions, no Department of Government has taken “ownership” or action. The UK is now almost alone in advanced societies in not addressing the chronic market failure leading to low investment in construction R&I.

The present funding mechanisms focussed on “advanced technology”, at both National and EU level, whilst welcome and necessary, do not support the continued development of the UK’s sophisticated “construction knowledge supply chain” involving the universities (basic research) and industry based applied research and technology. This is evidenced by the collapse in provision of new technical standards and guidance.

The Consequences

Our ability to implement technological and process innovation is being compromised and with it our ability to export these skills. Whilst the industry has previously displayed a strong willingness to contribute time and effort to work in partnership with Government on these issues it is unable to fund them itself as there is no commercial advantage to any individual business in doing so.

This is a “slow crisis”, unnoticed by most, whereby a critical part of the UK’s competitive position and delivery capacity is being steadily undermined. The cracks and consequences are already appearing. In a time of rapid change and unprecedented demand for more product with greater sustainability, we are:

- no longer monitoring the performance of new technologies and techniques so as learn what works and what does not;
- no longer translating university research into “applied advice” for industry;
- absent from international *fora* and are no longer learning internationally;
- increasingly basing “government policy” on focus group “opinion” and not science;
- ceding almost all of our influence within Europe in standards making;

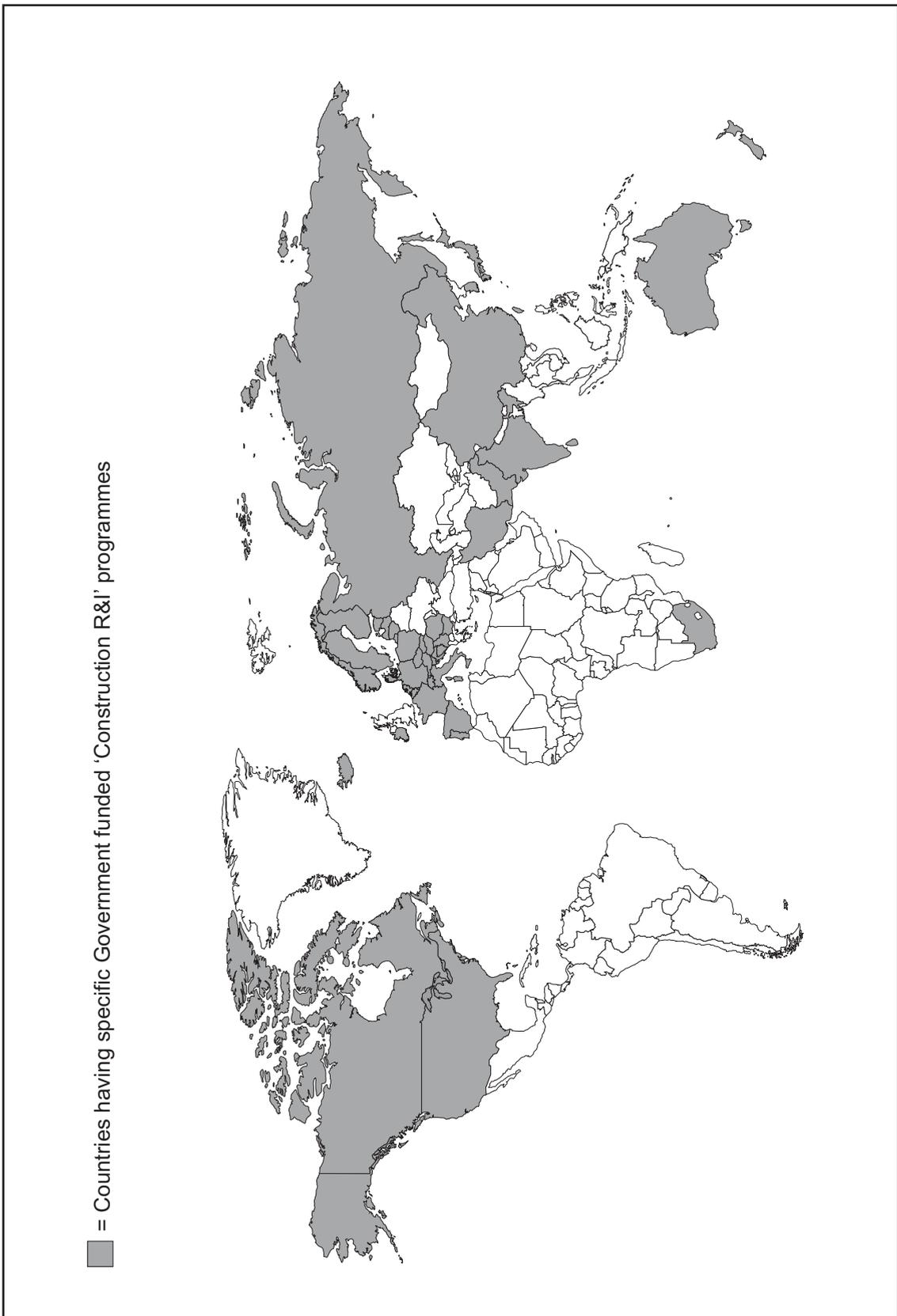
-
- not providing sufficient generic guidance on the proper selection and deployment of new techniques and technologies; and
 - wasting public money on sub-standard buildings (including hospitals and schools) at an alarming rate.

The solution

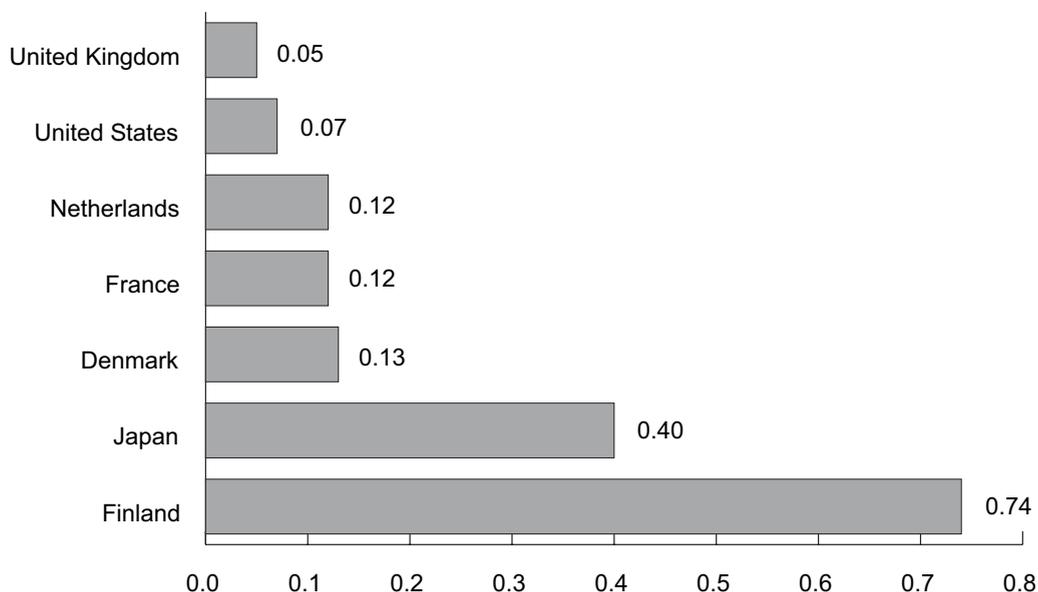
Given its size, commercial importance and role in the reduction of environmental impact and global warming, Construction needs a single, more focussed, properly funded and influential voice within government.

Specifically we need to re-energise the R&I partnership between Government (both as client and in the national interest) and the wider industry. R&I funding is available, without additional taxation, by use of a small proportion of Landfill Tax Credits, Carbon Levy and Aggregates Levy. Much of this funding arises directly from the construction industry and its product but it is currently being spent through multiple agencies, without those agencies having any joined up remit, or indeed any remit at all, for construction industry improvement.

Supplementary evidence from the Building Research Establishment



R&D Expenditure as % of Value Added



Source: OECD

Memorandum submitted by the Building Services Research and Information Association (BSRIA)

INTRODUCTION TO BSRIA

BSRIA is a private sector, non-profit distributing Association of some 650 member companies. It primarily serves the technical and information needs of the specialist engineering disciplines covering heating, ventilation, air-conditioning and many other aspects of comfort in the built environment.

BSRIA is primarily funded through private sector consultancy and trading activities and has a turnover approaching £10 million per annum.

This response has concentrated on delivering evidence to the committee on three of the nominated topics:

1. Construction sector performance (specifically key performance indicators and productivity).
2. Encouraging sustainability (specifically the role of BREEAM, the role of the energy utilities, ways to improve the performance of new and existing buildings, and government policy on renewable forms of energy).
3. Construction research and development.

Key conclusions and recommendations are highlighted in **bold text**.

1. *Construction sector performance—key performance indicators*

1. BSRIA carries out on-going research into the performance of the UK building services industry on behalf of the DTI. The headline key performance indicators (KPIs) include data on delivery of design, installation and service, reduction of defects, and predictability of time and cost. Metrics on productivity and safety are also obtained.

2. The 2006 KPIs revealed a trend away from procurement on a lowest price basis (31% in 2001 to 16% in 2006) and greater evidence of negotiated contracts (from 22% in 2001 to 36% in 2006). This reflects the government’s desire to see a greater emphasis on quality rather than lowest price.

3. However, price remains the dominant selection criterion in 64% of cases. In 2006, 48% of clients selected a building services contractor on a price or quality basis. This suggests that price remains the dominant selection criterion.

4. Even so, BSRIA has clear evidence that levels of client satisfaction with service in projects procured on a price-only basis are far compared with those that are negotiated.

5. The prevailing practice of selecting on lowest price militates against the government's commitment to carbon-dioxide reduction strategies and life-cycle costing. A constrained capital budget cannot easily accommodate the additional design effort and/or carbon-dioxide reduction technology that is required, such as solar power or greywater recovery. It is also very common for capital items that are considered non-critical, such as computerised controls, to be sacrificed on grounds of cost, when other advanced technologies in the building depend upon them. Hence procurement on the lowest price presents a major barrier to the government's ambitions for new buildings to become carbon-neutral.

6. Despite the efforts in the 1990s by Sir Michael Latham and Sir John Egan to eradicate the retentions and pay-when-paid, these practices are still rife in the UK building services industry. Such financial malpractice is damaging. It creates instability in the sector by compromising performance, growth, efficiency and employment.

7. The 2006 KPI data reveal that 82% of clients had assigned retentions. In 2005, only 7% of building services contractors reported satisfaction scores of eight or more with respect to retentions. 37% of building services contractors awarded a score of just one out of 10—the worst possible score for satisfaction with timely release of retention monies. Note that retention monies are very difficult to collect. Clients very rarely pay retention money voluntarily. It has to be continually chased, which wastes time and money and diverts effort. It also contributes to adversarial relationships.

8. BSRIA believes that the practice of assigning retentions is unfair and a financial burden that harms the industry and frustrates progress. Constructing Excellence and Accelerating Change challenged the industry to get closer to construction clients, to benchmark performance, and to raise standards. BSRIA believes that clients must improve payment terms to consequently improve the performance of the UK construction industry. If clients are unwilling to do this voluntarily, then the government should consider additional legislation and punitive measures for non-compliance.

2. Construction sector performance—site productivity

9. The issue of site productivity was the subject of centrally-funded speculative research first commissioned in the early 1990's through a programme then managed by the Department of the Environment. The establishment of baseline data and more importantly a pool of appropriate expertise has been the basis of the more active interest in this subject in the latter decade.

10. BSRIA estimates that 20% of the average working day on a UK building site is lost solely due workforce organisation issues. This is a £6 billion per year problem for the UK construction industry. BSRIA research has shown that modern methods of construction can produce build rates that are more than 10 times quicker than traditional techniques. Constructing Excellence data also shows that three out of 10 projects have unsatisfactory quality standards at handover.

11. The government needs to do more to support integrated logistics initiatives that will reduce the number of vehicle movements to and from construction projects, and help improve the certainty of material delivery and distribution on site.

12. Data from the Health and Safety Executive shows that health and safety performance in the construction industry is not improving. After a number of years of improvement, the accident statistics for construction are now getting worse. Provisional figures announced in April 2007 show fatalities for 2006–07 at 78, up from 59 in 2005–06.

13. The government should use existing independent research on construction project performance to challenge project costs, project programmes, safety and quality in public sector supply chains. The government should then use the independent organisations behind this research to work with its construction supply chain to help apply key recommendations, study project performance and help to improve industry practices.

14. The construction industry has an ageing workforce. Many workers are leaving the industry, while an inadequate quantity of young people with the right skills is entering. This applies to professional personnel as well as site workers.

15. BSRIA believes that the government should support initiatives to integrate good quality non-UK workers into the industry. This will involve selecting people with the right skills, helping them clearly understand the safety, quality and technical standards required on UK projects, supporting their development of the skills outlined above, and assisting them with English language development. The withdrawal of funding of English courses for non-English speaking workers must be reversed, as this is a vital mechanism for improving the productivity of a UK construction industry increasingly dependent on migrant labour.

16. Government should instigate an R&D programme to fully identify the scope for improvements in site productivity, focusing on the nature of delays measuring the performance of the UK construction industry independently and properly, covering: safety, quality, productivity and environmental actions.

17. Conventional thinking requires that desired capacity is met through the creation of additional labour resources through training. However, additional capacity can be released for productive work simply by removing the present inefficiencies of current working—even without the added benefits from offsite manufacture. To do this however, requires a re-orientation of resources from conventional trade skills support to a more focused development of higher-level skills. This is outside the target zones of Sector Skills.

18. Government needs to develop integration skills to cross the traditional (institutional) boundaries of architecture, mechanical and structural design and contracting. It is the elimination of waste at these interfaces that will release time and resources in construction activities. This will challenge current models of higher education courses, which are usually accredited by the institutions themselves.

3. *Encouraging sustainability*

19. BSRIA believes that the design and construction industry is committed to improving the environmental performance of new and refurbished buildings. However, more needs to be done to ensure that measures to improve sustainability are delivering the expected benefits. In particular, BSRIA believes that government policy has focused too much on technology, and not enough on ensuring that buildings are designed to easy to operate, manage and maintain after handover, with systems that can default to off, rather than default to on.

20. BSRIA is concerned that there is a widespread failure to meet targets for sustainable construction and refurbishment. In many cases, claims of low energy, sustainable performance—particularly through the application of renewables technologies—are not being borne out in practice. Such technology is leading to difficulties in management and maintenance, particularly where there is insufficient expertise in the end-user organisation to manage the technology. BSRIA believes that complicated engineering solutions should be a choice of last resort. Much more should be achieved through passive design, such as increased insulation, daylighting, and earth-coupled ventilation, before designers reach for innovative, risky and complex technologies.

21. Hence BSRIA believes that the renewable energy obligations, required and enforced by local authorities, should be re-defined and made more flexible. Government policy should not force building designers to specify renewables in contexts where they are not appropriate, and particularly not in cases where the budget could be more effectively spent on simpler, more robust (and preferably passive) carbon-dioxide reduction measures that will have a greater chance of success.

22. BSRIA strongly supports the findings in the recent NAO report *Building for the Future: Sustainable Construction and Refurbishment on the Government Estate*, specifically those comments relating to the practice of relying on BREEAM ratings as a proxy for actual improvements in a building's environmental performance. BSRIA also agrees that government departments should conduct post-occupancy evaluations to assess whether completed construction and refurbishment projects have delivered the specified level of performance.

23. Given that very few public domain, independent and detailed post-occupancy studies of buildings have been carried out since 2001, BSRIA is concerned that the construction design community is still failing to close the loop between aspiration and reality. The majority of post-occupation studies regularly reveal energy consumption (and thereby carbon dioxide emissions) in excess of the design target. Occupant satisfaction with thermal comfort, lighting, indoor air quality, noise, and health are also often lower than the designers anticipate. A recent DFES investigation into the performance of recent ostensibly sustainable schools shows that energy use in new schools is rising despite attempts to reduce it.

24. In some cases, POE studies reveal that some new buildings are performing much better than the typical building stock. However, the reasons for this improved performance needs to be highlighted and communicated to the construction community and its clients to enable good practice to be replicated.

25. BSRIA therefore believes that government should do more to support the use of design assessment and feedback tools. The last proper research into building performance (that strongly influenced the development of airtightness regulations in the UK, and popularised post-occupancy evaluation and feedback) was the DTI-funded PROBE studies (Post-occupancy Review Of Buildings and their Engineering) carried out in the late 1990s. This research work urgently requires updating. Much post-occupancy is not in the public domain, and where it is, it is often not independently verified, does not use benchmarked methods of assessment, and is of varying quality.

26. As a matter of urgency, BSRIA believes that the government should commission a new investigation into the in-use performance of a range of building types using the same robust methods of energy assessment and occupant satisfaction surveys as applied in the original PROBE studies.

27. BSRIA also believes that far more should be done to ensure that buildings are subject to proper commissioning and fine-tuning in the early stages of occupation. It is a chronic shortcoming in UK construction that clients inherit poorly commissioned buildings. These buildings are often handed over to their users in a perfunctory manner, with the minimum of familiarisation training and professional aftercare. Rarely is enough time given to fine-tuning the building for the occupiers' needs. Education in the use of complex systems such as lighting controls and building energy management systems is also lacking.

28. BSRIA strongly supports moves by various industry bodies, such as the UK Green Building Council and the Usable Buildings Trust, for at least 1% of the contract value to be set aside for a “soft landings” approach to handover. This should include post-occupancy analysis, fine-tuning and energy labelling during the first two years of occupation.

29. A Soft Landings process should set out the expectations for a project in a way that can be checked and verified afterwards. Being explicit about the expectations also enables a building's design to be reality-checked as the design progresses. Changes can be reflected in a project's targets in a way that is visible to all. Soft Landings should also include a plan for the occupant migration process from an existing building to a new building in a way that occupiers understand what they are going to get, for example in terms of comfort conditions and controls interfaces. The handover and fine-tuning period should then be followed up by a period of professional aftercare by the designers for at least the first year. This should include energy assessments and occupant surveys to check that assumptions are being followed achieved in reality.

30. **BSRIA believes that Government should take the lead and introduce a Soft Landings policy for all public sector procurement, to the extent that it has championed the environmental assessment method, BREEAM. BSRIA also believes that government should set aside research funding to create a robust suite of tools and procedures to enable this to happen. This would lend strong support to forthcoming legislation on energy certification for public sector buildings. This should also become mandatory in PFI and PPP procedures. (Note that this will require an improved service from the energy utilities as discussed in paragraphs 33 and 34).**

31. BSRIA believes that government should be doing more to place an obligation on energy suppliers to deliver accurate energy consumption data. The onus is on the consumer to force the utility to deliver accurate energy readings, rather than on the utility. When an actual reading reveals overpayment, the utility automatically issues a credit note rather than refunding the consumer, enabling the utility to earn interest on the overpayment at the expense of the consumer.

32. The practice of estimated readings rewards over-billing and hampers attempts at managing energy efficiency. For example, the energy savings of using compact fluorescent lamps rather than traditional light bulbs can be swamped by variations in the estimated reading. Consumers will not know whether they are benefiting or not. This makes budgeting difficult, and cost-benefit analysis highly inaccurate.

33. There is a sound argument for requiring improved information attached to utilities billing that allows users to evaluate their own energy and consumption in relation to wider benchmarks. This is analogous to the requirements imposed on credit card companies to display interest rates and charges in a standard form. Historical normalised trending and use of comparative benchmarks could greatly assist in this process.

34. As part of the above process there should be pressure for utilities to adopt technologies permitting actual meter readings as opposed to the current practice of relying on estimated readings. Smart metering should become the norm for new build and meter replacement.

4. *Construction research and development (R&D)*

35. Construction R&D is frequently considered as being disconnected from the conventional description of capacity in the construction process. In reality, the presence of a vibrant, sustained and well-managed long-term R&D base is a principal means of developing high-level skills needed to meet emerging markets. It encourages transfer of skills from other industries, and provides a steady stream of well-rounded and engineering thinking and process skills into industry. It also up-skills staff in private companies through collaborative projects.

36. There are abundant examples of this in practice. In the early 1980's the post of Energy Manager emerged from the availability of skills from the public utilities and Department of Energy-funded R&D that preceded the energy crisis in the late 1970's. Latterly, the inclusion of airtightness in Part L of the Building Regulations has been possible on a large scale due to R&D activity that began in the early 1970s. Without research-derived skills, it is unlikely that capacity would have existed to meet the short timescales demanded by legislators.

37. BSRIA would encourage the inquiry to reconsider the findings of the report undertaken by Sir John Fairclough: *Rethinking Construction Innovation & Research*, commissioned by DTI and published in February 2002. Although much of the R&D capacity analysis in Annex C is now significantly overstated (due to the withdrawal of sector-based funding schemes), the main conclusions and supporting arguments remain sound and achievable. Acting upon them would also add substantially to both the efficiency and sustainability of the supply side of construction.

38. Unlike much R&D that supports the development of new technologies and products, R&D in the construction sector frequently supports open processes that are used within changing project teams. This R&D therefore has little opportunity to develop intellectual property that can be used to generate revenue to support further R&D.

39. Historically, much of this effort was carried out within former nationalised industries (for example, CEGB, British Gas,) as well as the central government procurement agencies such as NHS Estates, Property Services Agencies and the former government laboratories such as BRE and TRL. These latter agencies were particularly important in providing evidence-based research underpinning legislation.

40. All these mechanisms have now been dismantled in favour of reliance on the private sector funding R&D against additional grant aid through the DTI innovation products. New investment in technology-based R&D is now almost exclusively carried out in university research departments. However, this does not benefit the open protocol knowledge, nor does it support the standards-making activities referred to earlier.

41. Welcome though the new DTI innovation funding programmes are, they may not be ideally matched to the new sustainability challenges that face those that supply goods and services through the construction industry's supply chain.

42. BSRIA understands that government wishes to use the necessarily limited innovation funding to create new products and services that can increase productivity and national competitiveness. To this end BSRIA applauds the reduction in the number and complexity of support schemes.

43. Unlike much of UK industry (though not uniquely), the construction sector has no significant market leaders able to create a dominant pull on reforming technologies or processes. The largest company in construction (Balfour Beatty) has less than a 3.5% market share. It is also very much a project-driven industry rather than a serial manufacturer.

44. The current DTI support products have, at their root, the premise that a single company can take direct benefit from IPR exploitation (and development) from a partner. It has difficulty in recognising the benefits that can flow from advances that create advantage for a large number of players, none of which could, or should, be exploited exclusively for individual gain. The development of standards on collaborative working is an example.

45. BSRIA recognises that there are many single-issue NGOs that address some of the areas covered above. Carbon Trust, WRAP, EST and CABE for example, all derive funds from the public purse in some form, but do not have a mandate to drive the wider sustainability agenda as it affects construction.

46. Elsewhere in Europe it is the norm for construction R&D supporting strategic initiatives to be seen as a national asset both to ensure internal cost efficiencies and to place national companies at a trading advantage, particularly for exports. For example Denmark is now an acknowledged leader in the supply of wind turbine technology where this has been derived from a combination of R&D, home market transformation process and legislative activity.

47. Within the European context, the UK National Platform has been established to represent UK interests. It is unique in publishing a national strategic programme. However, unlike most mainland European countries, the UK does not have a national construction research programme through which large-scale projects can be quickly formulated. It is a lack of extant national projects (with their associated networks) that makes access to the large scale EU funding possible. Based on the ECTP meeting held in January this year, it was clear that the UK is poorly prepared in comparison to others.

48. In order to make the National Platform have any value it is necessary for it to have some vehicle by which it can turn good intent into action. We believe that a newly formulated DTI funding product, designed from the outset to be directed at truly collaborative demonstration and deployment projects, would both provide the means to satisfy this need for construction as well as other sectors of industry.

49. The levels of funding required to have a profound effect are not large in comparison to sums expended overall, and indeed could quite properly be derived from some form of top-slicing from existing programmes such as those mentioned earlier. Since much of the revenue is already derived from construction-based work (for example, from landfill tax, which takes approximately half its funds from construction waste), this would go some way to restoring equity of application.

May 2007

Supplementary memorandum submitted by the Building Services Research and Information Association (BSRIA)

I am grateful for the opportunity afforded to the Research Community to put evidence to the Committee at the meeting held on 4 December. During the meeting a number of documents were offered to support the arguments put forward and I promised to supply the committee with references to those that were easily available and copies of those less easy to obtain. To summarise our case:

Due to the long-term reduction of government agencies with expertise in the public estate (Property Services Agency, NHS Estates, Building Research Establishment) and the now extinct programme of collaborative funding of incremental R&D that partly acted in the absence of these agencies then there is little understanding or collective knowledge of how innovation in construction is actually contributing to performance.

A renewed focus on the performance of existing government building assets would not only bring direct savings to the public purse but would have great value to the remaining construction community. We have proposed that this focus could helpfully be administered through the Office of Government Commerce who as part of their role are best-placed to provide evidence-based advice to procuring departments. Mechanisms to fund this from taxes already derived from the construction industry were suggested. To put the proposal into context with a government spend on estate valued at over £40 billion per annum a 1% improvement in performance would yield £400 million of savings or increased output. The papers used to support this position are given below.

To help assimilate the information I have enclosed an abridged list of the questions asked of us and an annotated numbered reference.

1. *What is it about UK construction that leads to such small R&D spends?*

I refer you to *Bridging the gap between environmental necessity and economic opportunity* DTI November 2006 DTI/Pub 8442/2.5K/11/06.

Page 13 shows the discontinuity between government support for the “R&D” phase and the risk to business in implementing new technologies. Construction has a similar profile to Environmental products market and has similar risks. P12 in the penultimate paragraph says “It is the lack of credible articulated demand that is at the root of the relative failure of innovation in the UK environmental goods and services sector not the lack of any research, invention or innovative aspirations”. We would argue this is also true for construction.

We also made reference to the report prepared by Sir John Fairclough *Rethinking Construction Innovation and Research* February 2002. DTI/Pub 5878/1.6k/02/02/NP.

2. *What work is being done to capture “hidden innovation”*

I refer you to *Hidden innovation* Research Report June 2007, NESTA.

<http://www.nesta.org.uk/assets/pdf/hidden—innovation—report—NESTA.pdf>

Section 2.5 notes “The accumulated impact of incremental innovation may be significant . . . Yet these innovations are far more difficult to capture because the projects . . . are typically much smaller, more specific and far less visible than flagships . . . such as terminal 5.

3. *How much co-funding is currently being received by the construction Industry?*

I referred to the House of Lords Select Committee on Science & Technology second report Chapter 11 Table 3.

www.publications.parliament.uk/pa/ld200506/ldselect/ldsctech/21/2114.htm

The data supplied was in response to a written question. No similar data is available for years following 2005 since it is not analysed for public record in this way. We do note the recommendation of the Committee stated in 11.25 and regret that it has not been heeded.

4. *Can we provide specific examples of what has been lost due to failing support levels?*

- (a) I would cite a recent judgement made against the DCLG for failure to adequately communicate with industry.

ACTIS Vs DCLG. 2 November 2007.

<http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2007/2417.html&query=ACTIS&method=boolean>

This case revolved around a disputed test method for assessing the insulation value of particular products. Hastily bought-in consultancy failed to address commercial issues and DCLG were found wanting in developing building regulations (Part L). By common consent had a co-funding programme been available this would have enabled DCLG to brigade the industry to work together to find a suitable technical solution prior to the need to embody this in legislation.

- (b) BSRIA published *Design Checks for HVAC* (copy enclosed) in 2002 with support from DTI co-funding together with 18 collaborative industry partners. This work is noted in DTI’s *The Construction Research Programme—Project Showcase* February 2007 DTI/Pub 8495/02/07/2k.

This document is now “wearing out” as new technology is employed in buildings. The business model of selling the book at a typical price of £50 per copy does not cover the costs of research, peer review, printing and distribution.

5. *Long-term implications of failing to maintain an adequate publication supply*

We referred to Lord Sainsbury’s report *to the Top* October 2007.

<http://www.hm-treasury.gov.uk/media/5/E/sainsbury—review051007.pdf>

Page 4, last para states “Trends in publicly funded R&D show there has been a steady increase in the amount spent by Research Councils but a steady decline in government department funding of R&D . . . This is of concern for the quality of our public policy making and the stimulation of innovation in the companies with which our government departments interact.”

Additional data now available illustrates this problem very well. Department of Health data shows that present R&D spending on estate related issues is currently only around £300k pa. This should be viewed in relation to an annual building related spend variously estimated to be £4 billion per annum.

In addition to the evidence given on 4 December I have enclosed a set of letters from leading industrial companies operating in the HVAC sector expressing their concerns about the loss of co-funding. These letters were prepared prior to the announcement of the inquiry but remain as valid now as they did then.

6. *Can we expand on the “single government voice” proposal?*

We referred to the NAO report *Building for the future: Sustainable construction and refurbishment of the Government estate*. 16 April 2007.

<http://www.nao.org.uk/publications/nao—reports/06-07/0607324.pdf>

The Key findings (4) refers to “. . . barriers hindering progress . . . in particular . . . the fragmentation of policy responsibility. Under recommendations it suggests, “establish a source of expertise available to all departments . . .”

Page 6, bullet 2 specifically refers to the need for post occupancy reviews.

7. *Can you explain what is meant by Soft Landings?*

A short paper covering this topic is enclosed.

I hope that this somewhat long list of references is helpful. If you should need any further assistance then please do not hesitate to contact me and I will ensure that every assistance will be given to help.

11 December 2007

Annex

SOFT LANDINGS—A SHORT DESCRIPTION, ANDREW EASTWELL, CEO BSRIA LTD

What do we mean by Soft Landings?

Soft Landings aims to help deliver buildings that achieve a closer match between the expectations of the client and end-users and the aspirations of the design team.

The term Soft Landings was coined as an antidote to the rushed, often incomplete and sudden handover of a building project to the client. The design and construct team usually disband soon after, leaving the new building owner to survive as best they can in an unfamiliar building with all its teething problems. As the post-handover period is the most neglected stage of construction, these teething problems can become long term, chronic shortcomings. Poor energy performance and CO₂ emissions is usually the major consequence.

This approach increases designer and constructor involvement after handover of buildings to help clients get the best out of their buildings and reduce the tensions and frustrations associated with moving into and working in new buildings. The initiative focuses on the need for greater involvement of the designers (and the constructors) after Practical Completion when contractual obligations are traditionally minimal. Soft Landings extends the contractual duties of the team in both the handover stage and the occupation period beyond the defects liability period. There is also the option to incorporate a financial penalty to encourage the meeting of agreed targets for the performance of the building.

Soft Landings as a specific process was devised by consultant Mark Way (formerly of the consulting firm RMJM).

How prevalent is it?

Soft Landings has proved to be a very powerful tool/process (see below). However, in terms of widespread adoption, Soft Landings has only been used officially on one project. The intellectual ownership of the method still resides with the people who devised it. However, the spirit of Soft Landings is being adopted by farsighted clients, often owner-occupiers who have a vested interest in protecting their investment, improving energy efficiency, and in having comfortable and productive employees.

That said, elements of Soft Landings have been adopted on many projects, with clients and/or design teams increasingly investing in post-occupancy evaluation (POE). However, strict POE can only be a post-mortem activity (and in the worse cases, life-support for a seriously under performing building). POE is therefore a subset of Soft Landings, the latter extending from pre-design right through to the early years of operation.

Are there any specific examples (that show that it does good things)

The process has been successfully piloted on a range of building projects at the University of Cambridge—the site of one of the largest University building programmes in the UK.

The benefits were:

- greater clarity of the duties of all parties during key design stages;
- increased designer and constructor involvement before and after occupation;
- a resident Soft Landings team on site during the users' initial settling-in period; and
- monitoring and review of building performance for three years (This also feeds into the requirements of the Energy Performance of Buildings Directive and the forthcoming Display Energy Certificates for public sector buildings greater than 1,000 m²).

The construction supply chain also gained:

- greater clarity and better communication during briefing and early design stages, that reduced re-work by the design team;
- more effective building readiness;
- better fine-tuning to improve the product, its performance and the experience of the building for both the client and the users; and
- better feedback to designers and constructors to improve future buildings.

Why is it not widely used?

The full methodology of Soft Landings has not yet been published, although moves are now afoot by the Usable Buildings Trust and BSRIA to define all the procedures, test them, and create a toolkit for wide adoption by the construction industry. The project currently lacks funding, although both BSRIA and the UK Green Building Council has expressed willingness to fund the process, lack of funding has been a barrier to the development of a toolkit in recent years, following the decline in government-funded construction research.

Soft Landings requires post-construction involvement by architects. However, architects rarely stay involved in a project beyond defects liability. Despite Part M Feedback having long been in the RIBA Plan of Work, it is rarely invoked in contracts, and until recently was not actively supported by the RIBA. Part M feedback has now been subsumed in Part L of the updated RIBA Plan of Work, so this may change. However, contracts rarely contain provisions to pay for fine-tuning. BSRIA and others estimate that 0.25% to 1% of a contract value would fund a Soft Landings process and enable architects to remain involved in fine-tuning and follow-through after project handover.

At the annual BSRIA Briefing on 16 November 2007, entitled *Schools for the Future—are we learning the right lessons*, Tim Byles Chief Executive of Partnerships for Schools promised that while POE will be carried out on every Building Schools for the Future (BSF) project, there is no money to pay for it. In his presentation, Tim Byles said:

“... We also want to learn once those buildings are up... and we will be carrying out a post-occupancy evaluation of every BSF school, because we want to be sure that we are learning the lessons not just at the beginning, but as those things are delivered.”

Byles' statement elicited this question from a delegate: “POE is very rarely done. So who will pay for the POE, and how do we share the lessons?”

Tim Byles responded: “I am open to offers from the floor as to who would like to join me in paying for those.”

Ty Goddard of the British Council for School Environments also responded: “A major national scheme [BSF] without post-occupancy evaluation at its heart seems to me nothing short of crackers.”

Memorandum submitted by Buildoffsite

1. The “Buildoffsite” organisation welcomes the Committee's inquiry into the UK construction industry. As Chairman of “Buildoffsite” I am pleased to be able to offer a memorandum of evidence as a contribution to your inquiry.

2. By way of introduction let me mention that Buildoffsite is a unique organisation and also a young organisation. Our uniqueness comes from the fact that we are an organisation which brings together senior figures from leading client and supply side organisations committed to work together to improve the effectiveness and performance of the UK industry. We are also unique in that all our members are committed to continuous improvement and growth in the use made of off-site construction methods in order to achieve

a step-change in levels of performance, quality and productivity. Buildoffsite has been established for approximately two years and our work programme has been enthusiastically supported by the Construction Sector Unit of the Department of Trade and Industry.

3. I have attached a list of our growing number of members which as you will see includes some of the UK's leading client and supply side organisations. You will also note that our membership is almost totally made up of private sector organisations. The lack of widespread engagement by the public sector (as the primary construction industry "client") is in our view one of the most significant impediments to the achievement of a more effective UK construction industry. I will return to this theme in the body of the attached "Evidence".

4. Our focus on supporting innovation in support of step-change means that unlike most organisations we are not encumbered with the practical need to act as apologists for particular material or supply side interests. The UK construction industry already suffers from the narrowly focused agendas of far too many such organisations which are essentially concerned with protecting the *status quo* rather than improving performance and client/customer value.

5. As I am certain that every respondent will confirm the construction industry is one of the UK's most important industries—so it is—it has to be as the construction sector delivers the bulk of UK fixed investment. This is the case globally—so no prizes for stating the obvious. What is equally obvious is that the construction industry is highly fragmented ranging from life-style construction businesses serving the unchallenging and uninformed domestic repair, maintenance and improvement (RMI) sector at one end of the spectrum to world class design and construction companies delivering exemplary products to the most demanding clients at the other end. The key point here relates to the competence of clients and frankly until such time as the bulk of the UK construction industry has to face up to clients who are expert in terms of what they want from their capital investment, who understand what they as clients need to do to support and who require the industry at large to do better it is most unlikely that the performance of the UK construction industry will change. This reality will impact on many of the topics that you have identified for consideration.

6. Having spent almost 40 years working in the construction industry in a number of senior positions I can with total confidence predict that in a market where the pressures of international competition do not impact to any significant extent on the mass of the UK construction market and where so many clients are inexpert and therefore unchallenging in their requirements it is wholly unrealistic to expect any significant improvement or step-change to come from within.

7. I hope that the attached Memorandum of evidence is of some use to the Committee. If either I or the senior Buildoffsite Executive can be of further assistance do please let me know.

MEMORANDUM OF EVIDENCE

Context

8. There is no doubt that it is timely for the Trade and Industry Committee to take a look at the UK construction industry. The industry has been subject to no serious across the board scrutiny since the Deputy Prime Minister's review led by Sir John Egan in 1998. The output from the Task Force that Sir John assembled (which incidentally included no construction industry suppliers) led to the Rethinking Construction Report which in my view remains one of the most effective and well considered studies of the industry and how to harness the expertise and achievements of the best industry performers to provide the learning which in turn can be used to inform and stimulate those businesses who wanted to join the ranks of the best. This Report and the subsequent implementation never set out to change the entire industry—that is frankly not going to happen—but it did set out to ensure that the UK industry has a core of organisations that really are at the cutting edge. I was delighted to have been invited to serve as one of the founder Members of the Movement for Innovation which was set up to implement the recommendations set out in Sir John's Report. The principles we established in carrying out this role have been embedded in the work programmes that Buildoffsite has established to advance the case for off-site construction methods.

9. The implementation of the Rethinking Construction Report was supported through advocacy of performance measurement and benchmarking and advocacy of collective action by clients and their suppliers to progress continuous improvement.

10. The preparedness of leading expert clients to work together in order to share best practices and to collaborate on innovations and also business focused research and development activities had previously been advanced through the work of the Construction Round Table of which I was also a Member representing at the time McDonald's Restaurants. Once again the principle of client collaboration on research and development is something that we are progressing through the Buildoffsite agenda.

Objectives in submitting this Memorandum

11. Based on experiences derived from a 40 year business career spanning a number of expert clients and suppliers I am convinced that genuine improvements in the performance of the UK construction industry will emerge only from a fundamental change in the process of construction. I am also acutely aware that in reality the bulk of the industry will pay only lip-service to any call for change. Most suppliers are doing very well commercially under current arrangements and unless driven by better informed and more demanding clients will see no reason to challenge the status quo.

12. Let me briefly review the fundamental problems facing the industry and the industry's clients—many of which will be substantially uninformed that there is a better way.

13. Low levels of productivity on site. As project client and funder you will be paying for 100% of time and cost but productivity will usually hover around the 30% level. This appalling performance which is endemic across much of the industry would not be accepted in any other sector.

14. Rising levels of accidents and death on construction sites. Despite the actions being taken by the Health and Safety Executive in reality performance on site is deteriorating and this year 80 people will have been killed on our construction sites. What an indictment of our industry.

15. Quality on site is generally poor with considerable reworking resulting in loss of productivity, wasted capital and material waste going to landfill. This problem is exacerbated where skill shortages apply and where design for manufacturer is not a key consideration for architects and engineers.

16. For too many projects cost and time will over-run even allowing for the “cover” provided by approved variations.

17. Project cost inflation particularly for public sector schemes or schemes for inexperienced clients is running at increasingly significant levels. Leading private sector clients are however, much more effective at working with their suppliers to reduce overall costs on a year by year basis.

18. Opportunities for public sector clients and one off clients to learn from the best practices of expert private sector clients are almost non-existent. However, with support from DTI and from the Office of Government Commerce the Buildoffsites Organisation has now started to bring together groups of public and private sector clients as a new initiative to share emerging best practice, to support the development of new skills and also we hope to make a start at collaboration on performance measurement and benchmarking.

19. The above characteristics are in effect a proxy for construction processes that are out of control. They may not be understood as such because for too many clients and their suppliers such poor performance will be seen as entirely normal for the sector. Such low levels of expectations are perpetuated by a lack of awareness of just what is possible through the application of better construction techniques and a renewed focus on construction as a manufacturing process rather than as something which to all intents and purposes has for the most part come to be characterised by the site based assembly/manufacture of projects from a kit of parts.

20. There is no doubt that the wider application of off-site manufacturing techniques and collaboration with suppliers to develop products and assemblies that have been manufactured in a factory and which are delivered to site on time having been pre-tested has for many expert clients become standard construction practice because it makes business sense, because it simplifies the management of critical path activities and because it delivers value. Let me assure the Members of the Trade and Industry Committee that the expert clients and suppliers who make up the membership of Buildoffsites do not intrinsically favour off-site construction over on-site methods. Rather they have concluded for themselves, as have their counterparts in other manufacturing sectors—that assembly from a set of standardised parts to deliver a range of product solutions is the right way—the modern way—to make meaningful progress.

21. The challenge for Buildoffsites and let me suggest also one of the most significant challenges for the Trade and Industry Committee is to consider how the experiences and practices of leading clients can be quarried to set some realistic measures to gauge the effectiveness of clients overall and in particular how the public sector can be assisted to perform rather more effectively than it generally does at the present time.

22. Let me briefly offer some thoughts on those topics to be included in the Committee's inquiry where the experience of Buildoffsites members has some particular relevance.

Long-term capacity for the delivery of large infrastructure projects on time and to budget

23. This raises particular challenges. Generally large-scale projects are handled by those who are in effect one-off or once-in-a-generation clients. Whereas the skill sets needed to deliver such projects to time and costs are most likely to be found among repeat clients. The example of BAA as a construction client delivering Terminal 5 shows that it is not inevitable that a multi-billion pound construction project will inevitably go out of control. This will be delivered ahead of time and within a challenging budget even allowing for a somewhat over-heated local market. In turn BAA have addressed capacity issues through a

combination of actions including engaging with their suppliers to identify cost savings, making substantial use of off-site methods, use of a logistics centre and have also established commercial incentives for their suppliers to deliver to time, quality and cost.

24. BAA are, of course, expert construction clients and have access to the skills needed to undertake detailed project planning and the development of a detailed project specification that identifies the optimum construction mechanisms. In the absence of these skills it is unlikely that effective cost and programme control will be exercised over the construction processes. Ensuring that adequate capacity exists is to some considerable extent dependent on engaging as early as possible in the process with key suppliers—both to ensure that optimum construction techniques are identified and that suppliers have sufficient time to plan the investment in manufacturing capacity and in people resources. Engaging with suppliers only after critical construction decisions have already been taken will tend to lock the project in to traditional construction solutions rather than best practices. This may be more comfortable for the project design team but I suggest that it will rarely result in a project based on best practices that will deliver maximum value to the client.

25. The opportunity for leading clients such as BAA to share their best practices with public sector clients is something that Buildoffsite is progressing with support from DTI Construction Sector Unit

26. Specifically in the context of the Olympics Buildoffsite is arranging to meet with the ODA to discuss how the legacy ambitions of the Games can best be supported through the application of off-site construction techniques which will more readily allow for dismantling and relocation. It is my understanding that the ODA do appreciate the project benefits to be achieved from early discussion with key potential suppliers before final design decisions have been taken. It remains to be seen if this appreciation works through in terms of planned innovative construction solutions including off-site methods as an alternative to traditional on-site methods. Buildoffsite is also progressing a similar initiative with CrossRail.

Delivery of the Government's capital investment Programme

27. The issues are much the same as previously stated. To ensure that the investment delivers maximum value requires.

28. Project planning expertise available to the client.

29. Access to best practice from exemplar private and public sector clients.

30. Early engagement with potential suppliers.

31. In addition to these there is also a need to ensure that a mechanism is available to Government client departments to achieve the capture and quarrying of best construction practice. Essentially this involves the operation of a system for innovation and knowledge transfer to inform continuous improvement within departments. Such a system would need to include learning from project achievements and from project mistakes in order to establish a body of expertise which in turn can be harnessed to reinforce performance on future projects. With the exception of a Trial innovation and knowledge transfer programme operating within the Department of Health's Local Improvement Finance Trust investment programme for new primary care facilities (which is substantially supported by DTI Construction Sector Unit) we know of no such scheme being operated by Government Departments. Indeed in many cases there is increased separation between the policy responsibilities of Departments and decision taking on individual schemes by others e.g. "independence" for Foundation Hospital Trusts, Spending by RSLs, Building Schools for the Future and so on.

Construction R&D

32. Private Sector clients and their suppliers invest substantially in commercially relevant research and development in support of construction innovation. However, the bulk of the industry does not invest nor is it driven to invest by clients becoming better informed and more demanding.

33. Buildoffsite is bringing together leading private sector clients to explore opportunities for collaboration on research that will serve to increase the take-up of off-site construction solutions and at the same time to increase the effect of available budgets.

34. To the best of my knowledge Government no longer invests centrally in construction research and development. Individual departments may well invest in support of certain policy priorities but the investment in construction innovation that was at one time delivered through a specific programme within DTI's Construction Sector Unit no longer exists. Given the massive construction spending programmes being progressed by departments and bearing in mind that Government is collectively the industry's largest single client this disconnection is to say the least odd.

35. Considerable spending on research is undertaken through universities although it is questionable to what extent this research is derived from or in practice relevant to the needs of industry.

Availability of and investment in skills

36. When considering skills we need to have regard not just to traditional craft skills but also the new skills required to support the delivery of new construction practices on site and also the new skills required of construction professionals.

37. With regard to the latter universities offering construction related-degrees do not generally include any requirement for knowledge of off-site construction methods. As a result a newly qualified professional will generally enter the world of work with no knowledge of new methods and will often join an established workforce of those who similarly have little or no knowledge. This lack of knowledge tends to institutionalise traditional construction methods and acts as an impediment to an understanding of and to faster uptake of off-site methods. Engagement with the professional bodies to address this substantial impediment to new practices is an inevitably slow process.

38. In terms of site skills there is a need for additional competences in the installation of off-site products. CITB Sector Skills have developed some NVQ modules based on certain products but given the range of new off-site products coming on stream for all market sectors a gap in skills is opening up. To date the solution has been for individual suppliers to train their own installers but once again this tends to benefit bespoke solutions rather than the generality of a manufacturing approach to site-based assembly.

Health and Safety

39. There is a clear message from the Health and Safety Executive that the use of off-site construction methods requires an approach design and project planning which is more likely to result in issues of buildability and health and safety being considered at an early stage by the project delivery team. This will include site layout, materials handling and construction techniques that in turn will contribute to safer construction methods. This message is we believe likely to be reinforced as a consequence of new CDM legislation. The HSE is actively encouraging the use of offsite through Buildoffsite to promote safer construction methods through legislation such as Part L.

Encouraging Sustainability

40. All too often sustainability is considered only in terms of wasted materials and product waste. This is certainly important but let me suggest that it is equally important to consider other categories of waste including loss of site productivity, noise and nuisance, wasted time and capital and the waste represented by illness and injury. For all these categories off-site construction methods offer opportunities to create a more sustainable industry. An industry where production waste is minimised through planning the manufacturing process with and residual waste recovered in the factory and recycled, where fully tested quality products are delivered to site on a just-in-time basis for installation, where time on site and collateral environmental impact is minimised, where site-based waste does not arise, where because construction processes are under control accidents do not arise. There is a really positive message here which is already well understood by leading clients but which still needs to be understood by the wider industry.

41. The use of off-site construction methods offers an opportunity to achieve a step-change in performance in terms of sustainability whereas continued reliance on traditional methods may at best be capable of delivering only marginal improvements.

42. A largely undiscovered aspect of offsite construction is relocation of existing building assets. This is very sustainable and offers an alternative to traditional sustainable roots that largely involve demolition and breaking up into constituent parts which has questionable credentials.

May 2007

Memorandum submitted by the CBI

1. CBI welcomes the inquiry undertaken by the House of Commons Trade and Industry Committee into the UK construction industry.

2. As the UK's leading business organisation, CBI speaks for some 240,000 businesses that together employ around a third of the private sector workforce. A proportionate number of these are companies active in all aspects of construction from civil engineering to housebuilding. Most of the construction sector associations are also in CBI membership. Our special strength for our construction member companies lies in the fact that we speak for business across the sectors, including businesses at every stage of the construction supply chain, from materials suppliers to users of industrial and office property.

3. The CBI believes that the construction industry is:

- delivering improved public services, partnering with the public sector;
- helping improve public sector procurement;
- offering flexible employment opportunities;

-
- working to raise skill levels, but gaps and shortages remain;
 - making progress tackling health and safety concerns; and
 - encouraging sustainability in property development.

DELIVERING IMPROVED PUBLIC SERVICES, PARTNERING WITH THE PUBLIC SECTOR

4. The UK construction industry has a long history of helping to deliver public services through public-private partnerships (PPP). Governments world-wide are seeking new ways of engaging with the private sector. The UK leads the world here and has the potential to deliver significant economic benefit to the country through a thriving public service industry, in which the construction industry plays a key role. But keeping that lead—and the benefits it brings—requires the government to recognise and promote public service markets drawing on the latest innovations in design, construction, management and technology.

5. The Private Finance Initiative (PFI) is the most established and successful PPP model in the UK, with more than 500 projects now operational. There is significant evidence to show that the principles of transparency and accountability that underpin the PFI have provided radical improvements to the way services are delivered to the public.

6. The construction industry plays an integral role—often as part of a consortium of companies—in delivering PFI schemes such as, hospitals, schools, prisons, highways and leisure facilities. Evidence compiled by the Treasury shows how integral the industry is to delivering projects on time and to budget. 70% of non-PFI projects surveyed were delivered late compared to only 20% of PFI projects; and 73% of non-PFI contracts ran over budget compared to 20% of PFI projects (and these were due to the public sector changing its specification).¹² In addition, all new PFI prisons have been delivered on time or earlier than scheduled compared with construction overruns under traditional procurement averaging 13%. No PFI prison has cost the government more than budgeted: by contrast, seven traditionally procured prisons finished in the early 1990s overran their budgets by 18%.

7. Indeed the introduction of PFI has resulted in new prisons being completed on time and on budget. Construction times under PFI have fallen by more than 40% and cost savings appear to be more than 20%. Competition is currently saving the taxpayer between £40 million and £60 million a year.

8. Payment throughout a PFI contract is conditional on the consortium reaching the required service levels. This incentivisation to provide a good service has been shown to be working successfully by a Partnerships UK report that surveyed all 500 operational PFI projects that exist in the UK.¹³ The report found that while payment deductions have been low, reflecting the general levels of high performance, almost all projects report satisfactory levels of service after a deduction has been applied, and 72% report good or very good performance.

9. The PFI, and the construction sector's underpinning role, is integral to the modernisation of the UK's public services and is helping ensure taxpayers receive better value for money. But it is not just about the capital assets—the schools, hospitals and other public buildings. Its success also lies in bringing together design construction and service delivery for long-term benefits. Unlike in the past, when buildings were constructed and their upkeep left to others, the PFI means service providers are responsible for designing and constructing buildings and then running many of the services themselves. This approach encourages innovation, such as environmental sustainability and rigorous planning that allows for changing user needs over the course of the contract.

10. The UK construction industry leads the world in terms of PFI investment and many countries are designing public services and developing PPP projects based on UK models.¹⁴ However, other countries are catching up and the international PFI market is growing. For instance, the Italian Ministry for Finance has set up a PPP unit based on the UK Treasury's PFI taskforce—Unità Tecnica Finanza di Progetto (UFP). The aim of the UFP is to help meet the challenges of public sector investment, to help identify projects suitable for private sector involvement, and to provide assistance for central, regional and local administrations on PPPs. In addition, PFI markets are developing in various sectors across Europe, for instance, a PFI transport market in Portugal, Spain, Ireland and Greece, healthcare in Italy, schools in Germany and custodial projects in France.

11. The UK government must ensure the conditions for the national PFI market to flourish. If it fails to do so, the UK market will suffer from a skills and investment drain as construction and services businesses and personnel take their business abroad. Countries thinking about PPPs are looking out for skilled people with UK PPP experience to help advise and develop their models. If the right conditions are in place, this new market need not present a threat, but rather an opportunity—for UK public service companies to provide services in other countries and to lead the market in terms of new developments and innovations.

¹² HM Treasury (2003) *PFI: Meeting the investment challenge*.

¹³ HM Treasury (2006) *PFI: Strengthening long-term partnerships*.

¹⁴ See forthcoming CBI publication on the opportunities for British companies in the international PPP market.

12. Ensuring the environment for UK construction and services companies to flourish in an international PFI market should be a key priority for government, but this can only be achieved when there is a clear understanding of the benefits of PFI and how the PFI market can be developed and strengthened in the future.

13. Construction companies have been at the heart of harnessing the underpinning principles of PFI and developing alternative PPP models. This means that when the PFI route is not appropriate for a particular service, an alternative PPP model can be considered in order to achieve the benefits available from such partnerships.

14. For example Local Improvement Finance Trusts (LIFTs) in the health sector, and the Building Schools for the Future (BSF) programme. Both programmes provide a long-term strategic framework for planning and delivering investment. The individual projects undertaken under the LIFT and BSF programmes are structured in ways similar to PFI projects and some of the companies entering into LIFT agreements are also involved in PFI projects. The key differences between these two models and a typical PFI model is that they are joint ventures, taking strategic planning and procurement decisions that were previously the sole responsibility of the public sector. This allows private sector partners to contribute project planning and design expertise at an earlier stage. The LIFT and BSF programmes are also supported by a national programme management organisation, and by central co-ordinating bodies, Partnerships for Health and Partnerships for Schools, which assist with procurement and knowledge transfer across projects.

15. At the time of its inception the aims of the BSF programme were explicitly outcome-focussed. The programme envisaged using a 10–15 year programme of investment to drive up educational outcomes for children. The CBI welcomed this aim and we still support it. We share the widespread belief, however, that the core educational objectives of BSF were not sufficiently prioritised during the pathfinder stage of the programme. In part, this may have been due to an understandable desire to start rolling out the programme quickly. But pressure for delivery has led to many commissioners putting greater emphasis on the school construction aspects of the programme rather than the educational outcomes BSF was designed to deliver.

16. In recent months, however, Partnerships for Schools (Pfs) has emphasised that educational transformation remains at the heart of BSF and is taking steps to ensure that it will be central to future waves of BSF. We believe that a key factor in reinvigorating the BSF educational agenda should be a more rigorous approach to the Educational Vision process. Local authorities need to be clearer about the outcomes they want and identify the key drivers needed to achieve them, by identifying their existing capacity and ensuring affordability. Delays in a significant number of cases is due to a lack of capacity and procurement skills within the local authority which has resulted in Educational Vision statements being produced that are neither realistic nor affordable.

HELPING IMPROVE PUBLIC PROCUREMENT

17. Many public authorities have become adept commissioners of services from the private sector, including construction companies, using it to drive innovation and improve provider performance. But aborted contracts and long-drawn out procurement processes continue to impose additional and unnecessary costs on the taxpayer, undermine the confidence of providers from all sectors—public, private and voluntary—and delay the introduction of improved service delivery.

18. In November 2006, the CBI published a report, *Realising best practice in procurement and contract management*, which sets out key steps the public and private sector need to take to ensure commissioning and delivery of complex projects achieve a variety of service outcomes. Key to realising improvement is a need for public bodies to set out a clear vision of what service is required, and for clients and providers to take joint ownership of all stages including initial strategic planning, the procurement process and contract management. The recommendations in the report draw on a number of CBI consultations with public sector officials and CBI members, and propose steps to ensure:

- competitive supply markets managed by skilled professional staff;
- transparency and rigour in the tendering process; and
- governance arrangements that are fit for purpose.

Competitive supply markets managed by skilled professional staff

19. The first step to improving public services is to ensure contracting authorities have the capabilities to harness the benefits of the supply market. A comprehensive understanding of markets requires a constant process of market engagement, including ongoing dialogue with suppliers outside the tendering process. This is essential for building trust and certainty in public service markets and encouraging innovation in service design. More interaction between the public and private sector will allow the sharing of expertise and lessons learnt.

20. Developing skilled commercial and procurement staff able to complete deals is a complex process, with very different solutions now in place in different parts of the public sector. Large government departments with a significant spend on major projects are able to afford, and have the need for, a permanent pool of staff with the full range of delivery skills. But smaller departments and many local and regional

authorities have not been able to build up substantial cadres—nor is this desirable. The challenge here is to make effective use of the talented public sector staff that do exist and share them between different bodies as appropriate.

Transparency and rigour in the tendering process

21. Procurements need to be driven by outcomes not processes. Strategic commissioning must include a clear identification by the public authority of what is required, and procurement processes which are rigorous and consistent with a high degree of transparency and trust. Robust reviews must be applied before the tendering process and should guarantee intervention in failing projects where necessary.

22. Procurement delays are a problem across public service markets. In April 2006, a CBI report *Buying the best from the NHS*, found that the average costs of delay on health PFI schemes was 1% of the capital cost, amounting to £2.45 million over each deal and resulting in total losses of £98 million in delays over the health PFI programme. A survey conducted by the Major Contractors Group in 2005 found that the average delay to published schedules was just under eight months: school projects were for example, being delayed by 7.5 months. Such delays are costly to bidders and the taxpayer and seriously undermine the drive for value for money and efficiency in public services, as well as having implications for the achievement of stated social and economic policy outcomes.

Governance arrangements that are fit for purpose

23. Partnerships are evolving into complex models for flexible contracts which deliver complicated outcomes. Senior level leadership is vital for partnerships to succeed, along with robust governance mechanisms and excellence in relationship management.

24. In complex partnering arrangements, it is important that the spirit of partnership is established and maintained at a strategic level. This could be through increased use of memorandum of understanding, which provide a context in which the legal contract should be interpreted.

25. Complex delivery models such as joint ventures operate under constitutions which serve a similar purpose, to build ongoing trust and long-term relational partnerships. Public bodies should be encouraged to explore other forms of contracting models for delivering flexibility which draw partners into long-term relationships with the prospect of future business models, such as incremental partnering.

26. The use of end-to-end shared project plans should also be standard practice. These plans take the project from design through to operation and ensure that risk is identified and managed appropriately. They ensure continuity and focus, and align public and private partner outcomes more closely.

27. The recommendations from the CBI's report in November 2006 include:

- The private sector should build links with public sector commissioners in central and local government and share best practice, through existing programmes and more informally.
- All central government departments and large strategic-level public bodies should have commercial directorates, or their equivalent.
- Public bodies should improve the detail of project specifications.
- Central government should establish a mechanism by which bidders can raise concerns about the way procurements are progressing.
- Quantitative and qualitative evaluation criteria should be published at the start of all procurements. Authorities must show evidence that they have used rigorous methods for evaluating bids and be prepared to publish the results to bidders and auditors.
- Above a certain threshold, all projects must go through gateway reviews. These reviews must trigger external interventions by central or regional procurement teams as appropriate and should be widely available.
- All projects should have a named sponsor at the highest level to provide strategic vision and a point of accountability.
- All projects should develop an end-to-end project plan at the outset, setting out the obligations and dependencies on both sides and stipulating how resourcing challenges will be met.

28. The government has since recognised these recommendations and has announced changes to the Office of Government Commerce (OGC) to create a government procurement function that is adaptable, flexible and knowledgeable about the commercial world. A slimmed-down OGC will now focus on putting procurement and innovation at the heart of delivering public service outcomes and raising the level of procurement skills across Whitehall. Among the recommendations are plans for:

- Rigorous external scrutiny for complex projects.
- An outcome-based and whole-life value approach to procurement.
- Raising procurement capacity within departments.

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- Introducing a clear procurement framework setting cross-departmental standards for procurement.
 - An informal complaints procedure for suppliers to report concerns about the failure of departments to follow standard procedures.

OFFERING FLEXIBLE EMPLOYMENT OPPORTUNITIES

29. The number of companies offering flexible working patterns to their staff has grown substantially in recent years—and both employers and employees are benefiting. Companies find that adopting a flexible approach to working patterns allows them to react quickly to peaks and troughs in demand, to changing consumer habits, and to increased business activities across timezones. It's good news for employees too—working flexibly allows them to achieve a work-life balance.

30. The right to request flexible working is operating well in the construction industry. Construction remains a largely male dominated industry with women making up only 10% of the workforce—possibly resulting in a lower number of requests. However the CBI Employment Trends Survey found that three-quarters of requests that were made had been accepted by construction firms. Despite the fact that construction work can only be carried out during certain hours of the day, firms said granting flexible working hours had had no major impact on their business. Construction firms were also offering flexible working patterns such as part-time work and job sharing.

31. Despite the flexible working time provisions, employers in the construction sector need to utilise the individual opt-out from the Working Time Directive. Loss of the individual opt-out would have a negative impact on construction where its use is common. In some construction firms as many as 45% of employees had signed an individual opt-out—the highest rate for any individual sector (across business 30% of employees had signed an opt-out). Just under three-quarters of construction firms felt the loss of the opt-out would have an impact on their business—with a third feeling it would undermine their ability to meet customer needs, and a quarter worried about increased staffing costs.

32. Employers recognise that soft skills and “people factors” are a unique source of competitive advantage that can have a positive impact on business performance. The CBI's Employment Trends Survey found that this was strongly the case in the construction industry where effective use of human resources was considered more important than other factors such as management of capital resources. Our survey found that 59% of construction firms said “effective people management” was key to current competitive advantage—compared to just 19% who cited “better use of existing capital”. This compares to the situation across business as a whole, where 40% cited “effective people management” and 24% “better use of existing capital”.

33. In considering the impact of particular people management practices, firms across the economy agree that management skills (52%) and workforce skills (50%) are the key factors. This was amplified in the construction industry where 67% of firms cited management skills, 52% workforce skills, and 30% reward strategies. As globalisation and technological change continue to intensify, management skills will become even more crucial as businesses try to get the best out of their workforce and utilise all resources to the best possible advantage.

WORKING TO RAISE SKILL LEVELS, BUT GAPS AND SHORTAGES REMAIN

34. Availability of skilled labour is key to business performance. Employers recognise the importance of skills and are committed to raising the skills levels of their workforce—they already spending £33 billion annually on training and development. The construction industry invests considerably in skills and the spend via the training levy alone was £113 million per last year alone.

35. The construction sector needs a workforce with the correct mix of skills and the ability to be flexible to adapt to changing demands. The vital skills mix includes good levels of literacy and numeracy and basic employability skills, craft and technical skills, higher qualifications and management and leadership skills.

36. Difficulties in recruiting sufficiently skilled labour are affecting the performance of the construction industry. LSC data¹⁵ indicates that the sector's skills problems are significant. Many (48%) unfilled vacancies are defined as “hard to fill” and over a third (35%) were vacancies with a shortage of candidates with the right skills/qualifications or work experience applying. For the sector, the problem is most pressing amongst the “professional” (31% of vacancies compared with 10% nationally) and “skilled trades” categories, rather than lower skilled positions. The CBI's Employment Trends Survey makes a similar finding with shortage of skilled labour identified as a key issue with nearly two-thirds (60%) reporting a moderate/significant impact, compared with an all-sector average of 44%.

¹⁵ National Employer Skills Survey (2005), LSC.

Migration has helped address deep seated skills shortage—particularly for skilled workers

37. Migration cannot solve the construction sector's long-term skills needs, and training UK workers must be a priority for government and employers. However, migration has helped in addressing short-term problems, and a recent CBI survey found that over a fifth of employers anticipate recruiting from abroad in the next year, a figure which matches 2005 and confirms the value of migration to UK employers. The survey also found a strong link between anticipated recruitment of migrants and reported skills shortages in the construction sector,¹⁶ where only one in ten (10%) of respondents thought skills shortages were having no impact on their business. Unsurprisingly, over a quarter (27%) of respondents from this sector anticipated recruiting migrant workers to deal with the problem—which was in sharp contrast with other sectors, such as transport and communication.

38. Certain sectors showed demand for specific types of migrants, matching their need to recruit the best talent globally. Almost a quarter of employers across the sectors expect to hire from the EU15 states in the next year (21%) or from the newer member states that joined in 2003, such as Poland or the Czech Republic (22%). But demand for skilled workers is as high, and higher in sectors such as construction than demand for unskilled labour. Four out of ten firms (41%) anticipate hiring skilled migrants compared with only 29% for unskilled labour.

39. Last year, while the number of employers who anticipated hiring from outside the EU almost halved in the last year from 19% to 10%, demand remained high in the construction sector, where the most sought-after group were migrants with managerial or professional skills (18%), followed by skilled migrants (6%). Only 3% of companies in the construction sector anticipating the recruitment of unskilled non-EU migrants. This undermines the stereotype of that employers in sector are seeking low-skilled workers when recruiting from outside the UK.

Raising literacy and numeracy skills among school leavers—employers hope the new school diplomas will help

40. Employers in the construction sector report—as with their colleagues in other sectors—that too many school leavers lack the basic skills necessary for success in work and in life. A recent CBI survey showed that 45% of employers were disappointed with school leavers' basic literacy and 44% with their basic numeracy.¹⁷ Of course, this is not just a problem that affects school leavers—a sixth of working-age adults do not have the basic literacy expected of an 11 year old (6 million), and 46% do not have the numeracy skills (17m).¹⁸ The impact of poor basic skills is huge—hindering productivity across the economy and holding back the individuals.

CASE STUDY—THE ESH GROUP WORKING WITH SCHOOLS

Around 120 youngsters from socially and economically deprived areas are given the opportunity each year to join the construction experience programme with Esh. What makes it unique is that twenty full time jobs are on offer to those within the cohort who meet the benchmarks and show the desire to work in the Group. In the past, 20–25% of young people here have failed to make it into employment, education or training (NEET = Not in Employment, Education or Training). Since the introduction of the Fit for Employment Scheme this has dropped massively to only 3%. What a testament to its success.

41. The CBI report “Working on the 3Rs” defined, for the first time, what employers meant by functional literacy and numeracy in the workplace. The findings were not surprising—they highlighted the importance of being able to communicate confidently in the workplace both orally and in writing, mental arithmetic and being able to calculate probability. The research included a number of case studies which illustrate the impact of poor basic skills.

42. The CBI hopes that the new 14–19 Diplomas could provide a way of tackling these problems across all sectors, but the construction sector will get off to an early start. The Diploma in Construction and the Built Environment will be available in the first areas from 2008 and a national entitlement from 2013. CBI members have welcomed the Diplomas and many have been involved in their development. We hope that the new qualifications will embed basic numeracy and literacy skills. While members have expressed concerns over the capacity to provide sufficient good quality work experience in these sectors in every geographical area, should the Diplomas prove successful, many firms are already actively involved with local schools. Specialist teachers and facilities will also be required to teach the Diplomas—which will need to be properly resourced and lack of experienced teaching staff may well prove an issue in a sector already experiencing skills shortages.

CASE STUDIES—BASIC SKILLS GAPS IN THE CONSTRUCTION INDUSTRY

Workforce

Ideally, foremen working in road building operations need measuring and arithmetic skills to calculate areas and volumes. For example, given the weight of a cubic metre of asphalt, a foreman may be required to determine the weight of material needed to lay rectangular, triangular or

¹⁶ CBI/Pertemps, *Employment Trends Survey*, 2006.

¹⁷ CBI/Pertemps, *Employment Trends Survey (2006)*.

¹⁸ DfES Skills for Life Survey (2002–03).

circular shaped areas of road surface to a given depth. Although some foremen may be able to estimate this with a degree of accuracy relying on sight alone as a result of many years' experience, others need to make calculations. Mistakes could be costly as a typical day may involve laying 1,000 tons of asphalt at a cost of approximately £50,000. In reality, only a small number of foremen have been found to carry out physical measuring or to calculate volumes using simple trigonometric principles.

Young people

Trainees struggle with maths and science across the board, with algebra and conceptual maths being big gaps. "You can comfortably get a C in intermediate maths without ever looking at an x or y in the view of the management, and this causes problems in a business where formulae are used all the time. And young people at school are also no longer taught the electrical diagrams or basic electrical symbols that are used in industry. As there are not enough job applicants with a grade C in maths GCSE, the company sometimes has to accept people with a D, which causes problems further down the line".

43. The new diplomas are also designed to develop the vital employability skills employers need. Generic employability skills such as teamworking, problem-solving and self-management skills are also vital for success in the workplace, but again are a source of dissatisfaction with 52% of employers expressing concern with the levels of these skills amongst school leavers.¹⁹ The CBI has recently published a report,²⁰ defining these skills and making recommendations about how they can be best developed during work experience.

Poor workforce basic skills are also being tackled

44. Poor basic skills among the workforce are also being addressed. CBI members speak highly of the Construction Skills Certification Scheme (CSCS), administered by Construction Skills. This provides a simple way to prove skills competence, including health and safety awareness. Introduced over ten years ago, it has done much to ease the upskilling of the workforce to improve safety and quality. It is effective as it has responded directly to the needs of the sector—and the scheme has been spread through the supply chain of contractors.

Good apprentice schemes have a role to play in addressing intermediate level skills problems—but poor completion rates need to be addressed . . .

45. Apprenticeships have a role to play in raising the skills levels in the UK and Lord Leitch has recommended that the number of apprentices increase from 255,000 to around 500,000 a year by 2020. Many CBI members have very successful apprenticeship programmes in the construction sector but completions rates in this sector are low—26% for construction apprenticeships, compared with the national average of 40%.

46. CBI members report rates as high as 90%—which they attribute to a dedicated and highly qualified training staff who mentor and support young people through the schemes and associated self-development and team building activities. Employers also recognise the importance of involving parents in the recruitment and support of young apprentices.

47. Good careers advice will also help tackle the gender imbalance in apprenticeships—in 2005 99% of apprentices in the construction sector were men (and 97% of those on engineering apprenticeships).

. . . and improved careers advice for young people is essential

48. CBI has called for guaranteed careers advice for young people at 11, 14, 16 and 18—when they are making crucial decisions regarding subject choices or whether to remain in education or training. Such advice must be offered by independent, experienced individuals, with knowledge of the labour market and the world of work. Careers advice is currently biased towards academic routes, providing a serious obstacle for achieving parity of esteem between academic and vocational education. Poor careers advice goes some way to explain the low apprenticeship completion rates in that sector. An EEF/SEMTA survey (2004) revealed that 83% of students were given little or no information on apprenticeships.

CASE STUDY—N G BAILEY AND WORK EXPERIENCE

The company has built strong links with local schools and is actively involved in helping young people to gain an insight into career opportunities in engineering. The work experience scheme, which has been running for at least 20 years, plays an important part in achieving this objective. The company takes on about ten students each year for two-week placements, most of whom are 16 years old. In addition to its work experience activity, NG Bailey runs an engineering apprenticeship programme, with some 120 apprentices recruited in 2005 to its four-year training

¹⁹ CBI/Pertemps, *Employment Trends Survey (2006)*.

²⁰ CBI, *Time well spent* (March 2007).

scheme. One work experience student commented, “I realise now why maths is important in the world of work and for a career in engineering”. The practical experience at the company motivated the student to improve his performance and he achieved a grade C in his maths GCSE.

49. Employers in the sector are already playing their part. Inspirational work experience, talks from employers and site visits can do much to tackle the perception of careers in construction or engineering, and to encourage more women to consider the sector. There is a considerable pool of talent available—and ConstructionSkills has launched schemes to help address the problem including National Construction Week which focuses on encouraging more young people to consider the sector, especially young women.

Intermediate workforce skills may be higher than international comparisons of qualification may suggest

50. The UK ranks 20th across the 30 countries of the OECD for its intermediate skills levels; in Germany for example, 63% of the workforce is qualified to Level 3 compared with just 40% in the UK. However, this may be because other countries are more successful in turning competency into qualifications. CBI members report that many employers are competent at Level 3 (A Level and equivalent) but lack formal qualifications.

51. This is because employers tend to train to competency rather than qualification. Many firms provide employees with high quality training but it is estimated that around two thirds is not captured within the qualifications system and is therefore not always taken into account when assessing the UK’s skill levels. Some estimates are that up to 80% of the construction sector workforce is highly competent in this fashion, and the remaining 20% would benefit from top-up courses to reach an appropriate skills level, which could then be assessed on-site in a practical way.

52. The CBI has therefore called for reform of the system, which currently employers find overly complex, with too many qualifications that are not economically valuable or fit for purpose. Reform of the system will be essential in encouraging employer engagement with publicly-funded training provision and to ensure progress against the Government’s qualifications targets. Accrediting employer-provided training could benefit business by recognising the significant investment employers already make in training their staff—and ensure rapid progress towards raising the qualification levels of the workforce.

53. The QCA is currently developing a new qualifications system which could introduce greater flexibility by breaking down qualifications into units, allowing employers to be able to choose those parts of a qualification most relevant to their business. More radical reform of the system is necessary to speed accreditation of employers’ good quality in-house training, based on the Australian model where employers are licensed to deliver and award qualifications.

CASE STUDY—CITB-CONSTRUCTIONSKILLS ASSESSING AND ACCREDITING COMPETENCE

CITB-Construction Skills has developed an assessment model that accurately reflects the skills being tested. Many in the sector are already highly competent and experienced—so the qualifications system must recognise these existing skills and assess them in an appropriate manner. Much of the process to gain a vocational qualification involved compilation of portfolios of paper documentation and photographs to demonstrate competence, rather than assessing the skills in the context in which they were developed. CITB have replaced this system with a model of a one-day on-site competency test, which assesses the skills in context, for example, a plasterer plastering walls.

Higher level skills are good—but there is no room for complacency

54. The UK’s future competitiveness also needs high level skills—including leadership and management skills. Effective leaders are, of course, central to ensuring that a business has an effective strategic vision and a culture of continuous improvement. Managers play a pivotal role in ensuring that the strategic aims and direction of the organisation are achieved. CBI research shows that at present, half (52%) of employers believe that management skills are the most significant factor contributing to competitiveness.²¹

55. Foundation Degrees provide a good opportunity for employers to help their staff attain high level vocational qualifications with the technical content focused on the particular needs of the sector. The CBI has welcomed the work of “Foundation Degree Forward” in working with employers to develop new courses and accrediting existing employer training. In the construction sector the foundation degree in construction, offered by the University of Central Lancashire and nearby colleges including Preston College, was developed in conjunction with employers and the CITB. This “co-funding” approach is also being piloted in the HE sector and the CBI hopes that the construction industry will be involved.

56. Within the HE sector, the falling popularity of engineering degree courses, particularly civil engineering is a concern. Over the last 10 years there has been a 15% decline in numbers taking civil engineering from nearly 12,500 in 1997 to 10,845 in 2006 with an all time low of 8,835 in 2001–02.²² More recently, there has been an increase in numbers taking civil engineering, but numbers are still too low and

²¹ CBI/Pertemps, *Employment Trends Survey (2006)*.

²² HESA data.

there is a considerable gender imbalance with only 15% of the students in 2005–06 being female. Much needs to be done to improve careers advice to ensure that young people of both sexes feel confident and interested to pursue construction and engineering degrees.

57. Employers in the construction sector are aware of, and are seeking to, tackle these problems, particularly through raising awareness of careers in the sector amongst young people. They recognise there is a poor perception of the construction sector, and initiatives such as employees acting as Construction Ambassadors by visiting schools and colleges, giving talks and acting as role models for young people are starting to bear fruit. This model is also used successfully in engineering through the Science and Engineering Ambassadors scheme. Events such as the annual National Construction Week, with activities from work shadowing to building challenge for 200 school children, showcase the sector and do much to raise the profile of opportunities.

INVESTING IN HIGH LEVEL SKILLS—ESH GROUP

Esh considers itself a people business; with the achievement of Investors in People award for the individual companies within the Group. A rich tradition of “growing our own” means many of the senior team first joined as trainees and apprentices. Because of continuous training and support for training at Esh employees can start at the bottom of the career ladder and reach the top, allowing the company to retain valuable talent and knowledge. Stephen Wilkie, for example, joined Lumsden & Carroll (part of the Esh Group) as a trainee Engineer in 1988. He attended college and university on a day release basis where he obtained his ONC and HNC qualifications. In 1991, Stephen became a trainee Quantity Surveyor and attended the University of Leeds to study a degree in Project Management, again on a day release basis. From then on Stephen quickly climbed the ladder and has been the Company’s Construction Director since 2004, looking after £15–20 million worth of turnover and overseeing approximately 150 employees as well as subcontractors.

The training levy works in construction

58. The sector is an example of how a training levy can work effectively where there is employer buy-in and it is not an approach that has commended itself to other sectors. The levy rate is currently set at 0.5% of the wage bill for direct employees, with smaller employers (with wage bills under £73,000) exempt from the levy and qualifying instead for grants, advice and support. Each year CITB-ConstructionSkills must demonstrate to Government that employers support the levy.

59. In construction, the levy works because it suits the particular situation of the industry, particularly the large proportion of subcontracting. The smaller firms, exempt from payment, employed nearly 11,000 new entrant trainees in 2006 and received £26.7 million in support for training. In total, more than £113 million was distributed in training grants in 2006, funded by levy subscriptions and additional funds accessed by CITB. The real benefits in terms of grants and support were estimated in 2004 to equate to £1.79 for every £1 paid in the levy.

MAKING PROGRESS TACKLING HEALTH AND SAFETY CONCERNS

60. The CBI works closely in partnership and is involved in consultations with the Health and Safety Executive and Commission. We represent all the business interests in the construction process from construction companies, professional service providers, clients, subcontractors and supporting trades, financial and legal interests. The construction industry has a close interest in health and safety legislation and practice. Official statistics show that of the 212 fatal injuries to workers, 92 (43%) occurred in the two industries of construction (59) and agriculture, forestry and fishing (33). The industry has taken proactive steps to tackle the challenges and at a 2001 Construction Summit set itself more stretching performance targets for health and safety than those set for all other industries.

61. Statistics released by the Health and Safety Executive for 2005/06 show the rate of fatal and major injuries in the construction industry is continuing to fall. The Health and Safety Statistics 2005–06 report shows:

- the rate of reported fatal injuries (to all workers, including the self employed) in construction between 1999–2000 and 2005–06 has reduced by around 36%;
- the rate of reported major injuries to employees in construction between 1999–2000 and 2005–06 has reduced by around 22%; and
- the rate of reported over three day injuries to employees in construction between 1999–2000 and 2005–06 has reduced by around 31%.

62. In 2003, the most recent year for which comparable data are available, the rate of fatal injury to workers in Great Britain was the lowest of European member states.

63. The CBI supports the Government's target to reduce total UK CO₂ emissions by 60% by 2050 alongside its wider commitment to sustainable development. We also recognise that the built environment is responsible for 45–50% of the UK's carbon emissions.

64. We believe all aspects of the development supply chain have a role in helping to promote more sustainable ways of living through for example more efficient land use and the design and construction of more energy efficient buildings. Businesses in every level of this supply chain are already developing ways of making a positive contribution to these challenges and the construction industry will play a significant part in these efforts going forward.

65. We acknowledge that there has in the past been a vicious circle which has precluded the development of more sustainable buildings (both in quantity and quality) because there was at least a perception that:

- developers could not find investors for sustainable buildings;
- investors lacked confidence in there being a demand for sustainable buildings;
- occupiers struggled to find sustainable buildings and have been reluctant to pay a premium for those buildings; and
- delivery of sustainable buildings by the construction industry was slow to emerge.

66. However, the CBI believes that there is evidence that this circle is beginning to reverse:

- some developers eg British Land and Stanhope are declaring ambitions to become carbon neutral;
- there is some greater confidence that sustainable buildings will in the longer term carry a higher value and may in time be able to command higher rents;
- some of the UK's largest occupiers such as Marks and Spencer have also set carbon neutral goals; and
- construction companies such as NG Bailey, which recently received the highest ever BREEAM rating, are also seeing opportunities in delivering more sustainable construction methods and products.

67. While these are positive signs, Government and Parliament must be aware that investment in sustainable construction and development comes at a higher cost (estimated to be around a 5% increase on normal costs) and that returns on this investment will be not be immediate.

68. Clearly the construction industry has a role to play in encouraging greater sustainable living and the scope to make improvements in this field is significant. Mechanisms such as insulation, thermally efficient facades, heat recovery systems and energy efficient air conditioning/heating can all help to reduce the carbon footprint of construction in both commercial and residential sectors.

69. Government also has a role in creating the environment in which these activities can prosper. Building regulations are a useful mechanism to encourage energy efficiency in construction and BREEAM design standards provide a helpful marker for prospective tenants. However on certain schemes developers and contractors will be able to go further. For example Stanhope aims to reuse or recycle 80% of construction waste on new commercial buildings in the future.

70. Planning permission is also likely to encourage sustainability in the built environment (planning applications for large commercial buildings in London already have to show consideration of sustainability). However there is already some concern that the line between development control and building regulations is blurring for example with regard to on-site renewable targets. Government must therefore resist the temptation to over-regulate in this area.

71. Moving forward the UK's construction industry will need to be supported in its efforts. Sustainability in construction can only be improved if there are the right skills within the construction industry, if the technology is on-stream to enable that delivery and if the regulatory regime is flexible and proportionate rather than prescriptive.

72. The CBI looks forward to assisting a range of Government departments in finding the best ways of helping the UK's construction industry achieve greater sustainability alongside both Government's and industry's aims to deliver greater sustainable economic growth.

Memorandum submitted by the Chartered Institute of Building

INTRODUCTION

The Chartered Institute of Building (CIOB) represents, on behalf of the public, the most diverse set of professionals in the construction industry. Our role is to:

- Promote the importance of the built environment.
- Lead the industry to create a sustainable future worldwide.
- Encourage leadership potential.
- Promote the highest standards in quality, safety and qualification.
- Create an industry where excellence prospers.

We have over 42,000 members around the world, and are considered to be the international voice of the building professional, representing an unequalled body of knowledge concerning the management of the total building process.

CIOB members are skilled professionals with a common commitment to achieving and maintaining the highest possible standards. Chartered Member status, represented by the designations MCIOB and FCIOB, is recognised internationally as the mark of a true professional in the construction industry.

The CIOB is also a member of the Society for the Environment and is able to award the Chartered Environmentalist qualification.

Our submission has been developed for the public benefit and is informed by feedback from our membership.

EXECUTIVE SUMMARY

The CIOB endorses the joint CIC, CPA, CC written submission. In addition, we would like to raise the following points for consideration by the committee.

- The need to recognise the UK construction industry's role in a global context.
- The need to recognise that the construction industry is not one industry—one solution does not fit all circumstances.
- The importance of risk management in procurement for public sector projects.
- The availability and cost of materials and its impact on long-term fixed price contracts.
- The need to generate a better link between innovation, research and development and the taxation incentive system.

CIOB COMMENT

As a member of the Construction Industry Council (CIC), the CIOB endorses the written submission of the CIC, the Construction Products Association (CPA) and the Construction Confederation (CC).

Following our meeting with Peter Luff MP on the 1st August 2007, we would add the following points for consideration by the committee.

1. *The Global Construction Sector*

The challenges being faced by the UK construction sector are not special or unique to the UK. Most developed world countries are facing the same or similar challenges with high demand for construction work, lack of skilled workers, extensive use of overseas workers on site, the need to improve health and safety in the sector, gender inequality in employment in the sector, price inflation, pressures on raw materials supply, a fragmented supply chain, increasing levels of risk, the need to embrace and use new technologies to improve performance and products, and the need for greater focus on sustainability in the built environment.

There are many other pressures for the built environment which impact on the construction sector, for example taking account of an ageing population in the design of facilities and making cities age-friendly.

In recent years construction has become increasingly global with the import and export of design services, construction plant, materials, components, finance, and insurance. Many UK enterprises are foreign owned and controlled. The Select Committee brief is to consider the delivery of public sector projects, but this should embrace the UK construction industry in a wider context and within a global context. The UK is driven much more by the knowledge economy; this is the case with design and production, where UK design organisations are regarded as amongst the best and the largest in the world.

Construction activity is booming in most regions of the world, in particular China, the Middle East, North America, and India; and it is expected that demand will continue to increase. Annual global construction output in 2005 was estimated to be in the region of US\$4.6 trillion. To put the UK construction sector into context, annual output in the UK in 2006 was £113.5 billion. The UK annual output ranks in the top 10 in the world; hence the UK is an important country because of the size of the market and the knowledge base. The UK has few barriers to entry and is attractive to overseas companies because of the stable economy and well established business practices.

2. *The “Construction Industry”*

It is tempting to define ‘construction’ as one industry—it is not; it is made up of four distinct parts:

1. construction enterprises (including house-building, civil engineering, general building contracting, repair and maintenance);
2. construction consultants (including architectural, civil, structural, mechanical and electrical design, cost management, project management);
3. product manufacture of components, plant and equipment, and raw materials; and
4. allied professional services (including finance, IT, insurance, accountancy, and legal services).

The difference between the business of each of these sectors is apparent when comparing general contracting with house building. Contractors bid for work based on a lump sum fixed price and complete a project within strict contractual arrangements. They are paid as the works progresses and operate as cash generators with few fixed assets. This is very different to the more speculative house-building sector where developers buy land, hold the land in a land bank for a number of years, obtain planning and building code approvals, build houses and then sell their product on an open market.

Further differences are seen in the domestic, repair and maintenance sector, where we see a highly fragmented sector, and an economy that operates much closer to the retail sector than to any other construction economy.

The CIOB believes that the industry and Government would benefit from better statistical intelligence, and analysis of the global impact of construction production. This would enable a better understanding of the value of the industry to the UK economy, which we suspect is miscalculated at the present time. For example, over the past 20 years there has been significant growth in the export of UK design and allied consultancy services, such as architectural design, civil and structural engineering design, and urban planning. Historically, UK construction enterprises have built widely overseas, today the export is much more related to the provision of design, finance, knowledge, and materials and components. Knowledge has become a very important component.

3. *Market Demand and Risk*

Risk is endemic in construction activities. It can either arise as a direct result of a construction project (eg delays and disruptions, non-payment etc), or it can be external, unrelated to the construction project and out of the direct control of the project participants (eg the availability of skilled labour or materials). Because risk involves both controllable and uncontrollable events, the industry needs to have much greater awareness on the need to manage risk effectively.

The CIOB would like to see more emphasis and openness about the management of risk in construction projects, particularly in public sector procurement.

4. *Long-Term Availability of Materials*

The fundamental assumption of any market is a balance between supply and demand. With construction output around the world increasing, there is an issue about the long-term availability of raw materials.

China and Europe do not have raw materials to cope with large increases in demand. There is likely to be inflationary pressure on material supply in the future driven by availability. This presents an issue of the long-term supply that needs to be considered, especially in relation to the delivery of UK public sector projects.

The availability and cost of materials has a serious impact on contractors on long-term fixed price contracts, resulting in contractors being unwilling to commit to future long-term contracts without significant risk premiums being built into their bids. The problem is most pronounced in longer, more complex projects, such as healthcare, the Olympics, Crossrail, the schools programme, and other large projects that are often in the national interest.

5. Innovation & Capacity Building

One way to address the problems outlined above is to promote innovation and research and development in the sector. While there is often a view that this is the industry's responsibility, the CIOB believes that there are also important implications for the national economy and for maintaining the UK's competitive advantage.

There are taxation advantages in investing in research and development; they are cumbersome and difficult to apply to much of construction, such as providing a unique innovative design, or new material. They need to be reviewed to maximise the benefits to the UK economy and to the construction programme. The tax credits should recognise the change in the knowledge economy and its importance to delivering public projects.

October 2007

Memorandum submitted by the City of London Corporation

INTRODUCTION

1. The scale of redevelopment in the City of London consistently exceeds that which takes place elsewhere in the capital and, arguably, the UK. The importance of the financial services industry to the UK economy is widely acknowledged but few are aware of the important contribution made to that success by the commercial property industry. Continual innovation, changes in working practices and the demands of the business community have been key drivers in transforming the building stock available in the City. This, in turn, has necessitated both the construction of new buildings in the City and the redesign or reuse of existing structures. Latest figures show that there is currently 8.2 million square feet of office space and 690,000 square feet of retail space under construction in the City with consent given to a further 11.7 million square feet of office and 396,000 square feet of retail space on which work has not yet commenced. To illustrate further the scale of construction in the City, it is worth highlighting the fact that in the last 20 years, approximately 52% of the City's office space has been redeveloped. This has been achieved without any significant impact on business activity in an area still very much based on a layout which is the result of a medieval legacy.

2. Building and development work in the City of London is guided by the City Corporation through the City Surveyor's and City Planning offices. These functions seek to foster the continued development of the City as the heart of the leading international financial and business centre, whilst at the same time improving living, working and travelling conditions, enhancing the City's environment, and protecting its historic buildings and open spaces. The City of London Corporation is not in a position to respond in detail to all of the questions raised by the Committee but the following paragraphs set out the City Corporation's views on those areas in which it feels able to comment.

LARGE INFRASTRUCTURE PROJECTS

3. Following the decision to award the 2012 Olympic Games to London, the City Surveyor's office analysed the potential impact of the Games on both commercial and operational property programmes and construction projects generally planned by the City up to the start of the Games. It is estimated that works associated with the Olympics represent 1.2%–1.6% of new build UK construction output in the run up to the Games which, in isolation, would not represent a substantial challenge to the construction industry. Other than the Olympics there are major schemes planned in the capital such as the East London river crossing, M25 road widening, promotion of Thames Gateway regeneration generally, the East London line extension and other major City office/retail developments, as well as the possibility of works commencing on Crossrail. All of these schemes, together with smaller schemes, will be competing for limited resources. There is potential for these large schemes to impact on development in the City but, more generally, the impacts could be felt not only across London but across the rest of the UK.

4. The City believes the impact of the Games on construction within London should not be exaggerated and, on the whole, it is envisaged that the greater demand for labour and materials will be met. Concerns remain however and whilst it is not expected that the Games will result in prohibitive construction industry wide high price levels but the occasional above inflation rate price rise is anticipated which will, in turn, affect City projects.

²³ "London's Place in the UK Economy 2005–06", Oxford Economic Forecasting, published by the City of London Corporation, November 2005.

5. Research commissioned by the City of London and carried out by Oxford Economic Forecasting²⁴ predicts that the Games will generate a requirement “easily exceeding” an extra 50,000 construction workers on top of those who now work in the capital. This is based on a number of assumptions not least that construction activity is likely to be front-loaded, with most activity between 2007–10 and the types of big infrastructure projects that the Olympics entails tend to be more labour-intensive. The estimate also assumes substantial private sector investment in their own schemes, as firms such as hotel chains position themselves in an attempt to maximise benefit from the Games through their own refurbishment works.

6. This demand for additional labour comes at a time when, according to economists and construction experts, the industry is already facing a severe skills shortage. Indeed, subsequent research from Oxford Economic Forecasting²⁵ comments, “The infrastructure projects, including the Olympic venues, will place yet more strain on the scarce resources available in the construction sector” and points out that many housing and retail developments across the capital will be dependent on these infrastructure developments. The research concludes, “Delays in planning and execution of the major infrastructure and transport projects could in turn undermine the housing and related projects that are urgently required to improve the supply and affordability of London’s housing and the city’s labour supply”.²⁶

7. It is clear that the scale of the Olympic projects will entail drawing in employment from outside London to meet demand. Some of this extra employment may be met from neighbouring regions, but it seems likely that both internal and external migration, particularly from the recently joined eastern European states where the gap with wages in the UK are greatest, will be used to resource the Olympic projects.

8. There may also be pressure in securing sufficient quality contractor and consultant teams for some of the less attractive projects for the City as well as increased demand for appropriately qualified City staff. In particular the large number of high value projects scheduled over the next five years may place challenges on the management capability of the industry and it may be that smaller, lower profile schemes may struggle to secure wide interest and competitive prices in a buoyant market place.

Projected Tender Costs

9. It is expected that the pressure caused by the Olympics will lead to a continued high level of tender price inflation in the capital with an estimated annual rise of 6% from 2007–08. There are further possible price spikes from 2009–10 as major private sector projects come on stream. Whilst not directly attributed to the Olympic effect the Royal Institute of Chartered Surveyors’ Business News quotes the Building Cost Information Service (BCIS) forecast that “tender prices are expected to rise by two-and-a-half times the rate of inflation over the next five years, rising by 33% against a background of 12% general inflation”. There is a potential risk in that projects perceived to be unattractive by contractors will struggle to achieve either competitive or properly resourced bids which could lead to a short term lapse in competitive conditions in the market and, as previously mentioned, this could result in location specific cost hikes due to local concentrations of workload.

BUILDING CONTROL

10. Building Control is the principal function undertaken by the District Surveyor’s Office in the City. Its aim is to provide a quality service to customers, working alongside developers, designers and contractors and, somewhat uniquely among local authority services, competes with the private sector for all the building work subject to Building Regulations which is carried out in the Square Mile.

11. Winning work is achieved in a climate of keenly fought competition despite there being no foreseeable relaxation in future demand for quality office space in London. Current levels of construction activity for new office development is at fever pitch and they will remain so if the large number of high profile schemes currently being proposed is to reach fruition. It may be questionable whether this demand is sustained in the long term, but economic forecasters continue to anticipate continued growth in London’s financial sector. As much as the City Corporation District Surveyor’s Office endeavours to secure all the work it can, if growth continues to match forecasts it will place acute pressure on resources. There is presently a dearth of available and experienced staff and, as is common throughout the construction industry, the City Corporation has experienced difficulty in recruiting the calibre staff best suited to its needs.

12. Proposed changes to Building Regulations, along with the broadening of the range of topics which will be subject to Building Regulations in the future, add to the burden of maintaining the quality service the City Corporation aspires to deliver and maintain.

²⁴ “*London’s Place in the UK Economy 2005–06*”, Oxford Economic Forecasting, published by the City of London Corporation, November 2005.

²⁵ “*London’s Place in the UK Economy 2006–07*”, Oxford Economic Forecasting, published by the City of London Corporation, November 2006.

²⁶ *ibid.*

13. The Considerate Contractor Scheme (CCS) is an initiative developed by the City Corporation which is open to all contractors undertaking building and civil engineering in the City of London. There is no membership fee, but on joining the scheme, members agree to abide by the code of good practice and to display the CCS signage on the site adjacent to the public highway. Lorry holding and site logistics form important parts of the scheme, particularly on larger sites, but the main thrust of the scheme is the effect the site or road works have on the immediate environment. It is by following this voluntary code that the general standards of works are raised and the condition and safety of City streets and pavements improved for the benefit of everyone living, working or just travelling through the Square Mile.

14. The CCS was first introduced in 1987 as a result of the building boom in the 1980s. Concerns were raised that due to the volume of work generated in the City, standards of good practice and safety were slipping. To address this, a code of good practice was written which encompassed four basic tenets—Care, Cleanliness, Consideration, and Cooperativeness with the aim of encouraging building and civil engineering contractors working in the City to carry out their operations in a safe and considerate manner, with due regard to passing pedestrians and road users. Building sites were invited to join the scheme on voluntary basis and to follow the guidelines. From the very first year the scheme was taken up with enthusiasm by the sites since they saw it as a way to enhance the industry's image and improve safety for both the general public and their own operatives.

15. The scheme has now been running for twenty years and has remained well supported across the construction community. One of the reasons for the scheme's success is the fact that it remains voluntary. It is controlled by City officers liaising closely with both contractors and those in the vicinity of the site and encouraging contractors to undertake their work in a safe manner that has the least impact on the surrounding area. There are, of course, cases where some sites do not reach the standard the City would like but such instances are quickly identified and addressed in an appropriate manner. The systems of inspection and judging have been refined over the years so that they are not only seen to be fair but positively encourage people to improve their standards and to take pride in their work. The scheme now comprises a code of good practice, regular inspections by City of London officers, annual judging and the provision of a dedicated telephone service enabling the public to comment on the scheme, on sites and on participating contractors. By formally recognising not only companies but the people who actually make a difference on the ground we have instilled a sense of pride in the people who work on the streets in the City.

16. Following the success of the CCS, the City of London, in partnership with the statutory authorities and street contractors, launched the very successful Considerate Contractor Streetworks Scheme (CCSS) in 1990. The scheme was the first in Britain aimed specifically at tackling the problems associated with untidy and unsafe road works and has been developed as a direct result of the success of the Considerate Contractor building works scheme.

17. Today, with many major building sites in the Square Mile, numerous utility street works and 300,000 commuters entering the City on a daily basis, the importance of the Considerate Contractor Scheme has never been greater. The foundations that were laid twenty years ago have meant that the City is able to respond to these challenges and maintain its position as a leading place to do business in the United Kingdom and the world. The City was the first to develop such a scheme and remains pre-eminent. Following the City of London's initiative, a number of individual local authorities have set up specific schemes from their own resources to co-ordinate advice and enforcement and promote good practice on building sites. There is also the "National Considerate Constructors' Scheme" but this differs from the City's scheme, concentrating more on activity inside the site rather than in the surrounding area.

Planning Control

18. When Planning Consent is granted, the City often places conditions on the developer with regard to noisy working, deliveries and traffic controls. These help to ensure the City can continue to operate whilst works are undertaken. For example, to protect the amenities of nearby residents and commercial occupiers, works are not allowed to begin until a scheme for protecting nearby residents and commercial occupiers from noise, dust and other environmental effects, based on the City's Code of Deconstruction and Construction Practice, has been approved by the City. Similarly, in the interests of public safety and to ensure a minimal effect on the amenities of neighbouring premises and the transport network, a "Demolition Method Statement" and a "Construction Method Statement" are often required, and must be approved, prior to any works commencing on the site. Furthermore to ensure that the obstruction of the local highway network by construction vehicles is minimised, contractors are asked to provide details of facilities and methods to accommodate construction vehicles and deliveries during demolition and the construction of the building. These also then have to be approved by the City prior to the commencement of works. Together with the CCS, these controls ensure the productivity of the City is not materially affected whilst major schemes are progressed.

Supplementary memorandum from the City of London Corporation

1. Following the previous memorandum submitted to your predecessor Committee in May 2007, the Committee may be interested in further information on the City of London Economic Development Office's Construction Initiative which is particularly relevant to the inquiry.

BACKGROUND

2. The recent boom in City-based building activity has highlighted the attendant construction labour shortages and skills deficits as well as high levels of deprivation and low qualification attainment of the potential labour pool in City fringe areas. As part of the City of London Corporation's focus on skills and employment in the City fringes and in response to the major employment opportunities offered by the increase in construction activity in the Square Mile, the City's Economic Development Office (EDO) has employed a Construction Initiatives Coordinator since October 2006, to take forward work with major City developers and contractors to improve access to training and employment opportunities on their sites.

3. Given its need for considerable numbers of new entrants in the period up to 2012 and beyond, the construction sector is widely regarded as ideally placed to absorb a significant percentage of those currently workless. Numerous systemic difficulties, however, act to prevent this from happening, in particular the fragmented nature of the sector, the lack of clear recruitment structures and progression routes and the complexities of training provision and funding.

4. Existing platforms for preparing local candidates to compete for opportunities are not equipping them with skills sufficiently attractive to contractors, who continue to show a marked preference for often better prepared migrant labour. The failure of existing training provision to match industry needs (exacerbated by a tendency to train speculatively) is such that an estimated 60% of construction trainees, though fully or partially qualified, never gain employment in the sector.

THE CITY OF LONDON'S EMPLOYMENT CHARTER FOR CONSTRUCTION

5. The City of London's Employment Charter for Construction seeks to harness the regenerative energy of development activity in the Square Mile for the benefit of residents of the City fringe boroughs through site specific partnerships with developers, contractors, training providers, public funding bodies, Sector Skills Councils (SSCs) and others. It is currently being piloted on the Guildhall North Block refurbishment and British Land's 201 Bishopsgate/Broadgate Tower (Bovis Lend Lease being main contractor for both).

6. In addition to the initial pilot sites, the Construction Initiatives Co-ordinator has worked closely with a number of developers/contractors to sign them up to the aims of the Employment Charter: These include Delancey, Stanhope, GVA Grimley, Skanska, Hammerson, Land Securities and McAlpine.

BOVIS LEND LEASE AND BEONSITE

7. BeOnsite is a Bovis Lend Lease-led, LDA funded, not-for-profit training and recruitment mechanism. Close collaboration with the BeOnsite team under the Employment Charter for Construction has allowed detailed discussion of training/employment needs with key contractors in the Bovis Lend Lease's supply chain and, equally importantly, with the manufacturers and suppliers of construction materials whose impact on construction processes is increasingly significant.

8. These discussions, serving to increase, as well as respond to, demand from employers as recommended both by the Leitch Review of Skills²⁷ and the recent House of Commons Education and Skills Committee Post-16 Skills report²⁸ reveal the emergence of skills requirements not yet addressed by mainstream training provision.

14 NORTON FOLGATE

9. Working with colleagues in the City Surveyor's Department, the Construction Initiatives Co-ordinator has secured the leasing of City of London Corporation owned premises at 14 Norton Folgate, to the *BeOnsite* initiative for use as a construction training centre, linked initially to the 201 Bishopsgate/Broadgate Tower site, directly opposite the premises.

10. A grant of £30,000 to cover initial refurbishment costs will add to the City of London Corporation's contribution to the establishment of a facility where responsive industry-led training linked to employment will be delivered. The initial refurbishment will be conducted by 18 supervised and guided trainees resident in the City fringes as part of a fully funded entry level programme. Those completing the programme will progress through *BeOnsite* to further training or employment within Bovis Lend Lease's supply chain.

²⁷ *Leitch Review of Skills: Prosperity for all in the global economy—world class skills*, HMSO, December 2006.

²⁸ *Post-16 Skills, HC 333-I*, House of Commons Education and Skills Committee, Ninth Report of Session 2006–07, 2 August 2007.

11. Negotiations are currently underway to involve The Eden Project, Cisco Systems Network Academy and Saint Gobain in the second phase refurbishment. If successful it is envisaged that The Eden Project's expertise in design, materials use and processes (eg waste disposal) will embed sustainability at the heart of the project. Cisco Systems will provide cabling training, ICT equipment and software enabling trainees to learn elements of computer aided design (CAD) and Building Management System creation—both areas where discussions have revealed skills shortages. Saint Gobain, arguably the largest building supplier in the world, will contribute materials, expertise in energy solutions (eg solar heating panels, water saving etc) and links to manufacturers.

12. The completed project, as well as providing office space for the *BeOnsite* team, will combine innovative training with a showcase for sustainability within construction, for new materials and new methods that a wide range of stakeholders and opinion formers will be invited to visit.

January 2008

Memorandum submitted by The City of London Law Society

BRIEFING

The City of London Law Society (CLLS) represents over 13,000 City lawyers, through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi-jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 17 specialist committees. This briefing has been prepared by the CLLS Construction Law Committee. This Committee is made up of solicitors who are expert in their field.

The CLLS understands that the BERR Select Committee has considered payment practices as part of its review of the construction industry. This briefing highlights existing confusion around payment practices within the PFI market, in particular the impact of section 113 of the Housing, Grants, Construction and Regeneration Act, 1996 (HGCRA).

PFI Sub-Contract Risk Allocation Structure

Since the introduction of the Private Finance Initiative (PFI), the Government has been committed to the use of PFI as a procurement option where this offers value for money. In March 2006, the Government/HM Treasury reaffirmed this commitment by issuing its policy statement "PFI: strengthening long-term partnerships".

PFI transactions have traditionally been structured so that the design and construction, facilities management and other operational and/or maintenance obligations and entitlements of the thinly capitalised project company under the project agreement are, as far as possible, passed down to the sub-contractors via their respective sub-contracts. This risk allocation is a widely accepted feature of the PFI structure—risks are "flowed-down" to those best able to manage them, so protecting the project company against the consequences of any relevant risk occurring.

In order to effect such risk allocation, PFI sub-contracts (which to a large extent often replicate the relevant provisions in the project agreement) contain provisions often termed "Equivalent Project Relief" (EPR) clauses. Lenders are reluctant to risk the project company being in default, simply because its income does not match its payment obligations under the sub-contracts.²⁹ Accordingly, these provisions seek to ensure that, wherever the sub-contractor's rights and obligations are based on provisions equivalent to those in the project agreement, the sub-contractor's entitlement is no greater and no less than the project company's relevant entitlement from the public sector authority under the project agreement. Such clauses have become standard in the PFI industry and have gained market acceptance.

There is, also, a wider benefit arising from these mechanisms. The passing of risk away from a PFI Project Company is regarded as having a positive impact on funders' perceptions on a project's financial viability, thereby enabling greater leverage, reducing the overall cost of finance and the affordability of the project to the Public Sector.

²⁹ This is not universally applied. Claims under sub-contracts which arise out of elective Project Company variations or independent Project Company default are generally not subject to this regime. Even in relation to other EPR related claims, a degree of latitude has sometimes been allowed (eg a right to terminate if sums exceed a certain threshold).

Conflicting payment practices—section 113(1) HGCR

“A provision making payment under a construction contract conditional on the payer receiving payment from a third person is ineffective, unless that third person, or any other person payment by who is under the contract (directly or indirectly) a condition of payment by that third person, is insolvent”

This provision was enacted to take account of the legitimate concerns of sub-contractors, specialists and suppliers, who had traditionally borne the brunt of so-called “pay-when-paid” provisions in the main contractors standard forms.³⁰

However, within a PFI context, the first-tier sub-contractors are in fact typically the “main” contractors (and facilities management companies) rather than the sub-contractors, specialists and suppliers HGCR

Moreover, in many cases these sub-contractors are also investors in the project and so stand to benefit in that capacity from restrictions on their ability to pursue claims as sub-contractors. Even where the sub-contractor does not have an equity sponsor role, it will generally be a member of a bidder group and (subject to the possible intrusion of the procurement regulations) therefore have the ability to negotiate and price the sub-contract on a sole and negotiated basis.

With the advent of HGCR, it was quickly recognised by those dealing with PFI projects that providing PFI first tier sub-contractors with the full protection of section 113 (1) could have adverse effects on the affordability of PFI schemes. A limitation on the ability to pass risks down to sub-contractors would oblige sponsors and their funders to make renewed efforts to transfer relevant risks upstream to the contracting public sector authority (further complicating project negotiations). Senior funders would also require the project to equip itself with alternative sources of funding for incurring any incremental sub-contract exposure. The equity nature of the risk inherent in this additional funding would inevitably attract a higher price than conventional senior debt, with predictable consequences for the affordability of the project.

Accordingly, it became commonplace to implement EPR contractual structures in order to avoid affecting the pricing of contracts, the ratings projects receive and to satisfy the funders. Most of the large PFI/PPP Projects signed since HGCR became effective in May 1998 have in fact proceeded on this basis with the clauses gaining market acceptance. Where there has been opposition, experience has suggested that the majority of first tier sub-contractors were not, in fact, insistent upon the full application HGCR provisions as a matter of principle. The main concern seemed to hinge on the cost or inconvenience of circumventing its provisions or, alternatively, on the need to be fully represented in the main project agreement negotiations, in order to ensure that they have the opportunity to influence and understand the nature of the project agreement upon which their pass down rights and obligations depend.

Further confusion—judgment in Midland Expressway

In *Midland Expressway*, it was confirmed that, notwithstanding the EPR provisions in the first tier construction sub-contract, which had the effect that the contractor’s claim was deferred until the matter was determined under the project agreement with the public sector authority, a project company was not entitled to prevent adjudication taking place on the contractor’s claim. This was because the construction contractor was entitled to proceed with adjudication on the basis of its unfettered right to adjudicate under section 108 of HGCR.³¹

The Judge in the case (Mr Justice Jackson) also made non-binding comments about the efficacy of EPR provisions, in particular that some might constitute “pay-when-paid” clauses that are rendered ineffective by section 113 of the HGCR. These included provisions that the contractor was entitled to be paid when the project company was entitled to be paid. In relation to these the judge went on to say that parties could not escape the operation of section 113 “by the use of circumlocution”.

The judgment has inevitably lead to uncertainty within the PFI industry over whether the Judge’s purposive approach to interpretation of the HGCR might be followed to the detriment of the PFI market in the UK. The CLLS has concerns that should future adjudications and judicial decisions also give precedence to the policy objectives of HGCR over the original commercial agreement of the parties there could be major implications for the PFI market in the UK. This could affect both the viability of existing deals and on future projects the pricing and carefully crafted risk allocation structures that have evolved in the PFI market over the last 15 years.

³⁰ Prior to HGCR, the Courts had consistently upheld correctly drafted pay-when-paid clauses and they had become a common feature of construction sub-contracts. The insolvency exception in s.113(1) has been attacked for removing the protection otherwise afforded at the time when it might most be needed by sub-contractors.

³¹ It is not uncommon to see the EPR provisions in sub-contracts supported by waivers of the right to bring procedures at sub-contract level pending determination of a related matter under the Project Agreement. In light of this judgment, it is recommended that these provisions are not included.

The CLLS calls on the Government to revisit section 113 of HGCRA and exclude PFI sub-contracts from the ambit of the HGCRA.

14 January 2008

Memorandum from the Commission for Architecture and the Built Environment (CABE)

1. CABE is the government's advisor on architecture, urban design and public space. As a public body, we encourage policymakers to create buildings and places that work for people. We help local planners apply national design policy and offer expert advice to developers and architects. We show public sector clients how to commission buildings that meet the needs of their users. And we seek to inspire the public to demand more from their buildings and spaces. Advising, influencing and inspiring, we work to create well-designed, welcoming buildings and places.

2. CABE is jointly funded by the Department for Culture, Media and Sport (DCMS) and the Department for Communities and Local Government (DCLG). The sponsorship arrangements are with the DCMS. However we have strong working relationships with the Office of Government Commerce (OGC), the Department of Trade and Industry (DTI) and the Department for the Environment, Food and Rural Affairs (Defra) on matters relating to the design, procurement and construction of public buildings.

3. CABE has strong working relationships with key stakeholders in the UK construction industry. These relationships consist of:

(i) Membership of:

- The Constructing Excellence Sustainability Forum;
- The Construction Industry Council (CIC) Sustainable Development Committee;
- The OGC's Public Sector Construction Clients Forum (PSCCF); and
- The DTI's Cross Departmental Construction Group.

(ii) Major service level agreements with:

- Department for Education and Skills (DfES) for enabling and design reviewing the Building Schools for the Future programme of building;
- Olympic Delivery Authority (ODA) for enabling and design reviewing masterplans and designs for the Olympic Park and buildings;
- Arts Council England for the enabling arts building projects; and
- Department of Health (DoH) for enabling the LIFT programme of building.

(iii) Working closely with:

- The OGC on the Government's Better Public Building Initiative and the PM's Award for Better Public Building; and
- The Home Builders Federation (HBF) and the private volume housebuilding industry on the Building for Life initiative.

(iv) Contribution of design quality expertise to:

- The Office of Government Commerce's (OGC) Common Minimum Standards for sustainability in the procurement of built environments;
- The CIC's Design Quality Indicator (DQI);
- The Department for Trade and Industry's (DTI) forthcoming Sustainable Construction Strategy; and
- The HM Treasury Green Book on Appraisal and Evaluation in Central Government.

4. Of the areas covered by the Committee's inquiry into the UK construction industry the following are of particular relevance to CABE's remit:

- long-term capacity for the delivery of large infrastructure projects on time and to budget, such as the Olympics;
- delivery of the Government's capital investment programme;
- availability of, and investment in skills;
- encouraging sustainability; and
- construction R&D.

5. The UK construction industry is central to the delivery of the massive public building and infrastructure programme currently underway and in meeting ambitious targets for house building across the country. An estimated £45 billion will be spent on the Building Schools for the Future programme alone over the next 15 years, construction related costs for the 2012 Olympics are estimated at £3.3 billion and two thirds of a million homes are planned to be built in England over the next five years. Never has the construction industry been more dynamic.

6. According to a recent study undertaken by Deloitte for the OGC,³² the UK construction sector overall is likely to have sufficient capacity to meet the demand from public sector construction programmes, including the Olympics, between now and 2015. Labour and skills shortages in the construction sector have been alleviated to some extent by the influx of workers associated with expansion of the EU, although there remain shortages in specific skills and disciplines. These include project management, leadership and specific aspects of design and engineering.

7. The study identified pre-construction issues, such as procurement and project management, as more likely to be the cause of cost escalations and therefore a priority for the sector to address. The need for central government to strengthen its capacity to lead construction programmes and projects and put in place strategies to develop construction project management capabilities was also identified in the NAO report *Improving public services through better public construction*.³³ The chief executive of CABE was recently asked to chair a working group of the OGC Public Sector Construction Clients Forum set up to explore capacity and capability across government departments to procure major capital construction programmes and projects, in order to identify actions needed to improve outcomes. An early action of this group will be to commission research with the OGC to better understand current practice and perceptions of need.

8. To address increased tender costs due to uncertainty about future demand, the OGC has emphasized the value of using a demand / capacity model to allow for scenario planning to inform Departments' decision making by highlighting the effects of public sector construction demand on industry capacity. This will provide a view of how projects might impact on each other or on the wider economy, and reveal potential effects on inflation, labour and materials supply.

9. Although the Olympic building and infrastructure programme is high profile, the amount of output it is expected to generate over the next five years, is less, for example, than that relating to Heathrow Terminal 5. In 2010, the peak construction year for the Olympics the number of construction workers at all levels from contract managers to craftspeople is estimated to be around 9,300, which equates to a little over 0.3% of total UK construction employment that year.

10. The competitiveness of the UK construction industry is based on delivery of quality projects on time and to budget, and all three need to be considered simultaneously. However, the construction industry is still largely driven by time and cost considerations, rather than quality and sustainability. It's not good enough to deliver projects and meet targets on time and on budget if the end product is not high quality nor sustainable.

11. Much of our work shows there is a long way to go in this country. In July 2006 CABE published findings from an audit assessing the design quality of 52 secondary schools. Over 50% of the schools were categorised as "mediocre" or "poor", 29% were "partially good", 15% were "good" and 4% were "excellent". Most schools scoring "good" or "excellent" were completed in 2005, the last year studied, which suggests that things are getting better. In February 2007 CABE completed a national housing audit which showed that 82% of new housing built over the last five years fails to measure up on design quality, and 29% of developments are so poor they should not have even got planning permission.

AVAILABILITY OF, AND INVESTMENT IN SKILLS

12. The UK construction industry currently employs 2.1 million people and accounts for at least 8.2% of UK GDP. By the end of 2006, across all occupations, just over 2.5 million people are expected to be employed in construction. To deliver forecast growth between 2006 and 2010, the number of construction workers needed is likely to increase by around 245,000 across the whole of the UK. This translates into a need for an additional 87,000 new recruits a year on average to fulfill the requirement created by additional demand and to take account of those who will leave the industry during the same period.

13. In addition to the professions commonly associated with the construction industry, planning and urban design skills are also vital to the construction process. It must be borne in mind that many decisions affecting the sustainability of an individual construction project are nearly always determined at an earlier stage of the design process than construction, and at the more strategic masterplanning scale than the building scale.

14. Ethnic diversity remains an issue for across the industry. Research undertaken by CABE³⁴ identified that whilst ethnic minority students are relatively well represented in most of the built environment discipline at all stages of higher education, only 2.8% of built environment professionals in employment are from

³² 2005–15 *Construction Demand Capacity Study*, Deloitte/OGC, June 2006.

³³ *Improving public services through better public construction*, NAO, March 2005.

³⁴ *Minority ethnic representation in the built environment professions*, CABE, July 2005.

ethnic minority groups (compared with 7.8% of the working age population). It is worth noting that figures for representation in employment are, at best, patchy. Worryingly, the figures also suggested that fewer ethnic minority graduates go on to careers in the industry than their white counterparts. In depth interviews with a sample of ethnic minority students and professionals suggested that barriers to entry and progression remain, although the picture appears to be changing. Whilst the focus of this research was on ethnic representation the findings of this research can be applied to other groups.

15. This picture of under-representation and barriers to entry and progression is against a backdrop of a growing construction market, projected shortages of professionals entering the industry and built environment higher education courses that report difficulties in attracting enough students. Architecture is the only built environment subject consistently receiving more applications than places. Other subjects appear to rely on clearing to fill courses.

16. One barrier can be the image of the industry. Both CABE and ConstructionSkills have recently introduced campaigns to influence attitudes to the sector.³⁵ The Academy for Sustainable Communities, ASC, is also currently developing a campaign to promote careers involved in creating and maintaining sustainable communities, which includes the built environment professions. This will build on CABE's careers work.

17. Since its establishment in 2003, CABE Education has also been working to raise the profile of the built environment as an arena for learning. The 14-19 curriculum reforms and industry response to the Leitch Review offer opportunities to build on and extend this success.

18. In terms of the skills of professionals, CABE sees urban design as an increasingly core skill that should be introduced as part of the professional training of all those involved in the process of place making, and that ideally these are skills best learnt in the sort of multi-disciplinary groups found in teams delivering successful places.³⁶

19. More broadly, there is an increasing recognition that, irrespective of their technical ability, to play a productive role in developing better buildings and places professionals need a range of generic skills. This is an agenda that is being driven by the Academy for Sustainable Communities, in implementing the recommendations of the Egan Review of Skills for Sustainable Communities, 2004.

20. At a project level, CABE works to develop wider understanding of what makes a good client (as central to achievement of good design) and to promote opportunities for those fulfilling this role to develop the skills and understanding they needed. This is achieved through its programmes as well as through work with others, such as OGC.

ENCOURAGING SUSTAINABILITY

21. CABE's view is that good design is synonymous with sustainable design. No building, public space, infrastructure or place can be considered genuinely well designed if it does not contribute to environmental, social and economic sustainability—the triple bottom line. No building, space or place can be considered sustainable if it not well-designed. Design is about problem solving and there is no bigger challenge than climate change and sustainable development.

22. However, many clients and developers still see design quality and sustainability as two separate and marginal issues, one a question of aesthetics, the other a question of technical solutions to problems such as reducing energy consumption and waste. From CABE's perspective these are inseparable. Design quality, after all, is not just defined by how a building, space or place looks, but how it functions, how it meets the social, economic and environmental needs of the people it serves, and how it can be managed and adapted as those needs change over time.

23. Good design is both a process and an outcome and is integral to all aspects of sustainable construction. It is not an optional extra. Specifically, design quality reinforces good procurement, effective asset management and ensures whole life value within the construction industry. It is fit for purpose, soundly built, durable and attractive. It is responsive to context, and a clear expression of the requirements of the brief, flexible and adaptable to future needs and technologies, uses resources efficiently, and represents whole life value for money. Whole life values thinking and sustainable procurement are essential when making decisions about investment in the design, construction and management of sustainable buildings, spaces and places.

24. Approximately 30% of the construction sector's output by value is bought by the public sector with Government itself the construction industry's leading client. Therefore there are enormous opportunities for Government and the public sector to set an example through the sustainable design, procurement, maintenance and operation of its built assets, stimulating demand, markets and supply chains for more sustainable products and service. Given the scale of house building over the next 5 years, and the challenge of meeting the targets within the Code for Sustainable Homes the private volume housebuilding industry will also have a key role to play. Government plans to rebuild or refurbish every secondary school in England by 2020 through the Building Schools for the Future programme represents a once-in-a-lifetime

³⁵ *Making places careers campaign*, CABE, 2005; *Positive image*, CITB, 2006.

³⁶ *Urban Design Skills Working Group*, CABE 2001; *Building sustainable communities: developing the skills we need*, CABE, 2003.

opportunity to ensure they are as high quality and sustainable as possible. CLG is currently working with the construction industry to set up a similar framework to the Code for Sustainable Homes for commercial and public buildings. A Code for Sustainable Buildings is one possible outcome.

25. A balance is required between a robust regulatory framework which ensures compliance and system of incentives which encourage the construction industry to be more sustainable.

CONSTRUCTION R&D

26. CABE believes there should be more investment into data collection, monitoring and evaluation on the performance of existing and completed buildings, spaces and infrastructure in terms of quality and sustainability. In order to ensure there is a feedback loop between project teams and clients there should be investment into the development of a comprehensive “living” database to inform the way buildings, spaces and infrastructure are planned, designed, constructed, maintained and operated leading to a process of continuous improvement.

27. Definitions of design quality and sustainability across the construction industry cannot always be reduced to codes and prescriptions. However, it is possible to distinguish good, sustainable design from bad, unsustainable design and there are a range of tools and indicators and tools for assessing design quality and sustainability for buildings, infrastructure and public space in different ways. The main indicators and tools for assessing the design quality and sustainability of construction projects are listed below.

28. Using any one of these tools in isolation will only give a partial picture of design quality and sustainability. Tools for specifically assessing the environmental quality and performance of buildings and infrastructure have the potential to be used as holistic indicators of design quality if used in conjunction with other indicators to build up a composite picture of design quality across a construction project or site. A good design process can play a synthesizing role in bringing the use of these tools together to help deliver sustainable construction.

Design Quality Indicators

- The Design Quality Indicator (DQI)—an established tool which helps to define and evaluate design quality.
- DQI for Schools—a process for evaluating the design quality of school buildings from the inception of the project through the design stages and once the building is complete.
- Design Excellence Evaluation Project (DEEP)—a DQI for Ministry of Defence projects.
- Achieving Excellence Design Evaluation Toolkit (AEDET)—assists healthcare trusts and the NHS to determine and manage their design requirements from initial proposals to post-project evaluation, concentrating on the product of their project.
- ASPECT (A Staff and Patient Calibration Tool)—is used in conjunction with the Staff and Patient Environment heading of the AEDET toolkit, to establish performance benchmarks for a new healthcare environment.
- IDEAS (Inspiring Design Excellence and Achievement)—aids trusts, their architects and design consultants to develop briefs and design ideas.
- Spaceshaper—a practical toolkit for use by anyone—whether a local community group or a professional—to measure the quality of a public space before investing time and money in improving it. The toolkit works by capturing the perceptions of professionals involved in running a space, as well the views of the people that use it.

Award Schemes

- Building for Life—a national award scheme to enable and reward high quality design in new housing developments.
- Prime Minister’s Better Better Building Award—this annual award recognises new buildings, places and spaces that improve the delivery of public services and help build a sustainable future. It is jointly sponsored by the CABE and the OGC.
- Green Flag Award—the national quality standard for parks and green spaces in England and Wales. Enables and rewards the best green spaces in the country and encourages others to achieve the same high environmental standards.
- The Civil Engineering Environmental Quality Assessment and Award Scheme (CEEQUAL) for civil engineering projects.

Environmental Assessment Tools

- BRE's Environmental Assessment Method (BREEAM)—BREEAM Buildings can be used to assess the environmental performance of any type of building (new and existing). Standard versions exist for common building types and less common building types can be assessed against tailored criteria under the Bespoke BREEAM version.
- The NHS's Environmental Assessment Tool (NEAT) is being developed by the BRE as BREEAM for healthcare buildings.
- CLG's Code for Sustainable Homes—intended as a single national standard to guide industry in the design and construction of sustainable new homes. It is based on nine sustainable design principles.
- EU Energy Performance of Buildings Directive (EPBD)—requires UK buildings to comply with stated energy performance standards and to display or make available energy performance certificates.
- Arup's Sustainable Project Appraisal Routine (SPeAR) is based on a four-quadrant model that structures the issues of sustainability into a robust framework, from which an appraisal of performance can be undertaken. SPeAR brings sustainability into the decision-making process with its focus on the key elements of environmental protection, social equity, economic viability and efficient use of natural resources.

Post construction and occupation evaluation

- Post-Construction Evaluation (PCE) and Post-Occupancy Evaluation (POE) are tools which can also be used as indicators of design quality and sustainability. PCE usually takes the form of an in-depth objective study of how the building and its systems' performance against the original performance specification. It is not currently that common but has the potential to be used more widely. POE involves systematic evaluation of opinion about buildings in use, from the perspective of the people who use them. It assesses how well buildings match users' needs, and identifies ways to improve building design, performance and fitness for purpose.

Key CABE documents relating to issues covered in this written submission:

Better public buildings: a proud legacy for the future

http://www.cabe.org.uk/default.aspx?contentitemid=430&field=browse_subject&term=Construction%20and%20procurement&type=2

Achieving well designed schools through PFI: client guide

http://www.cabe.org.uk/default.aspx?contentitemid=456&field=browse_subject&term=Construction%20and%20procurement&type=2

Improving standards of design in the procurement of public buildings

http://www.cabe.org.uk/default.aspx?contentitemid=656&field=browse_subject&term=Construction%20and%20procurement&type=2

Creating better public buildings: a guide for clients

http://www.cabe.org.uk/default.aspx?contentitemid=450&field=browse_subject&term=Construction%20and%20procurement&type=2

Design and modern methods of construction

http://www.cabe.org.uk/default.aspx?contentitemid=547&field=browse_subject&term=Construction%20and%20procurement&type=2

Design quality and the private finance initiative

http://www.cabe.org.uk/default.aspx?contentitemid=704&field=browse_subject&term=Construction%20and%20procurement&type=2

4 May 2007

Memorandum submitted by the Confederation of Construction Specialists

BEST PRACTICE ON CONTRACT MANAGEMENT

1. The Confederation of Construction Specialists represents specialist subcontractors who turnover in excess of £2.5 billion.
2. Whatever form of contracting is in place, be it main contracting, contract management, design and build or contract management, there is without exception a culture and practice employed by main contractors that seeks to impose certain sub-contract terms that are inherently unfair.
3. The unfair apportionment of risk from the main contractor to the subcontractor is designed to shift any given risk to the subcontractor, being a risk that a subcontractor is least able to absorb.

4. For example:

- a clause in a subcontract which requires the referring party (usually the subcontractor) to pay the fees of the responding party (usually the main contractor) and the fees of the adjudicator regardless of the outcome of the adjudication is inherently unfair,
- a clause which requires the referring party (usually the subcontractor) to pay any sum awarded by the adjudicator into a trustee stakeholder account until the responding party (usually the main contractor) decides whether or not to proceed to arbitration or litigation is inherently unfair,
- a clause that makes the subcontractor wait for payment for 60 days is inherently unfair,
- a clause which entitles the main contractor to deduct 2.5% discount if the subcontractor is paid on time and that 2.5% is taken in any event is inherently unfair.

5. Best practice can only ever be achieved if the contracting parties enter into contracts where the risk is fairly apportioned. It is not the view of the Confederation of Construction Specialists that main contractors should not make money. On the contrary, it is the view of the Confederation of Construction Specialists that the fair apportionment of risk is the vehicle and the only vehicle that allows the main contractor to maximise profit.

6. Standard forms of subcontract are published by the Joint Contracts Tribunal and represent an industry negotiated and agreed spread of risk. The risks are known and are largely fair.

7. What happens in practice is either that a main contractor amends these standard forms of subcontract and calls the amended version a standard form or they insist on bespoke subcontracts that are without exception unfair in their apportionment of risk in relation to particular terms.

8. Attached (not printed) as a hard copy to these submissions are five recent examples of the analysis of bespoke forms of subcontract. The Confederation of Construction Specialists has analysed some 210 forms of subcontract and each one, whether a bespoke or an amended standard form, unfairly apportion the risk in favour of the main contractor.

9. There is a case to argue that the unfair apportionment of risk creates friction both on and off-site, leads to rather than solves disputes, increases costs to the end user and is utterly devoid of any understanding of sustainability.

10. While the Confederation of Construction Specialists conducts training of specialist subcontractors in terms of recognising, avoiding and understanding risk, it remains the case that a culture which engages in the unfair apportionment of risk is self defeating.

11. If, for example, the Olympic Delivery Authority does not insist that subcontract terms and conditions are to contain a fair apportionment of risk, then the building process itself is at stake.

12. The Confederation of Construction Specialists recognises that there may be a conflict between freedom to contract on any terms the parties agree and the need to have a coherent set of terms agreed by industry representatives which creates the culture necessary to allow the contract to work with risk sharing being the basis of fairness.

13. The Confederation of Construction Specialists has continuously campaigned for the fair apportionment of risk. The attached *The Menace of Non-Standard Forms of Sub-Contract : A Campaign to Achieve a Fair Apportionment of Risk* (not printed) forms the basis of this campaign. What the Confederation of Construction Specialists is interested in is for this Committee to investigate how a fair apportionment of risk will assist all the players in the construction industry. Put negatively, what is the benefit to the construction industry of retaining an unfair apportionment of risk?

20 April 2007

Memorandum submitted by Construction Clients' Group

INTRODUCTION AND SUMMARY

1. The Construction Clients' Group (CCG) is a membership forum affiliated to Constructing Excellence (CE), the leading organisation dedicated to improving industry performance for a demonstrably better built environment. CE was part grant-funded by the DTI until March 2007 and is now a thriving membership-governed organisation with government and consultancy commissions. Its core activities are action research and innovation, benchmarking, demonstration, best practice guidance, and learning networks.

2. Unlike the other forums affiliated to CE, CCG members have a single role within the construction supply chain and it provides independent, representation for all clients within government and the private sector. The CCG is in a unique position in that it is able to provide its members with opportunities to influence government policy and regulation while also providing opportunities for networking and the sharing of best practice.

3. Since becoming affiliated to Constructing Excellence in March 2006, the CCG has evolved from primarily being a lobbying organisation with considerable influence to also incorporating a portfolio of products and services to its members. The mission of CCG is:

To maximise client outreach and assist infrequent and repeat clients alike to gain maximum value from their construction procurement activities

4. The CCG is now structured to provide its core activities to national frequent clients, regional frequent clients and products/services to occasional clients.

5. The CCG has a seat at the Strategic Forum for Construction as one of the construction umbrella bodies and has representatives across a number of pan-industry boards and working groups such as Construction Skills board, Health & Safety Executive, Strategic Forum, a number of CONIAC sub-groups and the Public Sector Construction Clients' forum—Working Group 6.

6. The CCG are currently playing a key role in the Constructing Excellence action research work on Value with specific regard to whole life value. There are two main strands of work required to make progress towards this vision:

- We need to understand the relative ratio of building cost and business value. The initial capital costs of a construction project, the maintenance and building operating costs, and the business operating costs (salaries, IT etc) of the organisation occupying the building are easily identified. For the economy as a whole over 20 years, research by University College London has shown that these figures might have the ratio 1:3:30, but ratios as high as 1:5:200 have been suggested by others. Add in two more figures, the project design and management cost, typically 10% of the capital cost, and the value added (earned) by the occupier organisation, perhaps 33% more than the business operating costs, and we find the gearing of design input, where what is to be built is defined, to value for the business could be of the order of 1:400.
- We need to bring together three inter-related activities which will enable a value-driven process:
 - (a) post-occupancy continuous evaluation—finding out on an on-going basis how well a new or refurbished building actually performs, how it affects those who use it, and how it meets the operational needs of the organisation on an on-going basis, is notable for its usual absence.
 - (b) evidence-based design—recording, understanding and cataloguing for use by others, design solutions which work particularly well, is largely unheard of and would be considered by many to be eccentric.
 - (c) briefing—this process is notable for the wide variation in its quality, which is hardly surprising without (a) above as how can the process be based on an understanding of how buildings work in use and therefore their strategic impact on the client's operation?

7. EMPLOYMENT AND PAYMENT PRACTICES

The CCG is involved in a number of activities regarding this area:

- Role on the ConstructionSkills Board to represent the role of the client and to ensure that client capability and capacity is on the agenda of ConstructionSkills.
- Representation on the CSCS Board and compulsory commitment for all CCG members to have CSCS cards across their construction sites.
- Through the Strategic Forum for Construction, the CCG is involved across all working groups including the group on integration which is investigating fair payment practices across the supply chain.
- The CCG is also committed to the Respect for People agenda and the associated toolkits that have been championed by the Constructing Excellence through the Egan change agenda, Rethinking Construction.
- Has formally signed the FAIR PAYMENT IN CONSTRUCTION charter set out by the OGC.

8. LONG TERM CAPACITY FOR DELIVERING LARGE INFRASTRUCTURE PROJECTS ON TIME AND ON BUDGET

The CCG's membership is broadly split into two key areas:

- Frequent and “knowledgeable” clients.
- Occasional and infrequent clients.

The CCG captures the learning from frequent and knowledgeable clients and then disseminates this as “best” and desirable practice to the occasional clients. For example, the CCG has organisations such as BAA, Highways Agency and Network Rail as members. The CCG works closely with these organisations through the use of benchmarking and demonstration projects to capture knowledge from major projects.

9. DELIVERY OF GOVERNMENT'S CAPITAL INVESTMENT PROGRAMME

The CCG is well represented through its membership by the main spending Government departments. Initiatives such as "Achieving Excellence in Construction" have really had an impact on construction procured by the public sector. For example the March 2005 NAO report "Improving public services through better construction" reported an increase of projects coming in on budget (from 27% in 1998 to 65% in 2006) and on time (from 30% in 1998 to 61% in 2006).

The CCG, through its representation on the Forum, supports the Strategic Forum's submission to the Public Sector Construction Clients' Forum of the OGC in March in which, jointly with Constructing Excellence, CCG said that we wish to see public sector procurers:

- providing clear and long-term information on investment programmes and strategies. This gives confidence to industry to invest in its supply chains;
- ensuring a steady deal flow which runs in accordance with previously published timescales. This enables the industry to keep together experienced teams to deliver projects more effectively and to benefit from economies of scale;
- abandoning the practice of aggressive competitive tendering in favour of building long term relationships with contractors and their supply chains;
- promote the value agenda including best value not lowest price tendering;
- involving construction supply chain partners at the earliest possible stage of projects to ensure maximum efficiencies are generated in the design and construction process;
- delivering more projects through integrated supply chains; and
- standardising contracts, processes and design, where appropriate.

10. MAINTENANCE OF STANDARDS IN THE SECTOR

The CCG is responsible for the Construction Clients' Charter, which is currently a standard that must be attained by clients and covers issues such as procurement & supply chain integration; health and safety; sustainability; commitment to people; design quality; and client leadership. The CCG is driving the 2012 Construction Commitments through the revision of the Clients' Charter and is creating a standard by which clients can utilise in their engagement with the construction supply chain. This new "Charter" will inject into the construction process better understanding of why importance is placed where it is on client related issues.

The CCG has also been heavily involved in the joint British Standards Institute and Constructing Excellence initiative into Rethinking Standards in Construction. This initiative concerned with linking standards to the Construction Industry KPIs and the performance of core company and industry issues, future standards will be developed that assist and contribute to improved performance and enhanced value throughout the built environment sector.

The CCG has provided representatives to attend workshops on sectors such as Residential, Commercial/Industrial, Infrastructure, Building Processes and Water.

11. CONSTRUCTION R&D

The CCG has been keenly involved in the UK National Platform for the Built Environment, which aims to increase significantly the level of business-led, relevant strategic research applicable to the built environment and the Knowledge Transfer Network for the Modern Built Environment which is more sector orientated on immediate innovation requirements.

The CCG supports the National Platform's Strategic Research Agenda, which has three key strategic themes defining priority areas for the UK which require strategic, collaborative research projects:

- Reduced resource consumption.
- A new client-driven, knowledge-based process.
- ICT and automation.

12. REGULATORY MATTERS, SUCH AS HEALTH AND SAFETY, AND THE BUILDING REGULATIONS

The CCG has been asked to respond as to what it sees as the main issues in relation to a number of industry consultations such as the review of the CDM 2007 Regulations, BERR's draft Sustainable Construction Strategy, H&S, Construction Act, Building Regulations, and the recent Department of Work and Pensions debate into the increase in fatal incidents to workers in the housing sector of the construction industry. There are two levels; macro—industry and government level and micro—business and operational level:

- At the macro level we see a greater need for more inter departmental government collaboration to address the duplication and potential confusion of civil and criminal liability for health and safety requirements for construction. This relates in particular to the regulatory process and application of better regulation and Hampton Review principles.

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- To some clients construction refers to a new project on a green field site, to others it is an extension of asset management and facilities management and do not see themselves as constructors. More effort needs to be made in engaging with non construction industry stakeholders whose members may carry out construction work, be they small, infrequent, one off or repeat clients. In essence we need to raise the awareness levels outside of the construction industry and promote generally accepted ways of doing things for clients who procure construction work. Our concern is that the regulators and the construction industry are too inward looking and do not actively engage enough with non-construction stakeholders to address this.
 - The current CDM 2007 Regulations again we believe have not been drafted to enable small, infrequent and one off clients to comply with their obligations: they are too complex, have not articulated a significant forecast in increased client compliance during their development and approval and are not supported by innovative ways to assist compliance like HSE's Agricultural safety software see: <http://www.hse.gov.uk/agriculture/assessment/index.htm>. CCG is working on a proposal to assist with this at the moment.
 - The readily available data on incidents is classified by type such as falls, slips and trips, but we need more transparency on the actual causes of the incidents to help the construction industry target its resources and clients ask the right questions. As such a more behavioural look and causational analysis needs to come through: are the incidents all down to lack of training, or poor risk assessment, poor design, wilful acts as identified in HSE's own guidance HSG 65?
 - There are over 200 construction industry stakeholders and this presents a strategic communication challenge for any representative within the industry or outside it as to how and who to engage with best effect. This is something that needs to be regularly monitored by the key stakeholders and regulators alike.
 - At the micro level we see businesses whose core work does not include carrying out construction work as a key concern. Many of these will have no experience of construction safety and will be largely reliant on the construction supply chain for advice and support. In addition those businesses whose work is now classified as non notifiable under the new CDM 2007 regulations will we believe be in the above category and led by the more inexperienced members of the supply chain. ie; the potential to continue to get health and safety wrong at this level may remain as this type of work will not be on the HSE's radar. We believe this may constitute up to 60% of UK construction based on HSE's figures in their Regulatory Impact Assessment—although this might be disputed by the HSE it certainly warrants further investigation on the level of significance given to it.
 - We see a direct link here to the macro regulatory process in that elements of construction safety, in particular safe design should be integrated with planning and building control legislation. So if a business wants to construct as part of its planning and building acceptance it will need to satisfy various health and safety requirements. This way we think there will be a step change at the smaller end of the market that tackles the cowboy element of the industry and enables greater compliance by those who need more enabling support to achieve it.
 - Overall we do see continued and very valuable efforts being made by the supply chain to address health and safety and one example of this is the industry CDM guidance. CCG is committed in playing its part in securing improvements in construction safety and has an active action plan until 2012 that it is working to. We continue to work with other stakeholders including the Housing Forum to promote awareness and best practice.

13. ENCOURAGING SUSTAINABILITY

The issue of sustainability has been dramatically rising up the political and client agenda in recent months. The CCG has provided the Chairman to the Strategic Forum's new sustainable construction task group and has also undertaken a consultation event with clients regarding BERR's draft Sustainable Construction Strategy consultation.

Sustainability is also one of the six core categories of the 2012 Construction Commitments and as a result will become an integral part of the Construction Clients' Charter.

14. BEST PRACTICE ON CONTRACT MANAGEMENT

Much of the recent advances in procurement have focussed on the implementation of collaborative working practices. Frameworks, for example, have yielded major savings in the costs of procurement however a much bigger prize waits, if these frameworks and the next generation of collaborative procurement can be properly performance-managed.

<i>Collaborative working</i>	<i>Best practice “techniques”</i>	<i>Potential innovations</i>
Early involvement Selection by value	Quality-price balance, whole life costs	
Common processes and tools	Project extranets, common IT platforms and protocols	Single object-orientated 3D drawing model
Performance measurement Long-term relationships	Project KPIs, regular reporting Frameworks, long-term relations throughout the supply chain	

15. THE UK INDUSTRY’S PERFORMANCE AGAINST OTHER COUNTRIES

In the absence of reliable benchmarking, our knowledge comes largely from anecdotal comparisons with visitors from eg New Zealand, Hong Kong, Australia, South Africa, Japan, South Korea, the Netherlands, Finland and Luxembourg, where those visitors report that their own searches have identified the UK as leading in many respects, particularly in the approach to pan-industry reform and in the adoption by the public sector of more enlightened procurement.

The CCG is taking a leading role in the International Construction Clients’ Forum where client groups from different countries come together on a quarterly basis to share knowledge and experiences across country boundaries to improve the value clients obtain from their construction supply chains. One recent example includes the sharing of information, reports and a toolkit for engaging in framework activity guiding clients through the OJEU procurement process. For our European peers in Denmark, Sweden, Netherlands and Norway, the OJEU process has been a particularly difficult process for their public sector clients to procure through. The CCG has shared its learning gained from UK public sector clients to improve performance across international boundaries.

16. ASSET LIFE ISSUES

CCG is committed to extending the construction process into asset life management. This involves establishing a true and proper relationship with those who maintain the asset post-construction. This relationship is vital if construction professionals are to develop solutions that are capable of sustained high performance for their owners. Engagement at this level will involve the construction client understanding the business strategic direction, a position CCG believes will enhance solution performance and will build a strong awareness of value. A feature that is very difficult to capture.

17. CONCLUSIONS

In conclusion we would make the following recommendations:

- All stakeholders in the industry need to understand better how the industry adds value through providing built facilities.
- All stakeholders need to improve their processes and behaviours to enable and deliver integrated and collaborative working in order to deliver this “whole life” value.
- An industry which delivers whole life value through integrated and collaborative working will be much more sustainable economically, socially and environmentally—with the latter requiring further encouragement in the short term.
- The industry must recognise and promote the role of the client that is critical to high performing outcomes however clients must be trained to be “client” and facilities should be made available to support this proposal.

With the Committee’s support we are confident that this vision can be realised.

13 October 2007

**Memorandum submitted by the Construction Confederation, Construction Industry Council
and the Construction Products Association**

KEY MESSAGES

- The construction industry has the capacity to deliver planned public sector investment programmes.

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- The public sector has a major role to play in maximising that capacity. There is a real sense of frustration that this is not being tackled quickly enough despite authoritative reports which make clear what needs to be done.
 - The industry is working hard to improve its health and safety performance and to create a more sustainable built environment. Public sector clients could help stimulate even better performance by awarding work to those companies genuinely tackling these issues.
 - Performance and productivity is being hampered by insufficient R&D and unnecessary red tape.

INTRODUCTION

1. Construction is one of the major UK industries with turnover in 2006 of over £114 billion, accounting for nearly 9% of GDP. The industry employs nearly three million people and exports over £7 billion of goods and services annually.

2. Together the Construction Confederation, Construction Industry Council and Construction Products Association represent the economic heart of the industry. The Construction Confederation is the main representative body for the UK contracting industry, the Construction Industry Council provides a voice for professionals in all sectors of the built environment and the Construction Products Association represents the UK's manufacturers and suppliers of construction products, components and fittings. Further details of our collective membership are at Appendix 1.

3. This submission focuses on the key issues raised in the various topics covered by the Trade and Industry Committee Inquiry and in particular how the public sector can help:

- deliver the Government's long-term capital investment programme in a way that provides best value for its clients;
- the industry improve its own performance for the benefit of all the industry's clients; and
- remove regulatory and fiscal burdens on the industry to help it become more productive and competitive.

CAPACITY AND EFFICIENCY

Recent Experience

4. The UK construction industry has enjoyed an unparalleled period of steady growth since 1994 with increased output in all but one of the subsequent 13 years. This has been a welcome departure from the "boom bust" characteristics of the industry in the previous 40 years. This pattern of steady growth has not, however, been evenly spread across all sectors of the industry, as is highlighted below.

5. One of the significant drivers for construction growth over the second part of this period has been increased public investment in the built environment, first signalled in the Comprehensive Spending Review in 1998. Since then, gross government investment has more than doubled in cash terms although the uplift to work on the ground has been less due to inflation and a significant under-spend of departmental capital budgets at the start of the decade. Overall new public construction work (including PFI projects) has risen by around 50% since 1999.

6. As a result, whilst some of the targets for what this investment was intended to deliver are being met, other targets have been abandoned or missed. Details are contained in the Construction Products Association's annual report *Achievable Targets? Is Government Delivering?* Amongst the many reasons for this failure to deliver have been delays in the planning process and the difficulties some parts of the public sector had in the early years in gearing up to a higher level of activity.

7. Transport has been the most disappointing of all the programmes. The ambitious Ten Year Transport Plan, launched in 2000 was effectively abandoned by the Department for Transport four years later, since when there has been a lack of clarity on transport infrastructure investment. Moreover, since 2001, construction output on roads has fallen by more than a quarter and on rail by almost a half. This deficiency was recently addressed in the transport report by Sir Rod Eddington, which endorsed the need for more accurate information on forward investment.

8. Capacity constraints in the construction industry have not been a significant factor in the delay of any of these programmes. The industry has been helped by the influx of skilled and highly motivated labour from Eastern European countries, especially Poland, and by the attraction to the UK of a number of those with the professional skills we need from a variety of countries around the world. In the manufacturing sector there have been a number of significant acquisitions of major UK companies by large global players, and in some cases this has provided access to investment funds that may not otherwise have been available.

9. An NAO report "Improving Public Services through Better Construction" (March 2005) concluded that if more public sector clients adopted best practice, more projects would run to time and budget resulting in savings of between £500 million and £2.6 billion. Time and cost overruns are often a result of the client reviewing the brief once the project has started. The Highways Agency is already addressing this issue in response to the Nichols Report.

10. Looking forward, a key factor in future demands on the construction industry will be the next Comprehensive Spending Review which has been put back until the autumn of this year. However, there are already clear programmes for public sector investment on education, targets for new build and improvements in social housing, and the delivery of the 2012 Olympic Games. At the same time, commercial construction activity is expected to be strong and the Government is keen to see increased levels of private house building.

11. All the signs are that there will continue to be strong demand for construction, and the latest industry forecasts suggest that output will grow between 1% and 3.5% pa in each of the next five years. Properly managed, however, this should not be beyond the capacity of the industry, and an independent report on Construction Demand/Capacity undertaken by Deloitte for the Office of Government Commerce in June 2006 concluded that the industry is not expected to face significant capacity constraints in the period to 2015.

12. Nevertheless there may be particular challenges in specific sectors and particular regions. For example a recent survey by the Civil Engineering Contractors Association showed that 69% of their industry's clients were experiencing problems putting contracts out to tender because of shortages in design engineering.

13. There are also likely to be inflationary pressures on the industry. Construction inflation is already running at twice CPI. This only serves to reinforce the importance of public sector clients working much more closely with the industry to enhance capacity and deliver better value—a point that was highlighted in the conclusions of the Deloitte report and something the industry has been pressing the Government to address for some time.

14. There are a number of ways in which we think these issues should be addressed.

Identification of long term programmes

15. First and foremost is the need for clients to provide the industry with clear information on long-term investment programmes and strategies, with clear output targets for what these programmes are intended to deliver. This gives confidence to the industry to create efficient supply chains, invest in training the workforce, encourages manufacturers and suppliers to invest in capacity in the UK and to develop innovative products and solutions. There are clear long term plans in some sectors eg the programme for school buildings delivered through Partnership for Schools and the water industry investment plans. On transport, however, there is uncertainty and confusion about future investment and, in the health programme, the number of new PFI hospital projects coming to the market has virtually dried up, and the Procure 21 programme has delivered far fewer projects than first envisaged.

16. The Chancellor made some encouraging comments on the importance of long-term planning in his Pre Budget Report and following the Kelly Review the OGC is trying to establish a clearer picture of long-term demands on the industry in different parts of the country. However, the delay in publication of this year's Comprehensive Spending Review is not helpful and is adding to industry uncertainty about investment decisions at a critical time.

Keeping to programme

17. Ensuring a steady deal flow which runs in accordance with previously published timescales is critical because it enables the industry to keep together experienced teams to deliver projects more effectively and to benefit from economies of scale. One of the major shortcomings of the existing programme of Government investment is that although it has set clear output targets in a number of critical areas it does not collect information on progress towards meeting the targets that have been set, nor does it communicate well with the industry when programmes are being delayed or changed.

18. A survey carried out by the Major Contractors Group in 2005 on 57 PFI projects showed that the average delay in projects against published schedules was eight months and that the costs associated with these delays were £1.21 million per project (some 1.6% of project values). Deal flow is often erratic because bidding processes are inefficient. Again the MCG survey showed that the time between expression of interest and financial close ranged from 16–53 months with the average time over 27 months. This ties up scarce bidding capacity and increases costs—with construction inflation expected to remain well above CPI there are obvious cost gains in reducing timescales.

Establishing different relationships for delivering projects

19. The industry is committed to delivering more projects through integrated supply chains and involving all partners at the earliest possible stage to ensure maximum efficiencies are generated in the design and construction process. A recent survey of product manufacturers and suppliers showed that companies from across the industry believed that between 15% and 20% of project cost could be saved if a more integrated approach was adopted with early supply chain involvement in the key design and other decisions. The NAO Report in March 2005 estimated that if all public sector clients adopted best practice and worked with more

integrated supply chains there could be an annual saving of £2.6 billion on publicly funded construction projects. Similar points are addressed by the Treasury in its Transforming Government Procurement report in January 2007.

20. Private sector clients are increasingly setting up framework contracts in order to build up longer-term relationships with contractors and their supply chains, and there are numerous examples of this reducing bidding costs by up to a third and driving down costs further through incremental performance improvements as the contract rolls on. This approach is also being adopted by public sector procurers, but in doing so care has to be taken not to disenfranchise smaller local contractors from their traditional markets. A recent survey by the National Federation of Builders shows that although some SMEs are successfully involved in framework arrangements at present, the majority of SMEs involved in the public sector are working outside frameworks having gained the work through traditional procurement methods. It also shows that companies at all levels within the SME sector are doing either the same or less public sector work than they were five years ago. There are clear findings that the sector sees current methods of procurement to be a challenge requiring additional skills and resources. Accordingly the NFB will be using the survey results, amongst other things, to see what support SMEs need to access public sector work.

Improving public sector procurement expertise

21. Too often decisions are devolved to local decision makers lacking the necessary skills and expertise. As a result rigorous assessments of projects are not always undertaken before they are put to the market: We need more models such as Partnership for Schools which allow local decision makers to draw on centralised expertise. This in turn will help capture lessons learned to improve processes and lead to greater standardization of contracts, identify appropriate opportunities to use standardised products and solutions, and more efficient design.

22. It has to be said that these points have long been made to the Government and to individual clients and there is a real sense of frustration within the industry that they are not being addressed quickly enough. An obvious danger, with private sector demand now increasing, is that the industry will be well placed to get best return on its capital by only choosing to work or place its best teams with those clients (public and private) who can offer the conditions described above. To put this in context it is worth noting that average margins in contracting are around 2% and contractors are seeking to improve profitability to more sustainable levels.

IMPROVING PERFORMANCE IN THE INDUSTRY

23. The industry has been the subject of a number of major reports over the last 13 years aimed at driving forward improvement in the performance of the construction industry. The main bodies in the industry are now working together through the Strategic Forum for Construction to facilitate improvements in a number of key areas. A great deal has been achieved in terms of, for example, improvements in health and safety, attracting more people to work in the industry and improving their skills, and encouraging more clients to purchase on the basis of best value and not lowest initial cost. Much more, however, remains to be done.

Health and Safety

24. Together with the trades unions we enjoy a close working relationship with the Health & Safety Executive and have put significant effort into ensuring that the new CDM Regulations (2007) are a significant improve upon the previous legislation. We are firmly committed to guide and encourage their member firms across all sectors to go well beyond the law, which we regard as the minimum benchmark, and at all times to seek to operate best practice in health and safety.

25. In contracting, a major problem has been that the barriers to entry have been low. This is changing, however, through self regulation, as the industry seeks to improve its image and improve health and safety. As a result, over the past five years the industry has adopted a concerted effort to improve on site safety. Key activities have included:

- A commitment to a fully qualified workforce operating on our sites, with competence being measured by the Construction Skills Certification Scheme (CSCS). The Major Contractors Group has achieved almost 90% compliance and the Civil Engineering Contractors Association (CECA) almost 80%.
- Standard site induction and worker engagement programmes.
- Working with designers and material suppliers to design out risks.
- Sharing information on near misses.
- The “Considerate Constructors Scheme” which aims to spread best practice.
- Launching a national occupational health scheme, “Constructing Better Health” and the launch of a Health Management Toolkit by CECA with support from the trade unions.

26. Although there is still some way to go, this programme is already having a significant impact on health and safety performance. For example, the Major Contractors Group has achieved a 35% reduction in injuries with consistent improvements in performance over 17 consecutive quarters. This is having an impact throughout the supply chain. CECA similarly achieved a 14% reduction in 2005.

27. There are, however, four areas of continuing concern:

- In adopting this programme of initiatives the industry has built up a good working relationship with the Health and Safety Executive (HSE) which has devoted increasing resources towards preventing accidents and the incidence of occupational ill health, rather than simply reacting to breaches of health and safety regulations. This support is now under threat as the HSE is having to rein back its staff numbers to meet Gershon efficiency targets.
- Whilst we have had active support from the regulator, the performance of public sector clients in awarding work on the basis of health and safety performance has been patchy. There are examples of good practice—Job Centre Plus, Defence Estates, Highways Agency and Birmingham City Council. Even so, a survey of contractors undertaken by the Construction Confederation in May 2005 showed that, for example, only 52% of respondents were always required to undergo a health and safety assessment during the bidding process and only 13% were always asked to make specific provisions for occupational health.
- Whilst we have worked over the past year to raise awareness of the issue—through the “Buying for Life” initiative—much more needs to be done to change public sector behaviour.
- There is no single standard on corporate competency to help clients judge the performance of potential contractors. The government sponsored “Constructionline” introduced 10 years ago has failed as a universal industry standard. Most individual public sector clients use their own bespoke pre-qualification procedures. This causes delay, increases costs and reduces the opportunity to spread best practice.
- A major source of accidents is the so called construction black economy. Attempts by successive governments to regulate it have failed. Unfortunately, despite the obvious perils, domestic consumers continue to be attracted to cheap cash only deals. The obvious answer, on which the industry has campaigned for years, has been ignored by Treasury. This is to introduce a reduced rate of VAT (possibly 5%) to all work of improvement, repair and maintenance to dwellings. This would remove the competitive advantage of those who avoid registration for VAT at the expense of bona fide builders.

28. In the professional services sector, the CIC and its member organisations have declared that design should have health & safety as a non-negotiable top priority throughout all of its processes. CIC is committed to producing a new generation of safety-oriented, post-CDM (2007) design guidance in association with the leading design institutions.

29. A further commitment is to inject more health & safety content into Further and Higher Education courses across the footprint of the built environment professions—CIC is identifying a number of relevant Common Learning Outcomes focused on health & safety and is working with the accrediting institutions and the Universities and Colleges to continue the process of prioritising these outcomes into the course content.

30. The introduction of the Professionally Qualified Persons’ CSCS card in November 2006 has extended the CSCS system into the professions and ensures that all professional persons who have contractual and inspection functions which require regular non-permanent visits to construction sites have passed an appropriate higher level health & safety test. Around 30 relevant professional institutions in the building, construction and engineering sectors are now eligible for their members to apply for the PQP card.

31. Manufacturers and suppliers of construction products have also done much to improve health and safety within their operations and quantitative targets for accident reductions have focused efforts and have delivered results. The Quarry Products Association’s Hard Targets which started in 2000 delivered a 52% reduction in five years with the big six companies achieving a 73% reduction. There is now a new target of a further 50% reduction from the 2004 baseline with an aim of zero incidents. In the precast concrete sector there has been a 55% reduction in accidents in six years for those members of the BPCF that are in the Concrete Targets 2010 Scheme. The cement industry has set out a target of a 30% reduction year on year and achieved 20% in the first year.

32. The construction products industry also recognises the important role it has to play in ensuring it develops products that minimise health and safety risks on site by being easy to handle and install, and avoiding the need for secondary working. Many of the innovations in the industry are directed to address these issues. In addition manufacturers and suppliers are taking account of health and safety issues in the on-going maintenance of the products with major steps forward being taken with innovations like the development of self-cleaning glass.

Sustainable Construction

33. The construction industry has a key part to play in delivering energy efficient buildings to reduce carbon emissions, waste reduction and resource efficiency, minimising the use of water, and constructing with sustainable products and materials.

34. There are two clear strands to sustainability within construction. The first is to make the construction process more sustainable. Manufacturers and suppliers have significantly reduced the use of energy in the production process and are increasingly using by products from other industries as their own raw materials and sources of fuel (such as the burning of tyres and household waste) although continuing uncertainty in the distinction between waste and by product is not helping the industry. More fuel efficient vehicles are being used to transport products and improved logistics are reducing the number of vehicle movements that are needed.

35. Contractors are taking steps to reduce the amount of waste going to landfill, monitoring and reducing their energy consumption, and using the Considerate Constructors Scheme to minimise the impact of construction on local neighbourhoods. The business case for doing this is clear and some companies have already set stiff targets—for example to achieve zero waste to landfill.

36. The second strand is to produce more sustainable buildings and structures. The drivers to achieve this are less certain. A recent report by Sir Neville Simms' sustainable procurement task group concluded that "incentive systems neither reward sustainable procurement nor do they punish failure to comply with existing policies in this area".

37. In the public sector, the prospect of higher initial capital cost is a significant barrier to the consideration of more sustainable solutions. This barrier is partly due to a lack of understanding of whole life costs, but even where these are understood there are issues of affordability for procurers to overcome. This has been addressed within PFI where there is a clear financial mechanism to spread cost more evenly over a medium term time frame. We suggest that a similar mechanism needs to be considered to promote sustainability within more conventionally financed construction projects.

38. The most important driver at the moment is the growing focus on climate change, particularly since the report by Nick Stern at the end of last year. In response to this, one of our goals must be to improve and encourage universal carbon literacy (ie understanding the carbon footprint of individual citizens, homes and businesses) amongst the industry, its clients, and consumers.

39. Building on the development of the Code for Sustainable Homes, Government now aims to ensure that all new housing is zero carbon by 2016 and this will require close working between the housebuilders, designers, manufacturers and suppliers, and the energy suppliers. A plethora of unco-ordinated initiatives across local authorities will not be helpful in achieving this. Government is now looking at developing a similar code for non-domestic buildings, but there are very few policy initiatives to tackle the energy efficiency of existing buildings. Existing housing, for example, on average generates four times more carbon than houses built to the current building regulations and Government needs to incentivise householders (particularly following the introduction of the new Energy Performance Certificates) to invest in improving the energy efficiency of their property.

40. The CIC and CABE have identified that there needs to be a greater integration of effort in providing low carbon building design solutions, and that designers and other professionals engaged in developing new buildings need clear and simple guidance. As identified above, most importantly we need to focus on more efficient management of existing buildings.

41. Growing attention is also being given to the use of more sustainable construction products and materials, and the Construction Products Association is very much involved in work, which is already at a fairly advanced stage to develop methodologies to help measure the environmental impact of products and their on-going use.

42. Overall, the lack of a single strategic framework tackling the issue in construction—as opposed to a plethora of competing and confusing initiatives from a wide range of departments and agencies—is hampering progress. We hope that the DTI's emerging "Sustainable Construction Strategy" will tackle this issue head on.

Recruitment and training

43. Recruiting and providing skills to new people coming into the industry is an important part of our sustainability agenda. The industry is working closely with its Sector Skills Council—ConstructionSkills—who have submitted detailed evidence on the challenges facing the industry.

44. The industry's workforce has always been mobile and flexible. However, over dependence on overseas labour could leave the industry vulnerable if the construction economies in their home states were to take-off and draw workers back home.

45. We are therefore keen to do more to encourage home grown talent. For example, the 2012 Olympics has encouraged the Major Contractors Group, working with its supply chain, to commit to providing 1,000 job placements for youngsters on construction courses in FE colleges; sponsoring 50 undergraduates to obtain a construction related degree; providing a further 1,000 training placements for local people over 21; and offering training to a further 500 people who have already entered the industry.

46. One stumbling block is the absence of significant resources from the public sector to upskill adult learners because too much emphasis is being placed on pre-18 year old education.

47. In the civil engineering sector, CECA is working in partnership with Network Rail and the Association of Consultancy and Engineering to provide a wide ranging training and development programme for new civil engineering graduates to enable them to attain Chartered Engineer status.

48. In the professional services sectors, the Office of Government Commerce (OGC) model highlights shortages, and is currently showing a shortage of building services (mechanical and electrical) engineers and a case study is shortly to be considered by Ministers for Quantity Surveyors to be placed on the National Shortage Occupations List. Similar cases are to be made for skills shortages in other built environment professions. CIC and ConstructionSkills are advising Work Permits (UK) on this issue. A shortage of graduates is a problem across the engineering sector both in terms of recruitment and retention.

Research and Development

49. Construction product manufacturers and suppliers have traditionally been the main source of innovation and research in the industry because it gives them the opportunity to gain a competitive edge. They have also been increasingly involved in more “blue sky” type research in collaboration with universities.

50. The construction industry as a whole has, however, traditionally been weak in generic applied research and the main reasons for this are outlined in evidence submitted by the Building Research Establishment (BRE) and other research and technology organisations. In addition, the industry has received insufficient support from Government in recent years to fund vital independent applied R&D whether in relation to supporting policy decisions, ensuring effective regulation or meeting its needs as its major client. This was recognized by Sir John Fairclough in his 2002 review of construction R&D which was commissioned by the DTI. However, the main recommendations in his report, which continue to hold good today, have never been implemented.

51. Recent changes in the economic and commercial environment—more stability and long-term investment and more integrated methods of working—have, however, meant that the industry is now paying more attention to R&D. With support from DTI, it has set up a National Platform for the Built Environment which is business led and provides a mechanism for the industry to articulate its R&D needs to the research community. Nevertheless it is also essential that key aspects of Government policy are underpinned by suitable independent research and this is no longer happening at the level that gives assurance about some of the policy decisions that are being taken. These matters are dealt with in greater detail in the joint submission that the Committee has received from the BRE, BSRIA, CIRIA, TRADA and CS and we endorse the general principles and recommendations of that submission.

Regulation and bureaucracy

52. The industry generally welcomes regulation where it serves a purpose to help create a level playing field in areas such as health and safety and environmental performance, providing the administrative burden implementing the regulations are appropriate and there is not adverse impact on the competitiveness of those companies in the sector (particularly those in the manufacturing side) that are competing in international markets. The industry has had good relations with the better regulation unit in the Cabinet Office and has been encouraged by the increasing attention that is now being given to better regulation since the Hampton and Arculus Reviews.

53. One of the recent positive examples is the development of a new electronically based construction industry tax scheme which ought to reduce the current paper chase involved in verifying an operative’s tax status. New Construction Design Management (CDM) regulations are also more practically based and less bureaucratic than their predecessors.

54. Building Regulations have a major impact on the industry both in the standards they set and the way in which they operate. Their effective implementation relies upon a robust system which blends a necessary degree of self-certification with appropriate checks and inspections made by building control officers. As building regulations have become more complicated, however, there have been increasing difficulties in their development and interpretation, and shortages of staff have meant that some aspects of their implementation have been less than satisfactory. What is needed is a clear long term framework with an emphasis on clarity, implementation and integration with other regulation impacting upon the built environment.

55. The vast number of sometimes conflicting environmental regulations also cause major concern. We have identified over 400 pieces of legislation—whilst not all of these are of equal importance it demonstrates the burden, and complexity, placed on the industry. Sometimes this burden is disproportionate. For example, the Hazardous Waste (England and Wales) Regulations 2005 require all construction sites producing such waste, however, small, to register and pay a fee to the regulator. Other commercial premises are exempted below a de minimis level or only the producer's principle place of business requires registration.

56. We also have concerns about the definition of waste material in the EU Waste Framework Directive, which is cast too wide. For manufacturers and suppliers, defining a product as waste can have significant economic implications and at the same time, quite perversely, result in a greater environmental impact. For contractors it would be reasonable to exclude natural materials which are uncontaminated and can be used again in their natural state, either on the same construction site or another site.

57. The planning system has also been the source of much frustration in the industry with delays in reaching decisions and inconsistency in the outcomes. This is seriously holding back steps by many manufacturers and suppliers to invest in new operations that will increase capacity and improve their productivity and competitiveness. It is hoped that the new Planning White Paper will begin to address some of these issues. Small and medium-sized businesses in the construction industry are also rightly concerned about the burden of the triple regulatory burden imposed upon them by planning, building control and CDM 2007. It is very important that steps are taken as far as practicable to harmonise and integrate these regulatory and control systems.

58. We also have concerns that DTI may be proposing to change the payment provisions of the Construction Act. A consultation document is expected shortly. We believe that the recently agreed OGC Fair Payment Charter and the changes the industry has agreed to the adjudication provisions of the Construction Act render further change unnecessary. We do, however, urge that the agreed reforms to the Act to improve the adjudication provisions are implemented without delay.

Maintenance of Standards within the sector

59. Every time a new building or structure is commissioned, the industry is effectively developing a prototype. It is essential to monitor these unique processes to ensure that there is a consistently good product. The end user does not always know whether the building meets their needs until it is occupied. To overcome this uncertainty, the industry has developed the Design Quality Indicator (DQI) as a web-based tool which provides a framework for the assessment of the design of buildings. It is used to assist all stakeholders to set priorities for the shared outcomes of their building project and then assess at regular gateways how well the emerging building is meeting these aims. Almost 800 projects have now used the DQI.

60. As far as construction products are concerned, standards are important because they are transparent and consensus based and they give assurance to the users of the products about their manufacture and performance. Representatives from the Construction Products Association and its member companies play a significant part in the work of BSI, but as the focus shifts more to the development of harmonised European Standards, there are growing concerns that the reducing funding to support UK expertise in the European Standards setting bodies, means we are increasingly vulnerable to this work being driven by other Member States. In the long term this could be to the detriment of the industry in the UK.

APPENDIX 1

INFORMATION ABOUT ORGANISATIONS MAKING THIS SUBMISSION

CONSTRUCTION CONFEDERATION

The Construction Confederation is the main representative organisation for building and civil engineering contractors within the UK construction industry, an umbrella group consisting of the British Woodworking Federation (BWF), Civil Engineering Contractors Association (CECA), Major Contractors Group (MCG), National Contractors Federation (NCF), National Federation of Builders (NFB) and Scottish Building. The Confederation represents over 5,000 construction companies who together produce 75% of construction output in the UK.

CONSTRUCTION INDUSTRY COUNCIL

The Construction Industry Council is the umbrella body for the professional services sector, professional institutions, research organisations, and standards setting bodies. It provides a single voice for professionals across the built environment through its collective membership of 500,000 individual professionals and around 25,000 firms of construction consultants. In addition, CIC represents the views of the professionals in ConstructionSkills—the Sector Skills Council for construction.

The Construction Products Association is the umbrella body for all manufacturers and suppliers of construction products in the UK. Its membership comprises the 24 major companies in the industry (which includes large international groups such as Hanson, Wolseley, Saint Gobain and Lafarge) together with 43 of the sector trade associations which represent the different product areas such as steel, cement, glass, and plastics. The industry is made of almost 30,000 companies and has an output in the UK of over £40 billion, representing 40% of construction output.

The three bodies increasingly work together both to represent the construction industry and to help stimulate and support improved performance. They have regular meetings with the different Government Departments that are relevant to the industry and collectively provide the major focus and administrative support for the Strategic Forum for Construction which aims to facilitate improved performance across the construction industry, including the performance of its clients.

June 2007

Supplementary memorandum from the Construction Confederation

OFFICE OF FAIR TRADING (OFT) INVESTIGATIONS IN THE CONSTRUCTION INDUSTRY

We spoke about your current inquiry into the OFT and I mentioned the concerns we have identified in relation to its recent investigations into suspected bid rigging in the construction industry. I realise that you cannot become involved in the detail of, or influence in any way, the investigation but it is throwing up some issues of principle about the way in which the OFT is undertaking the investigations which might interest your committee.

The issue of concern to OFT is bid rigging between contractors. However, to a large extent, the majority of instances of alleged bid rigging currently under investigation concern the so-called practice of “cover pricing” which, for many years, was prevalent in the industry. Cover pricing is essentially when a bid is entered for the sake of bidding. They were often put in to avoid upsetting a client and/or falling off an approved tenderer’s list but the contractor would try to price the job too high to avoid getting the work. This often meant talking to other bidders to find out what their offers were. Clients (including public sector procurers) often encouraged or requested covers too because it meant they could demonstrate there had been a competition. With the advent of “best value”, as opposed to lowest price, as the key criterion for awarding contracts and the move towards longer term relationships between contractors and their clients, the practice was dying out. It is also clear that, at the time it was most prevalent, the Competition Act 1998 had not yet, or had just entered into force and that there was a good deal of ignorance and confusion at that time as to whether it was illegal.

There are four issues that I would like to bring to your attention:

- we understand that this has now become one of the biggest suspected cartel investigations that the OFT has undertaken. Even so, it is not proven that there was any real consumer detriment arising from the practice of cover pricing, ie that customers and ultimately consumers paid a higher price than they otherwise would have done if the cover pricing information had not been exchanged. Moreover it is largely an historic practice and hence the OFT is essentially shutting a stable door after the horse has bolted. We do not challenge the principle that cover pricing technically breaches competition law but we do question the approach of the OFT which appears to be to considering the practice in the same category as much more serious “hardcore” pricefixing cartel agreements;
- this is the first time that the OFT has undertaken a “plea bargaining” approach to the expediting of an investigation, ie where companies plead guilty and avoid a protracted legal process in return for a reduction in the level of any penalty eventually imposed. However, the way in which the OFT has approached this has resulted in companies being unduly pressurised into making admissions of “guilt”, without, it would appear, being aware of the evidence available to the OFT and unable to verify whether it is correct, accurate or reliable. Moreover, those not prepared to do so are being unfairly denied the opportunity to benefit from the reduction of penalty offer mainly due to the fact that the tenders in question date from up to six or seven years ago and most companies have no documentary evidence that would enable them to verify their involvement one way or the other. The OFT’s offer also appears to be designed to discourage an individual company’s appeal of any final decision. In particular, the OFT reserves the right to apply to the Competition Appeal Tribunal for an uplift in fines and the fixing of costs if a company appeals any final infringement decision. Such rights of appeal are an inherent part of due process and it is wholly inappropriate for the OFT to misuse its position in this way in order to minimise its own exposure to potential cost and inconvenience should it, for example, subsequently transpire that the evidence presented is incorrect and that there is an entirely legitimate basis for an appeal;
- OFT does not appear to understand the financial characteristics of the construction industry and has made a number of public statements threatening to levy fines that are based on relatively high

percentages of the total annual turnover of the companies under investigation and certainly exceeding the average 1–2% of total turnovers that they imposed in the past on roofing contractors. This will almost certainly put a significant number of companies out of business, threaten their supply chains and reduce the industry's capacity to respond to current demand for construction work. Construction contractors tend to have relatively high turnover but low profit margins and thin balance sheets. If maximum fines were imposed, these could represent at least between five and 10 years' operating profit; and

- we have so far found the OFT to be unresponsive to these concerns and reluctant to discuss alternative ways of achieving their objective of eliminating and deterring anti-competitive practices in the industry. The Dutch competition authorities have recently been involved in a similar exercise which we believe to have been more transparent and co-operative with the industry. With specific reference to cover pricing as opposed to other possible evidence of more serious forms of bid rigging,

We consider the OFT's approach to this investigation to be unduly harsh and disproportionate having regard to the lack of competitive harm arising from the alleged infringements. There must surely be an issue of principle about whether this is the best use of the OFT's resources. We also consider that the consequences of imposing penalties at the levels indicated by the OFT as being likely to give rise to consequences that will cause significant harm to the competitiveness of, and capacity within, the UK construction industry.

As you will appreciate we are in contact with OFT on these issues of principle and a number of other detailed points about the current investigation. Nonetheless, I thought you would find these observations on our experience to be helpful. Please let me know if you would like any further information.

15 June 2007

Supplementary memorandum submitted by the Construction Confederation

I wrote to you on 15 June about this investigation in the context of your inquiry into the activities of the OFT. A copy is attached for ease of reference. I thought it might be worthwhile updating you on the issues we raised because we believe that the actions of OFT are likely to have some serious consequences for the construction industry and these should also be relevant to your current inquiry on construction.

Since we last wrote, we have had some limited dialogue with the OFT. They have listened to our concerns but have given very little away on how they intend to address these in the context of the investigation. We understand that the "Statement of Objections" is likely to be published after Easter. This will set out the evidence on which the OFT intends to rely against the companies under investigation.

In the context of your current inquiry, I wanted you to be aware that we still have some real concerns that the OFT's actions are going to damage the competitiveness of the construction industry. In particular:

- The OFT's case against the companies involved is mostly related to incidents of "cover pricing" which were a technical infringement of competition law—no-one was carving up markets for commercial gain nor did customers end up paying higher prices. Yet the OFT continues to maintain that there have been serious infringements of competition law that justify high fines. High fines will almost certainly put some companies out of business and have an impact on construction capacity;
- there has been no apparent willingness by the OFT to look at a more holistic approach to stamping out the industry-wide practice of cover pricing though we believe it is a practice that has, in any event, already died out. They only appear to see high fines as the solution to the problem. We already have good evidence that single stage competitive tendering is on the decline. A recent survey undertaken by the Construction Confederation showed that, in 2002, 38% of respondents estimated that over 80% of the value of their workload came from single-stage competitive tender (SSCT). In 2007, this number had fallen to 26%. In addition, decisions are now predominantly taken on the basis of "best value" criteria rather than lowest price. The "opportunity" for cover pricing has therefore considerably diminished. It would also be possible for the Office of Government Commerce and Department for Communities and Local Government help public sector clients to put mechanisms in place to help eliminate it entirely;
- companies are getting letters from public procurers saying they will be struck off preferred supplier lists and framework contracts if they are fined by the OFT. We are concerned that this will amount to a form of "double jeopardy" for companies caught up in this investigation who will already have been fined by the OFT and being "delisted" may represent a greater threat to those companies' continued survival than the fines themselves. This could also have an effect on capacity and is also unfair given that it is widely accepted that the practice of cover pricing was endemic throughout the industry but only a limited number of companies have actually been investigated. There is a case for sensible guidance, perhaps from the Office of Government Commerce to central government departments and the Department for Communities and Local Government for local

authorities and to encourage them not to “overreact”. Unfortunately, the OFT itself does not appear to be sensitive to or concerned about this issue and is more interested in achieving large headline fines; and

- The OFT’s PR department needs reining in—it co-operated with a sensationalist File on 4 programme last year on BBC Radio 4 before the industry had had any chance to challenge the evidence. It has also been criticised recently by a judge of the High Court for its PR stance on the supermarkets and dairies cartel case. We are concerned that the OFT will again attempt to use the issuing of the Statement of Objections and the eventual Decision as opportunities to exaggerate the seriousness of the infringements and generally to sensationalise the case in the media.

I hope therefore that in your report you could make some reference to this problem. We accept that the industry has been guilty of an unacceptable practice and that some action needs to be taken to eliminate it in the future, but cover pricing was not a practice so detrimental to the public good as to justify disproportionate action by the OFT threatening the future competitiveness of the construction sector. There needs to be joined-up action involving other government agencies and the industry.

14 March 2008

Supplementary evidence submitted by the Construction Confederation

I wrote to you on the 15 June 2007 and 14 March 2008 about the Office of Fair Trading investigation into so called “cover pricing” in the construction industry. Following our conversation earlier this week, I am writing again to update you on the current situation and to highlight our serious concerns about the OFT’s handling of their announcement on Thursday 17 April.

OFT issued a Statement of Objections to all 112 companies involved in this investigation last Thursday and issued a press release naming all the companies involved. Although the OFT’s press release itself was generally measured in tone, throughout much of the day the OFT made a number of misleading and sensationalist claims in the media through briefings to journalists and interviews that are likely to have damaged the construction industry’s reputation, and that of the named companies, and may have far reaching consequences.

In particular the OFT made three unfounded allegations:

- that companies named in the SO were engaged in more serious bid rigging involving compensation cases. In fact, we understand there are only allegations involving 12 contracts (out of 244) and nine companies (out of 112). Although the OFT’s press release did acknowledge that it affected a “minority” of cases, the repeated references to compensatory payments was clearly intended, on a completely unfounded basis, to exaggerate the prevalence of this practice. By failing to distinguish between those companies that were involved in compensatory payments and those that were not, all the companies named have now been “tarred” with that brush in the eyes of their clients;
- that all forms of bid rigging, including the alleged cover pricing, in this case have resulted in prices being increased by up to 10%. OFT has failed to provide any evidence to substantiate this claim and relies on completely unrelated generic studies carried out in the past by reference to hard core price fixing cartels. We maintain that the historic practice of “cover pricing”, such as it was, did not give rise to higher prices for clients;
- that cover pricing operated as a cartel “arrangement” involving the allocation of contracts on a rotation basis—the examples given by the OFT to the media of a typical cover pricing arrangement was completely misleading as it suggested that there would only ever be one proper bid being made with all the other tenderers submitting cover prices. This is wrong and misleading—in most cases there may have been one or more cover prices but there were also a number of competing bids from other tenderers which meant that the tendering process and the final price was subject to a competition; and
- that it had received evidence of cover pricing involving many more companies on thousands of tender processes. By making this statement but not actually bringing formal allegations, it means that these unsubstantiated claims can not be properly challenged and are unproven, yet they are seriously harming the industry’s reputation. If the OFT genuinely had evidence of further infringements the companies involved and the industry should have had the right to defend themselves against such charges. Clearly the OFT chose not to bring formal charges as its evidence for those other contracts was too weak.

We have challenged the OFT on each of these points but at the time of writing they have not responded.

This has left public sector clients angry and confused. For example:

- the Local Government Association is demanding recompense for the alleged price hikes; and
- Bolton Council has postponed the award of a major framework contract and other public sector projects have been or are likely to be stalled.

It is particularly surprising that the OFT took this line given that they have only this week had to publicly apologise and pay a £100,000 settlement to Morrisons over sensationalist and defamatory allegations that were not justified by reference to the facts. This was not therefore an isolated incident.

Because of this confusion, we have been attempting to persuade the Office of Government Commerce and the Department for Business Enterprise and Regulatory Reform to issue some appropriate guidance to public sector clients who will clearly be confused and unsure on how to react. So far they have failed to respond. We are continuing to press them on this point.

Our original evidence to you set out a number of shortcomings in public sector procurement (paragraphs 14-22). The practice of “cover pricing” was for the most part a symptom of inadequate procurement regimes within the public sector.

As we have indicated before, changes in procurement practices (notably the reduction in single stage competitive tendering and award of contracts on lowest price) have meant that the practice of “cover pricing” has been virtually eliminated. The fact that the OFT has been given free reign to damage the industry’s reputation in this way is likely to have a perverse effect on the industry’s competitiveness and may well have some effects on capacity. Already, we understand that a number of companies under investigation have been placed in administration or ceased trading. It is too early to say where the long term damage will have been done.

5 June 2008

Supplementary evidence from Construction Products Association

REVIEW OF EGAN TARGETS FOR 2007

KEY POINTS

- A number of important targets set out in “*Accelerating Change*” have been met and we are making good progress towards meeting others that have an end date beyond 2007.
- On a couple of targets insufficient attention was given to how we would measure what was being expected and it is therefore not easy to identify whether we have met the precise target, although we know that the industry has made progress in the right direction.
- In relation to the Client’s Charter, the original Charter has been overtaken by events and in particular the development of the 2012 Construction Commitments. The focus of client leadership in the future will be the Client’s Commitments that the Construction Client’s Group is developing.
- The biggest disappointment is that we have not been able to make more progress on integration in relation to supply chains and project teams. Again it has proved difficult to measure exactly what is going on in the industry because what might be an integrated project for one part of the supply chain may not be integrated for another. Whilst most parts of the industry recognise that more integrated working is taking place and can demonstrate the benefits that arise from this, there is no hiding from the fact that we have not moved anything like as quickly as the *Accelerating Change* report intended or we would have liked. This is all the more frustrating given the clear message from the NAO report in 2005 that this kind of approach could save substantial sums of money in public procurement.

The Strategic Forum has developed an Action Plan to increase the adoption of integrated working—project teams and supply chains—and we can let you have more information about this if you wish. The upshot will be the announcement of a new programme to stimulate this with a new set of targets and all this will be announced on 11 June when the Strategy for Sustainable Construction is jointly launched by Shriti Vadera (and other Ministers) and Mike Davies as Chairman of the Strategic Forum.

- What we do need to recognise, however, is that there has been much progress in the industry over the last few years and we are releasing a number of case studies of projects that have really gone well and are in line with the principles set out in the Egan Reports. It is important to promote the good things that are happening in our industry as well as acknowledge there are key areas where we still need to do a lot better.

REPORT ON ACCELERATING CHANGE TARGETS AT END OF 2007

<i>Target</i>	<i>Progress by End of 2007</i>																		
20% of construction projects (by value) should be undertaken by integrated teams and supply chains by the end of 2004 and 50% by the end of 2007	<p>A provisional survey in 2004 survey suggested that:</p> <ul style="list-style-type: none"> — At least 13% of projects are integrated; — Over half of major/repeat clients say projects undertaken in integrated way; and — Three-quarters of clients with integrated projects say it had led to time and cost savings. <p>Assessing the extent to which integration occurs throughout the supply chain on individual projects is extremely difficult to do on any significant scale and so we are now using information obtained by Constructing Excellence as part of the annual KPI survey when individual parts of the supply chain are asked about their experience of working on projects. In the information obtained for 2006, percentages of those working in integrated project teams and supply chains was:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th><i>Project Teams</i></th> <th><i>Supply Chains</i></th> </tr> </thead> <tbody> <tr> <td>Clients</td> <td>20%</td> <td>12%</td> </tr> <tr> <td>Main Contractors</td> <td>20%</td> <td>15%</td> </tr> <tr> <td>Consultant</td> <td>20%</td> <td>14%</td> </tr> <tr> <td>M&E Contractor</td> <td>8%</td> <td>4%</td> </tr> <tr> <td>Product Manufacturer</td> <td>12%</td> <td>13%</td> </tr> </tbody> </table> <p>This information confirms that the industry has failed to meet the Egan Target</p>		<i>Project Teams</i>	<i>Supply Chains</i>	Clients	20%	12%	Main Contractors	20%	15%	Consultant	20%	14%	M&E Contractor	8%	4%	Product Manufacturer	12%	13%
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Product Manufacturer	12%	13%																	
20% of construction projects (by value) should be procured by clients that embrace the principles of the Clients' Charter by the end of 2004, rising to 50% by the end of 2007	<p>Over 300 organisations signed up to the initial Charter, but difficult to assess extent to which this covered the value of construction projects in the way the target suggests. Therefore we will not be providing any measure against the 2007 target.</p> <p>Target no longer applicable and new way of measuring client leadership with new targets will be announced on 11 June</p>																		
By 2006, 300,000 qualified people to be recruited and trained in the industry	<p>Labour Force Survey (LFS) shows that there was a net increase of 253,731 people recruited into industry between 2002 and 2007. Taking into account the number that will have left the industry over this period it is estimated that the target set for 2006 was exceeded.</p> <p>Target met</p>																		
By 2007, a 50% increase in applications to built environment higher and further education courses	<p>UCAS figures show that applicants to built environment higher education courses increased from 6341 in 2002 to 10,680 in 2007.</p> <p>Target met</p>																		
By 2010, an increase in the annual rate of apprentice completions to 13,500	<p>In 2007, 8289 Apprentice Framework completions to which need to be added Summit Skills apprentices.</p> <p>Considerable progress been made and Target on the way to being met</p>																		
By 2010, a fully trained, qualified and competent workforce on all projects	<p>Take up of cards by MCG members now over 90% and around 80% for CECA and NSCC members. Take up of cards across the whole industry around 80%.</p> <p>Target on the way to being met.</p>																		

<i>Target</i>	<i>Progress by End of 2007</i>
By end of 2004, 500 projects have used the Design Quality Indicators. By end of 2007, 50% of all publicly-funded and PFI projects (having a value in excess of £1m) to use DQIs.	2004 target exceeded with over 600 projects using DQI or one of its variants at that time. 2004 Target met 2007 target more difficult to measure because value based and focus of DQI work has varied from one building type to another. In Education, for example, it is estimated that in 2007 in excess of 90% of projects over £1m initiated in 2007 are using DQI. By 2007 considerable further progress been made but Target set very difficult to measure. New Target being developed that will take account of these issues and allow for easier measurement.

Memorandum submitted by Constructing Excellence

INTRODUCTION AND BACKGROUND

1. Constructing Excellence is the leading organisation dedicated to improving industry performance for a demonstrably better built environment. It was grant-funded by the DTI until March 2007 and is now a thriving membership-governed organisation with government and consultancy commissions. Our 257 national members are customers, contractors, consultants and suppliers in the housing, buildings and estates, and infrastructure markets, and our core activities are action research and innovation, benchmarking, demonstrations, best practice guidance, training packages, and learning networks.

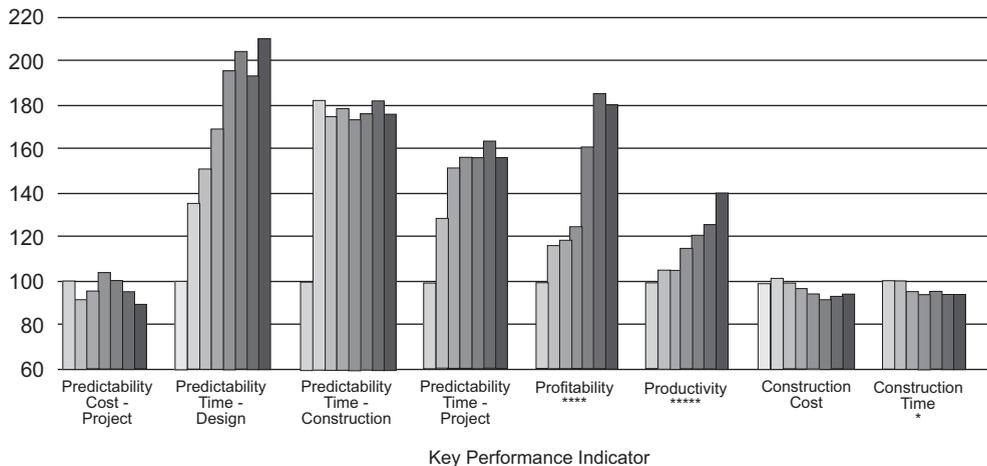
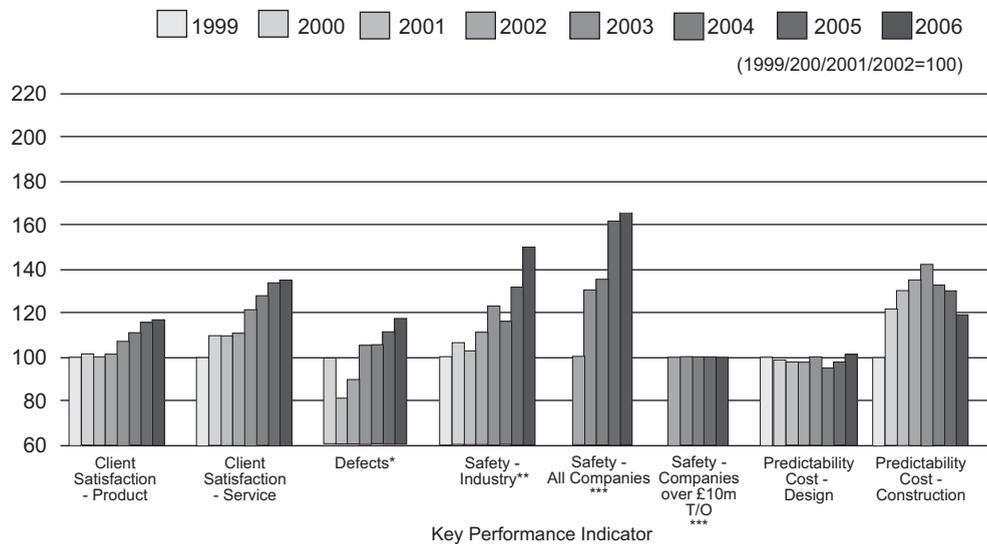
2. Recent change in the UK construction industry dates back to the 1994 Latham Report, *Constructing the Team*, and the 1998 report of Sir John Egan's Construction Task Force, *Rethinking Construction*. The most direct consequence of the former was the Housing Grants, Construction and Regeneration Act 1998 which dealt with the endemic problems of poor payment practices and disputes in the sector. The result of both was a widespread recognition of the need for the industry to improve the service to its clients, and a number of initiatives were set up with substantial government funding to implement these reports, most of which have now united with a number of industry-funded bodies to form Constructing Excellence.

3. We welcome the opportunity to submit evidence to the Select Committee's inquiry. We are a unique bridge between industry, clients, government and the research community at national, regional and local levels across the UK, as well as having an international perspective (paragraph 49). Our evidence, and that of the National Audit Office (paragraph 19), is that the industry has improved its performance significantly as a result of Latham and Egan, especially through the adoption of collaborative working (or "partnering"). This has widely replaced the adversarial approaches of the 1990s and is making a big difference.

4. This submission is based on our evidence of industry performance which has three main sources in addition to our members' reports based on experience:

- Our Construction Industry KPIs, based on data from thousands of projects collated from DTI and industry surveys. These enable individual firms to benchmark their performance with other firms but also enable us to track improvement in the industry's performance through an annual Industry Performance Report. This submission contains extracts from this report in the form of annual trend data for economic performance (overleaf), people performance (paragraph 12) and environmental performance (paragraph 41), which show that most indicators are climbing steadily upwards, indicating an improving industry.
- Our Demonstration programme, which since 1998 has recruited 468 projects worth £12 billion and involving over 1,100 lead organisations to implement elements of best practice, report performance against the KPIs, and share the learning. These demonstration projects consistently out-perform the rest of the industry against all the KPIs, and outputs have included over 130 case studies and 63 associated reports and publications.
- Our action research, where we work successfully with universities who access Research Council funding. These projects are usually scoped by our members and then the right research partner is identified. This is a highly successful model of research as it already has a pool of users waiting for the results, in contrast to the historic "push" approach to research which struggles to find an "audience" or "market" when it is finished. Other features of our research commissions are that they focus on management and process improvement rather than technical innovation, and often involve learning from other industry sectors where specific techniques have made a difference (eg supply chain integration, lean).

Economic KPIS - All Construction -
Performance Over Eight Years to 2006



CONTENTS OF THIS SUBMISSION

5. After an initial section on Value, our submission follows the headings set out in the terms of reference for the inquiry. Within this framework we comment on the current “state of play” and highlight where and how further improvements can be made.

UNDERSTANDING VALUE

6. The sector covers the whole lifecycle from planning, design, manufacture, assembly/construction and commissioning of built facilities to their operation, maintenance, refurbishment, deconstruction and re-use. A more accurate term than “construction” is the “built environment” sector, of which sub-sectors include housing, property, buildings and estates, and infrastructure, and a case can be made that the built environment sector accounts for almost 20% of Gross Domestic Product rather than the 6–7% usually quoted for “construction” output.

7. However, a major problem in the sector is the widespread failure of the industry and its stakeholders (eg investors, clients, suppliers) to take account of this whole lifecycle of built facilities and hence understand and respond to how the industry adds value for its customers—which by definition is predominantly in the use of built facilities, not their construction. They find value in the availability of serviced space, developed and run to support their business or social service. Construction is usually only an occasional input to meet that need (except in the housing and development sectors).

8. The quality of buildings substantially determines the operating performance of the economy and the quality of life for people. Examples of such performance linked to built environment investment are not easy to come by, but there are enough examples from overseas (eg USA) to support this vision. We are working with others, including the Commission for Architecture in the Built Environment (CABE), to understand cases such as:

- Productivity in workplaces related to the ability of the occupants to use the latest equipment and layout ideas and to enjoy a healthy indoor climate.
- Competitiveness of retail and leisure investments based on their attractiveness to tenants and customers, accessibility and operating economy.
- Speed and effectiveness of hospital treatment, given a clean and attractive environment under patient control.
- High achieving educational establishments in buildings which support effective regimes and build morale.

Case Study: Value in UK hospitals

Professor Bryan Lawson and Dr Michael Phiri of the University of Sheffield carried out evaluations of two hospitals, both involving new and improved accommodation. The findings showed positive outcomes, for example in Brighton the patient treatment time savings exceeded annual capital charges by 46%. In Poole the revenue savings exceeded the capital costs in the second year of operation, and at Brighton this happened in the first year of operation.

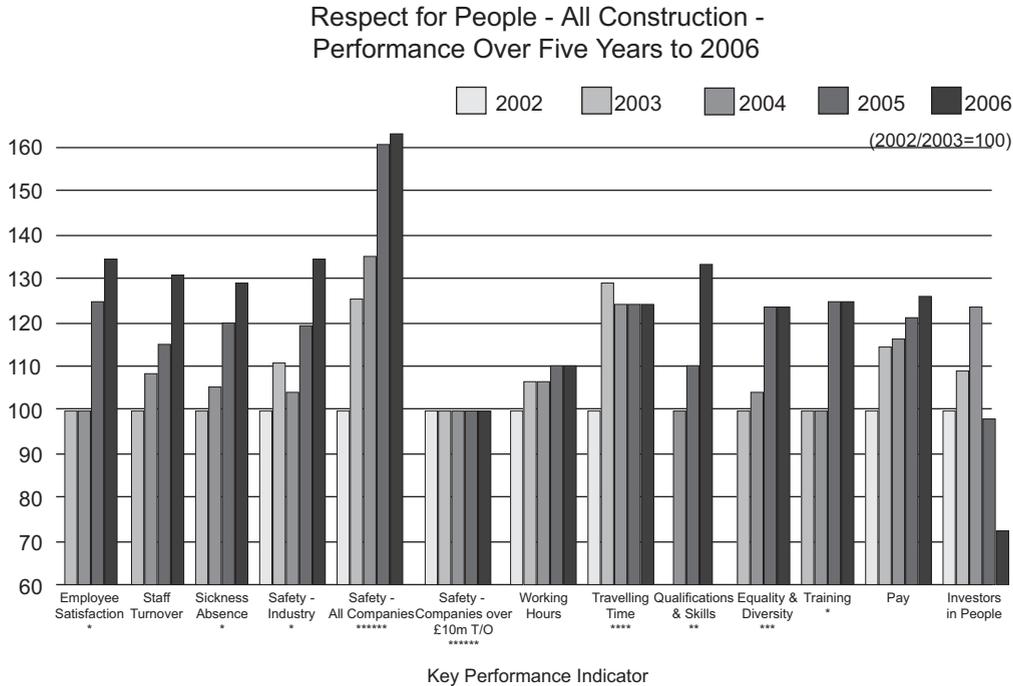
9. Making a difference in this area is not easy. Most of those involved in the design and construction of buildings are too remote from their customers' experience—they have left long before the occupiers start to experience the building. Apart from some regular customers of construction, there is scant client understanding of how the quality of real estate and facilities brings value to their business, and requirements statements are therefore typically too general. However, if customers and suppliers for the built environment sought long-term value in this way, the prizes would be huge for all: customers could expect their performance to rise in value-based facilities; the industry could expect value-linked reward to exceed that based on current margins; the public could benefit from a rise in the quality of life and the sustainability of their lifestyle.

10. The housing sector is making big strides in this regard. Constructing Excellence's Housing Forum has uniquely brought together all parts of that sector since 1998 to drive improvement in line with the Egan vision. Through its Customer Driven Strategy, partly funded by the DTI, Department for Communities and Local Government (DCLG) and the Housing Corporation, it directly laid the foundations for the current Callcutt *Review of house building supply and delivery* for the DCLG. Its members' insight, grounded in practice, has enabled the Forum to express concern at the industry's current fragmentation and to call for new forms of regulation and new housing industry models. These are essential if we are to move from the current production of circa 160,000 homes per year to the 200,000 plus envisaged in Government targets.

11. There are two streams of work required to make further progress:

- Understand the relative ratios of construction cost and business value, from initial design and construction capital costs, maintenance and facility operating costs, the operating costs (salaries, IT etc) of the organisation using the facility, and the value added or earned by that user. Early work suggests the ratio of design input, where what is to be built is defined, to end value is of the order of 1:400 or more.
- Bring together and exploit three inter-related activities which will enable a value-driven process:
 - (a) post-occupancy continuous in-use evaluation—finding out on an on-going basis how well a facility actually performs, how it affects those who use it, and how it meets the operational needs of the organisation.
 - (b) evidence-based design—recording, understanding and cataloguing for use by others those design solutions which work particularly well.
 - (c) briefing—this process is more common, but there is wide variation in its quality, which is hardly surprising without an understanding of how buildings have worked in use and what strategic impact they have had on the client's operation, or which design features are evidenced to work well.

12. The industry's performance in looking after its workforce is improving, as the following chart from the annual construction industry KPIs shows:



13. In the last 30 years the employment and taxation regime has led to the culture of subcontracting in the industry as well as the majority of site workers being self-employed, so much so that the Inland Revenue has a specific Construction Industry Scheme, recently revised. There are recent signs that firms are rediscovering the competitive advantage of direct employment, which is to be encouraged as it should lead to better training and welfare and hence quality workmanship.

14. Corporately parts of the sector remain dogged by poor payment practices down the supply chain (paragraph 2), with payments to directly-appointed subcontractors commonly taking sixty days or more. The “Construction Act” has undoubtedly helped, and is the subject of review at the time of writing, and we welcome the work by the Office of Government Commerce (OGC) and the Local Government Task Force to produce a “fair payment charter” to go further. There continues to be industry pressure for the abolition of retentions (the withholding of a proportion of the contract sum as a financial guarantee for the defects’ liability period, necessary because the industry can rarely deliver “right-first-time”). This practice should not be necessary in long-term agreements where the client has other means by which it can ensure quality, and many leading clients, the Olympic Delivery Authority amongst them, have abolished them. Abolition of retentions is a welcome trend, and the supply chain needs to respond by improving its performance in delivering zero defects.

15. Fragmentation of the supply chain also means that constructors cannot leverage much influence with their supply base. Coupled with the complex discounts and rebates that exist within the constructor’s relationships with suppliers, this means that much opportunity for improvement is lost because of the lack of transparency over costs and performance. This transparency is vital to cost reduction and is discussed further in paragraph 46.

LONG-TERM CAPACITY FOR THE DELIVERY OF LARGE INFRASTRUCTURE PROJECTS ON TIME AND TO BUDGET, SUCH AS THE OLYMPICS

16. “For every Wembley there is an Arsenal”. Large high-profile projects that overspend or run late receive bad headlines. But those that deliver on time and on budget do not. Most big projects which have suffered in recent times have failed in the early briefing phase to identify clearly and categorically what the client wants and actually needs—not necessarily the same thing! Clients who are unclear about their requirements need to be helped by their advisors and the industry to reach that clarity, and there needs to be enough time at the early stage of a project to allow this, otherwise big changes of scope that occur well into the project cause havoc with the project programme and associated costs (eg Holyrood, Wembley). Where the client is clear, or alternatively understands that the project needs to remain flexible and able to change scope later in the project (perhaps in reaction to changing market conditions), then the industry can adapt and is much less likely to have problems (eg Heathrow Terminal 5, Arsenal).

17. From what we see as occasional advisers to those delivering the construction projects for the Olympics, the Olympic Delivery Authority and CLM (the ODA's Delivery Partner) are an excellent "intelligent client", adopting all aspects of the Common Minimum Standards (CMS) and many aspects of best practice and innovation that go well beyond the CMS, for example in the area of environmental sustainability and early consultation with potential suppliers. As a result of this early excellence the project is much more likely to be an "Arsenal" than a "Wembley".

18. The Infrastructure Forum of Constructing Excellence is currently reviewing the long-term strategic planning in the infrastructure sector, and has so far engaged over 200 organisations. Just as the Government has set long-term targets for CO₂ reduction, so it needs to have long-term targets and an accompanying national strategy for integrated infrastructure. Decisions made at a local level will not deal with the big issues at the necessary scale and over the long-term. For example a 25-year vision is required, backed by a 10-year programme (currently five in the utility sectors) and ideally a three to five year cycle of funding certainty. Only with these timescales can "UK plc" make the big planning decisions necessary to enable integrated transport and integrated utilities which can deliver more efficiently, reduce congestion and reduce associated CO₂ emissions dramatically.

DELIVERY OF THE GOVERNMENT'S CAPITAL INVESTMENT PROGRAMME

19. Government has worked hard to improve its procurement performance in the sector, and deserves credit. Accounting for around 40% of the industry, the public sector is probably the most influential driver of behaviour in the construction industry. The traditional approach of awarding contracts to the lowest bidder in the name of value-for-money, and then reaping a harvest of claims and overspend, has been seriously challenged through *Achieving excellence in construction*. For example the March 2005 NAO report *Improving public services through better construction* reported an increase of projects coming in on budget (from 27% in 1998 to 65% in 2006) and on time (from 30% in 1998 to 61% in 2006).

20. The stated objective of public sector procurement to appoint the most economically-advantageous bid over the lifetime of the project is widely frustrated in its practical implementation as a result of the failure to take account of both capital and revenue expenditures (paragraph 7 above), as a result of which too many stakeholders design for lowest price not maximum affordable value. The need to manage for value optimisation not cost reduction is critical. This is not only a public sector failing. The OGC has drafted a supplement to the HM Treasury "Green Book" on this topic, which needs to be published and implemented, and the Construction Industry KPIs should be extended to cover the whole life performance of facilities.

21. All clients, and particularly the public sector, need to understand and manage risk better. The supply side prices risk, which makes projects more expensive and more adversarial as the supply chain parties concentrate on minimising risk for themselves rather than the client. Thus the client needs to retain more of the risk usually transferred to the supply chain in order to create the right conditions for collaborative working (also paragraph 46 below), releasing the team to focus exclusively on the client's operational needs.

22. Other key points for public sector procurers, which we made in the Strategic Forum/Constructing Excellence submission to the Public Sector Construction Clients Forum of the OGC in March 2007, are:

- Provide clear and long term information on investment programmes and strategies. This gives confidence to industry to invest in its supply chains.
- Ensure a steady deal flow which runs in accordance with previously published timescales. This enables the industry to keep together experienced teams to deliver projects more effectively and to benefit from economies of scale.
- Abandon the practice of cut throat competitive tendering in favour of building long-term relationships with contractors and their supply chains.
- Involve construction supply chain partners at the earliest possible stage of projects to ensure maximum efficiencies are generated in the design and construction process.
- Deliver more projects through integrated supply chains.
- Standardise contracts, processes and design, where appropriate.

23. Government clients tend to operate in "silos" and as a result there is little sharing of and learning from practice, representing a major failure to capitalise on the public sector's collective experience. The responsibility of the OGC for improving procurement of construction should be clarified and strengthened, and it should focus on enabling this sharing as well as measuring how Government Departments are doing against the benchmark of the Common Minimum Standards (which over time need to become outcome-oriented rather than prescriptive inputs—paragraph 25). Above all, we need to overcome the widespread tendency to underestimate the time and resources required to embed best practice and thereafter maintain continuous improvement.

24. Other industry organisations are better placed to comment on this topic.

MAINTENANCE OF STANDARDS WITHIN THE SECTOR

25. Currently there are over 3,500 standards relevant to the construction industry but few companies in the sector would see them as drivers of performance improvement or as sources of best practice guidance—more prescriptive than performance-related. “Rethinking construction standards” is a joint Constructing Excellence—British Standards Institute project to link standards to value and move away from the current technical and product-based approach to standards.

26. With major industry engagement we have created an industry debate on how to make standards more relevant to outcomes and user requirements and act as a catalyst for the development of a new generation of performance-related standards which will improve performance and increase innovation and competitiveness in the UK and overseas. By linking standards to the Construction Industry KPIs and performance of core company and industry issues, future standards will be developed that assist and contribute to improved performance and enhanced value throughout the built environment sector.

CONSTRUCTION RESEARCH AND DEVELOPMENT

27. Compared with other major industrial sectors, long-term competitiveness of construction continues to be hampered by under-investment in strategic, pre-competitive research. The shift to national industry research funding being channelled through the Technology Strategy Board has exacerbated this situation as many of the strategic issues needing research in the industry are not technology-driven. In addition the exploitation of research findings and industry engagement in the process is poor, mainly because research outcomes are not meeting the real needs of industry. This issue drove the establishment of the National Technology Platforms.

28. Constructing Excellence provides management support to the National Platform for the Built Environment, which also inputs at a European Union level into the European Construction Technology Platform. The UK National Platform aims to increase significantly the level of business-led, relevant research applicable to the built environment. It is led by an industry board comprising the Chief Executives of organisations such as Atkins, Arup, Balfour Beatty, Taylor Woodrow, BAA. The strategic direction from this group is implemented by a support group involving representatives from the research community including academia, research and technology organisations, trade associations and professional institutions, and industry. While it is intended that significant additional amounts of funding and research activity will be generated for the construction industry through the National Platform, its progress to date has been hampered by a lack of available “seed funding”.

29. Following wide consultation the Platform developed the UK Strategic Research Agenda, which has three key themes which require collaborative research projects:

- Reduced resource consumption.
- A new client-driven, knowledge-based process.
- Information and communication technologies (ICT) and automation.

30. Working groups for the three themes are well underway, bringing together stakeholders including industry and academia (where in general the link is weak) to facilitate access to European and national research funding, where there are large sums of money available, as well as undertaking specific research activity. The industry and its clients need mechanisms to ensure that the relevant Research Councils, particularly EPSRC, reflect purposefully in their priorities and programmes the opportunities identified in the Strategic Research Agenda.

31. In particular the drivers for change in the sector have changed significantly in the last 10–15 years. From technically-based drivers, Latham and Egan encouraged product and process improvement based on partnering and the rest of the Rethinking Construction model. More recently it is evident from the European strategic research agenda that the drivers today are much more society-based, for example sustainability and globalisation, and the industry is not well informed to understand the consequences of these and therefore how to respond. There is scope for a major piece of work in this area.

AVAILABILITY OF AND INVESTMENT IN SKILLS

32. Around 2.4 million people are employed in the sector and the Sector Skills Councils (ConstructionSkills, SummitSkills, AssetSkills) are doing a good job—although there is scope for better collaboration to enable a joined-up approach to skills across the built environment. The latest estimate is that over 400,000 new workers will be required in the next five years, and this “skills gap” will be particularly hard to fill. Other organisations’ submissions to this inquiry will address this subject in more detail, but it is certain that work-based training and capacity enhancement will be a major component of the future of the industry.

33. Skills shortages are a driver for other less labour-intensive and more productive working practices which would have hugely beneficial impacts on the industry. Modern methods of construction, IT, automation, off-site manufacture, prefabrication and other innovations can all be promoted in parallel as contributions to closing the skills gap. For example, lean thinking and smart logistics (paragraph 47) are still in their infancy despite being well-proven in other sectors and having many demonstration projects in construction. “Work smarter not harder” might be a useful adage—the productivity of the workforce is badly affected by deliveries to site, for example up to 20% of an operative’s time is spent looking for material during a shift, and the industry systematically over-supplies materials to site by up to 15% and factors in allowances of up to 25% for damage on site and in transit.

34. These new ways of working, and new drivers such as integration and collaborative working (paragraph 46), sustainability, and the need for better leadership and change management, mean that whole new skill sets are required (paragraph 44 below) and these are taking too long to develop and their absence is slowing the speed of change.

35. There is some better news at a “local” level. The Housing Forum of Constructing Excellence has worked with ConstructionSkills to deliver sustainable training for sustainable communities, renamed “Construction legacy—housing”. The purpose is to ensure that the upgrading of homes and estates and other major projects result in employment benefits at a local level, eg improved skills, job prospects and reinvestment in local communities, and also tackle some of the industry’s biggest weaknesses in recruiting women and black and minority ethnics. Some 24 projects have achieved measurable outcomes in recruitment, retention, training initiatives, social value, innovation and best practice, aligned with refurbishment of inner urban housing stock, newbuild and regeneration projects. A further 25 projects will be recruited as demonstration projects over the next three years. Specific highlights include:

- An average of five years training per project.
- 3,988 trainees, an average of 181 per project.
- High retention rates, an average of 86.9%.
- Black and minority ethnic (BME) trainees well above industry average.
- Female trainees increasing and above industry average at 4.6% of all trainees.

36. The success of these schemes needs to be replicated across all major long-term projects and programmes. It is encouraging to report the latest Construction Legacy—London initiative aimed at local workforces in the Olympic Borough areas and their catchments. This should deliver a lasting “Olympic legacy” of industry employment in the local and district areas.

REGULATORY MATTERS, SUCH AS HEALTH AND SAFETY, AND THE BUILDING REGULATIONS

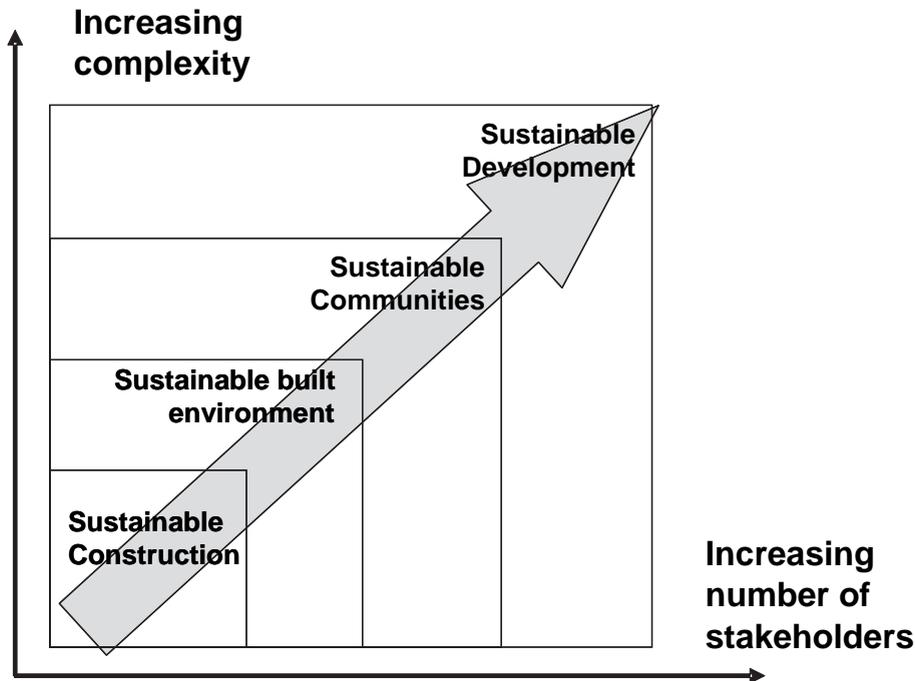
37. Evidence-based policy-making means that we are regularly consulted by regulatory review teams from the Department for Communities and Local Government regarding the local government and social housing sectors. Increasingly such legislation looks to incorporate performance measurement and benchmarking, and the Construction Industry KPIs have provided an excellent common basis for this (also paragraph 26).

38. Strong links between government, strategic bodies, experts, academia and industry are critical for better regulation and its impact on performance in the sector. Our Construction Clients’ Group is working with the Health & Safety Executive to draft additional health and safety guidance for clients, particularly infrequent clients, which will assist clients to better understand their obligations under the CDM 2007 Regulations. However, radical improvement in this area requires more than regulation—it needs a major culture change, as epitomised by our work with Network Rail to deliver 55 workshops to “train trainers” on behavioural safety on site.

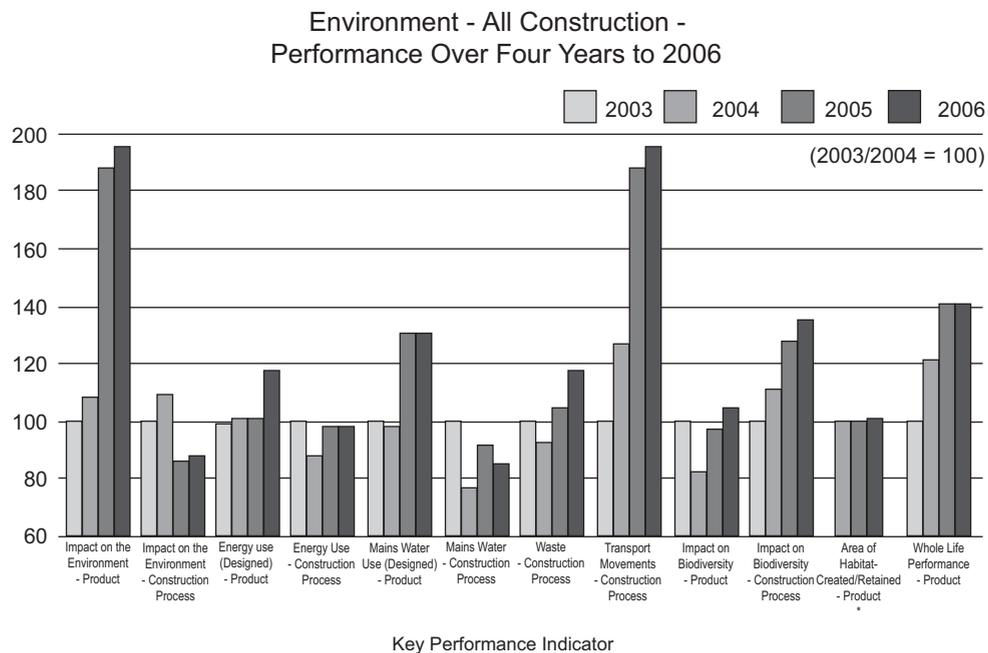
ENCOURAGING SUSTAINABILITY

39. The language of sustainability is not well understood within the industry or by most of its clients. It has economic, social and environmental dimensions (the “triple bottom line”) but has been somewhat dominated by the “green” agenda, arguably to the detriment of the overall objective. Using different terminology—and framing concepts with which the industry is already familiar—clarifies what we actually mean when we talk about “sustainable construction”, and demystifies a complex agenda. For example, businesses generally understand the concepts of profitability and productivity, and increasingly they understand value (paragraphs 6–11 above), and such topics are more readily discussed than “economic sustainability”. Similarly, talking about skills and communities, working conditions and staff retention, is far more straightforward than “social sustainability”. Hence, many of the other sections of this submission are also highly relevant to encouraging sustainability, but in this section we will concentrate on environment performance.

40. Further complexity is added when considering the distinctions between “sustainable construction”, “sustainable communities”, etc—all terms which are commonly used at policy level but not well understood. The diagram overleaf seeks to represent the relationship between these concepts (and is intended to represent three-dimensional relationships, nested boxes rather than flat shapes, to indicate that there are areas of overlap but also separate activity).



41. Environmental sustainability is better understood in the industry, as the desirability of reducing environmental impact is widely recognised—if not well acted upon. Sub-themes are resource efficiency, the impact of climate change, and “sustainable procurement”. Overall, the KPIs show an encouraging trend:



42. Action on resource efficiency, and in particular effective waste management, is far more common in the industry since the introduction of the Landfill Tax. However, delivery is patchy at best. The larger companies and frequent clients require systematic approaches to waste management where we have measured average cost savings of 3% of project costs. However, waste minimisation—reducing the 15% of unnecessary material which we estimate is delivered to site in the first place—is in its infancy.

43. The lack of post-occupancy evaluation is a problem in this area (paragraph 11 above). Ultimately, however, it is the perceived cost of environmental sustainability that is the main barrier. This is often because people treat such features as add-on extras, thereby automatically increasing the calculated costs. This betrays a fundamental lack of understanding about the underlying concept, as demonstration projects both in the UK and internationally clearly show that increasing the sustainability of a new building can be achieved at little or no additional capital cost (the refurbishment of existing buildings is a far more complex and costly issue that will need significant policy and fiscal intervention if it is to become truly widespread). However, the recently published Code for sustainable homes, for example, shows that clients are not yet informed about product choices available to meet environmental targets.

Sustainable buildings need not cost more

Dunston Innovation Centre has clear cost comparisons available for this local authority scheme, as a very similar centre was built five miles away, to the same specification apart from the heating, ventilation and cooling systems. These are new-build IT incubation centres aimed at supporting new and growing IT-based businesses and therefore there is a large energy demand. Both centres were built for the same capital cost, the Dunston facility using a renewable energy heat exchange system, whilst the other used standard heating and air conditioning systems. Dunston's energy costs are just over £10,000pa, under 25% of the other centre, and their carbon emissions are correspondingly low.

In housing, there are many examples that more sustainable buildings do not have to cost more. One scheme at Honingham in Norfolk was built for a local housing association for the standard Housing Corporation budget, but the houses are so well-insulated and efficient in their operation that residents do not need to use the heating system. We visited one couple in December who had not turned the heating on for a year, and who had monitored the internal temperature remaining at 22–24°C throughout that period. These are all-electric houses, with hot water pre-heated from solar panels, and average electricity bills for this couple were £3.80/week. Ironically, however, this design would now fail to meet Building Regulations standards, despite its energy efficiency, because of the reliance on electricity—so there is also a certain amount of work to be done on ensuring coherence across policy and into delivery.

44. Extra costs are also incurred because contractors and consultants price for the risk of uncertainties and increase their cost estimate because they do not routinely deliver sustainable building projects. There is also a real additional cost of the time needed to investigate more sustainable approaches, because skill levels across the industry are in general not high enough. To this end we have worked with the Sector Skills Councils (paragraph 32 above) and others to produce a Sustainability Skills Matrix which sets out the skills needed, and is also being adopted by individual businesses as well as the SSCs to help identify training plans for their staff. This skills matrix needs to be actively disseminated widely within the industry and the education and training system.

45. To make progress in this area we would recommend the following:

- More case studies to illustrate real practical achievements and “prove the business case”.
- More evidence of the business benefits of sustainable construction for different stakeholders.
- More coherent approaches, particularly across government departments and bodies at national, regional and local levels.
- Streamlining the number of bodies working in this field to reduce confusion—including reviewing government funding of a number of these bodies.
- Developing a sound, evidence-based strategy for the refurbishment of existing buildings to meet sustainability standards (including clear fiscal and policy incentives for doing so).

BEST PRACTICE ON CONTRACT MANAGEMENT

46. This requires collaborative working facilitated throughout the supply chain. Much of the recent advances in procurement (eg paragraph 19 above) have involved the partial implementation of collaborative working practices. Client frameworks, for example, have yielded major savings in the costs of procurement. However, a much bigger prize awaits if these frameworks and other models of collaborative procurement can be properly performance-managed. Our work and others' shows that some processes in the industry are 95% wasteful, not adding any value to the finished facility. Recent projects with which we have worked show a 20% cost saving for the client pre-construction and a further target of 10% cost reduction post-contract and a reduction in design time by 50%.

47. There are six critical success factors for effective integrated process:

- Early involvement of much of the supply chain before a design crystallizes. This is straightforward in long-term framework relationships where the team are pre-assembled, but it is more difficult in one-off projects to know who to involve when. However, specialist suppliers increasingly know more about their systems and equipment capabilities than do consultants and it is wasteful to go too far before involving them.

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- Selection of teams by value, not “lowest price”, which is absolutely not synonymous with best value outcomes. For one, the lowest price at tender stage is too rarely delivered, and on the other hand it ignores the benefit side of the equation. Choosing the team for quality and potential, defining the project need so that the team can optimise first cost to deliver high occupier performance and low occupation costs over the project lifetime, is a far superior and proven way of delivering value (also paragraphs 6 to 11).
 - Common processes and tools bond the team together and release major efficiencies. For example, good inter-operability of ICT systems in the supply chain using Constructing Excellence’s Avanti protocol, project extranets and single building information models, and common logistics for moving materials to and from site. ICT is seriously under-exploited in the sector despite many initiatives and much evidence of the business case. However, something as simple as co-location of a project team in the same office is a good place to start.
 - Performance measurement. Measurement and benchmarking of performance and customer satisfaction is a fundamental tenet of modern management, and is able to drive learning and continuous improvement, particularly with repeat processes (of which there are many in construction) or where teams stay together for repeat projects. Following the principles of “lean thinking”, a key improvement technique, waste in all its forms can then be identified and eliminated wherever possible.
 - Long-term supply chain relationships. Such relationships, for example framework agreements, allow teams to learn together and refine their ways of working or innovate. They have been widely applied by repeat clients but are less evident in the supply chain, where constructors seem obsessed with the need to tender every package every time and at best one sees “preferred supplier” arrangements. However the potential benefits and savings down the chain are at least as great, and our Housing Forum has worked with the Housing Corporation to develop a “supply chain diagnostic tool” which enables social housing landlords to measure the extent of supply chain partnering and its potential for cost reduction.
 - Modern commercial arrangements that support collaborative intent. A contract strategy which ensures that risk is owned and shared by the entire project team (paragraph 21) is required. Early exercises in partnering in the 1990s used conventional contracts but “locked them in a drawer” and relied on agreed partnering charters, often coupled with that great motivator of the promise of more work if all went well. Nowadays there are sufficient modern standard forms of contract to provide the right legal basis for collaborative working (eg Engineering and Construction Contract, PPC 2000 and its variants, the JCT/CE contract). Target cost contracts with open book accounting are increasingly common, where a target cost is derived by a number of routes, profits are ring-fenced, any savings or over-spend is shared, and team members are released to find ways to reduce cost. This creates an excellent alignment of interests of all parties. However, insurance remains a problem, with redundant layers of consultant, contractor and supplier cover which often do not protect the client anyway. An innovative new category of Integrated Project Insurance is emerging, where the client covers any residual risk not designed out on a non-recourse basis and reduces the contract sum and fees commensurately and the project team can then collaborate to solve problems without backing into their corners. This needs some learning from demonstration projects before it can be promoted with confidence.

THE UK INDUSTRY’S PERFORMANCE AGAINST OTHER COUNTRIES

48. There have been some efforts in this regard, but none have come close to being sufficiently robust, for example the European Commission-funded report by Bernard Williams Associates was widely criticised as a crude methodology which is highly misleading. A major benchmarking study is required, perhaps under the auspices of the Commission, and we are already engaged in early work with the Commission to agree a common set of measures which would enable European-wide comparisons.

49. We have a UK-Sweden collaboration supported by the Swedish Embassy here in London. The project was initiated by the Swedish Ministry for Sustainable Development and DEFRA to share best practice across the two countries, and was a response to the EU Environmental Technologies Action Plan which was strongly supported by the respective premiers. There were clear areas identified by the Swedish partners where they wished to learn from the UK: in the development of a holistic and strategic approach, for example, and in selection and use of materials. Swedish expertise lies particularly in the delivery of extremely energy-efficient buildings (to the extent of housing which does not need heating systems—for example at Lindas, in southern Sweden). The project also aims to support the development of business opportunities between the countries. This initiative has attracted much interest from other European countries, and it remains a strong possibility for them to join as partners, although a lack of funding to support the management may put expansion (or even continuation) of the collaboration at risk.

50. In the absence of other reliable benchmarking, our knowledge comes largely from anecdotal comparisons with visitors from eg New Zealand, Hong Kong, Australia, South Africa, Japan, South Korea, the Netherlands, Finland and Luxembourg, where those visitors report that their own searches have identified the UK as leading, particularly in the approach to pan-industry reform and in the adoption by the public sector of more enlightened procurement.

CONCLUSIONS

51. The industry is much improved over the last ten years. We recommend the prioritisation of three areas where, with the Committee's support, additional effort can enable major steps towards a more vibrant and sustainable industry:

- All stakeholders in the industry need to understand better how the industry can add value through providing built facilities.
- All stakeholders need to improve their processes and behaviours to enable and deliver integrated and collaborative working in order to deliver "whole life value".
- An industry which delivers whole life value through integrated and collaborative working will be much more sustainable economically, socially and environmentally. The latter requiring further encouragement in the short term through the specific actions listed in paragraph 45.

52. With the Committee's support we are confident that this vision can be realised.

11 May 2007

Memorandum submitted by the Construction Industry Council—East Midlands

1. The Construction Industry Council East Midlands ("CIC EM") encompasses the shire counties within the East Midlands Development Agency boundaries. The CIC is the representative forum for professional, research and specialist business organisations in the construction industry, providing a single voice in all sectors of the built environment and to ConstructionSkills within the Sectors Skills Council.

2. CIC EM members are not employed by the Construction Industry Council but are representatives of the various construction professional bodies active in the region who give up their time freely to support the aims and objectives of the CIC.

3. CIC EM is active in the East Midlands region being specifically involved in the following initiatives:

- 3.1 EMDA-led survey *Are clients and developers in the East Midlands ready for sustainable development?* CIC EM members were on the steering committee for the survey and attended the half day workshop attended by clients, developers and construction industry service providers;
- 3.2 EMDA-led workshop to input into the consultation on the DTI Review of the UK Sustainable Construction Strategy;
- 3.3 the creation of an Employers Panel, in conjunction with ConstructionSkills, with the aim of supporting and implementing change to benefit regional employers of professionals engaged in the construction industry;
- 3.4 compiling a survey of responses to construction-related questions posed to regional Members of Parliament; and
- 3.5 the recent creation of a Constructing Excellence best practice club for the city of Derby.

4. The above list is not exhaustive of CIC EM's efforts and other sources of evidence are used in the compilation of this response to the inquiry. We shall attempt to deal with relevant issues in the order listed in Press Notice 23 of Session 2006–07 although in some cases, there is clearly some cross over.

EMPLOYMENT AND PAYMENT PRACTICES

5. A large regional contractor went into administration in the latter part of 2006. One of the main factors cited was the failure of the developer client on one of the contractor's major projects to make the necessary payments as and when they fell due for payment under the contract. Payments were subsequently not being made down the line and a number of the smaller subcontractors and sub-consultants suffered financial difficulties as a result of the non payment.

6. The fair payment principles of the Construction Act are not working even though the Act has been in force for over 10 years.

7. CIC EM consider that a cultural shift in the industry is required in order to ensure fair payment mechanisms are followed at all levels of the supply chain. Clients have a responsibility to ensure fair payment practices are implemented at every tier of the supply chain. CIC EM also believes that the long awaited implementation of changes to the Construction Act should be delivered by Central Government as a priority.

UK DEPENDENCE ON IMPORTED LABOUR AND EXPERTISE

8. The UK construction industry is becoming increasingly dependent on the use of imported labour and expertise. Whilst such use is to be welcomed and can help to address, in the short to medium terms, the under capacity of the UK construction industry such an approach is not sustainable for either the UK market or the market where the labour and expertise originates. It could be argued that it is unfair to take skills from other countries who themselves are struggling to find the skills and resources to develop their own economy and that we have a responsibility to ensure we have enough “homegrown” labour and expertise to meet our own needs.

MAINTENANCE OF STANDARDS WITHIN THE SECTOR

9. It is assumed that, if the larger firms are engaged in the various initiatives for the construction industry including partnering, sharing of best practice and sustainability, this will eventually trickle down to the SME's. Take up and involvement of this group seems to be very limited. It has been suggested that one of the prime reasons for the lack of take up and engagement could be that the SME's first thought when he wakes up in the morning are questions revolving around “whether he will get paid for the work he did yesterday and whether he will he get paid for the work he does today?” It has also been suggested that different strategies should be devised to engage SME's than those already successfully reaching the larger organisations.

10. There is evidence that where best practice is shared amongst fellow professionals, standards are maintained and bettered. The use of Demonstration Projects and the publicising of them through the various vehicles, for example Constructing Excellence and EMCBE in the region can only serve to keep the drive for quality at the forefront of construction clients' and delivery partners' minds.

11. Central Government should ensure continuing support for these centrally and regionally funded bodies. Strategies should also be devised to ensure fair payment of SME's and to engage these organisations.

CONSTRUCTION R&D

12. Research funding should be made available to encourage re-use and refurbishment of existing buildings. Such research could also look into innovative ideas as to how to retro-fit measures to improve the carbon footprint and the quality of such existing buildings rather than knocking them down and starting again.

13. Insufficient resources are being allocated to research and development in the construction industry. This is not in keeping with its importance as the single biggest employer and contributor to the UK economy. The industry should be encouraged to collaborate with academia and to fund appropriate research into new processes and materials. Central government can play a part in this by offering fiscal incentives to increase research funding from industry.

AVAILABILITY OF, AND INVESTMENT IN SKILLS

14. CIC EM is aware of the following concerns from employers, clients, developers and service providers about the lack of skilled professionals in construction:

- poor image of the construction industry;
- low salaries;
- low proportion of female entrants (and even lower number returning following maternity leave);
- women were unable to progress;
- lack of basic literacy and numeracy amongst school leavers and graduates required for technical skills;
- lack of softer interpersonal skills required to engender teamworking;
- schools careers services considered to be wholly inadequate to encourage young people into a professional career in construction;
- the proposal to remove compulsory study of design skills necessary for construction from the national curriculum; and
- apart from the general shortage of construction professionals there is consensus that building services engineers and planners are in acute short supply.

15. CIC EM in conjunction with representative construction employers in the region believe that construction professionals are currently a limited resource, suffering from high demands for labour and the system failing to deliver. Employers are already stretched to capacity with trying to deliver the projects and programmes in hand. They are also trying to ensure that their staff adopt an appropriate work/life balance.

16. CIC EM believe that the recruitment of construction professionals should be given the highest priority in the region and that staff shortages are so acute there is a risk that the growth in economic development will fall behind other countries in Europe.

17. CIC EM believe that appropriate funding/subsidies/tax breaks should be made available to employers of professionals (and their employees) to encourage partnering and collaboration with schools specifically to assist careers advisors with introducing the many positive features of the construction industry to schoolchildren. Only by putting forward the positive and challenging aspects of the industry will schoolchildren be encouraged to take up a career in construction.

18. The lack of schoolchildren aspiring to a career in construction needs to be tackled at Department for Education and Skills level. If DfES collaborated with ConstructionSkills on this, CIC EM believes that teachers would be encouraged to engage with the industry at national and local levels.

19. Further vocational training and educational funding should also be made available to recruit, train and retain professionals in the industry. Industry also needs assistance in demonstrating appropriate career development prospects.

REGULATORY MATTERS, SUCH AS HEALTH AND SAFETY, AND THE BUILDING REGULATIONS

20. Clients and developers expressed concern about the regulatory regime, particularly with the inconsistent guidance being given by planning departments in local authorities. Clients and developers expressed a need for consistency.

21. CIC EM believes that regulatory reform should be implemented to encourage consistency. Particular reference is made to the environmental quality of new buildings and, for example, CIC EM believe that the Code for Sustainable Homes should be a mandatory requirement for all properties whether publicly or privately owned.

22. CIC EM believe that the planning system is in crisis with severe shortages generally in planning departments. There is also a lack of good quality planning officers.

23. CIC EM believes that the pressure on the planning departments within local authorities could be eased if some form of regulatory reform were considered enabling private organisations to carry out the functions on their behalf. This could be implemented in a similar way to the way building inspectors are approved and regulated. CIC EM believe that innovative solutions could be encouraged by the use of the private sector in this role.

24. A debate on how best to align the planning and building control systems to increase efficiency of use of the resources available and to help deliver sustainable development would be welcomed.

25. The recent changes to the building regulations, in particular Document L and Document B, have not been introduced with sufficient planning for the transitional phases. Many construction professionals and building control officers are still confused as to the proper application of the changes. Late changes to clauses, over complex provisions and a failure to provide adequate documentation in time for implementation are all cited as problems. The structure of building regulations should be reviewed with a view to simplifying their drafting, monitoring and application.

26. Regional stakeholders considered that local government should have ultimate responsibility for co-ordinating, balancing and implementing planning policy particularly in relation to determination of regional spatial strategies.

27. CIC EM is concerned that the current initiatives in construction health & safety may be affected by proposed reductions in HSE staffing levels. Awareness campaigns and higher standards should continue to be vigorously promoted, to sustain recent improvements.

28. Responsibility for the construction sector falls within the remits of a number of central and regional government departments. This fragmentation has limited central government's ability to influence and communicate effectively with the industry. It has also made it difficult for industry to communicate effectively and consistently with central government.

29. Because of the importance of construction to the GDP, central government should consider the creation of a separate government department with the consequent creation of a Cabinet Minister whose sole remit is for construction. This single department could then co-ordinate and engage with other central and regional government departments with a consistent message.

ENCOURAGING SUSTAINABILITY

30. Clients, developers and relevant service delivery partners in the East Midlands believe they are reasonably well informed about sustainable construction and climate change but less well informed about sustainable communities. The organisations were divided over whether they were willing to pay a higher capital cost for sustainable buildings in order to achieve a lower running cost.

31. Central and regional government should take the lead in ensuring that whole life performance, whole life costing and supply chain involvement are integral to all the work that is commissioned. To achieve this, changes to year on year budget allocations may need to be reviewed in order to permit procurers to look beyond the end of the current financial year.

32. Fiscal measures (subsidies or taxes) are considered to be key drivers to encouraging sustainability. Developers and clients should also be encouraged, by tax reform, to re-use and repair existing buildings.

33. The lack of appropriate planning skills and the acute shortage of planners is seen as a barrier to implementing sustainable development.

The Construction Industry Council—East Midlands offers the above for use into the Committee inquiry into the UK construction industry and would be pleased to offer further oral evidence if requested.

9 May 2007

Memorandum submitted by Construction Industry Research and Information Association (CIRIA)

We have focused our response on construction R&D and, in particular the importance of Government support to the capture of incremental advances leading to authenticated “best-practice” guidance. The principles span a number of topics of relevance to the inquiry.

While there is general acknowledgement across the industry that Government supports R&D on innovative and technologically advanced products and services, there is concern that support for incremental research—albeit one with large potential benefits—has been reduced. Research leading to the publication of “best-practice” outputs is an area of particular concern.

A recent meeting involving CIRIA, other construction research organisations and DTI discussed feedback from a number of members of these bodies in respect of the funding of such research. Key points raised at the meeting (supported by letters from senior representatives of leading construction organisations were:

- Topics covered in such best practice outputs relate to huge markets and the performance improvement they recommend represent a significant potential benefit.
- The improvements in practice leading from the implementation of such guidance yields benefits to clients—both private sector and public sector.
- Many of the topics covered have relevance worldwide and such guidance helps contractors in retaining a competitive edge in winning international projects.
- Following the guidance in such documents has helped secure awards / introduced innovation for the organisation(s) concerned.
- Documents provide guidance in a readily understood form that provides confidence in:
 - new processes and techniques,
 - interpretation of new codes (eg Eurocodes), and
 - interpretation and application of new regulations.
- Such guides often form the basis of enabling documents prepared by other organisations and a number of Government clients refer to a range of guidance from the industry research associations in their specifications.
- Such guides often provide the only reference to design and construction information that is sufficiently authenticated to enable industry companies to gain the approval of clients and regulatory bodies.

Low margins, attitudes to risk (by both clients and the supply chain) and limited opportunity for first mover advantage are some of the factors why individual construction companies do not invest in research. Another argument quoted is that since clients are often the beneficiaries of research, and that Government is one of the largest construction clients in the UK, then they should share the cost of such research and promotion of best practice. Where such schemes existed in the past, we found that companies were prepared to contribute, jointly to such initiatives for the common good of the industry and its clients.

May 2007

THE IMPORTANCE OF THE EXISTING HOUSING STOCK

1. Currently, the housing stock is responsible for 27% of carbon emissions and even assuming an additional 200,000 new homes are built every year (the upper aim for new build), pre 2007 homes will still represent more than 70% of the housing stock in the year 2050.

2. Whilst the Government has taken a number of important steps to raise the energy efficiency of new build, in particular through Part L of the building regulations, this has had very little impact on the existing stock—principally only when householders have chosen (or been forced) to replace their central heating boilers or install double glazing. The Energy Efficiency Commitment (EEC) has been a source of support funding for energy efficiency measures such as insulation, but the latest phase of this scheme has been heavily oversubscribed and there is now a hiatus until the next phase of the scheme commences in April 2008. DTI support grants for householders to install microgeneration have also been rapidly used up.

3. The main focus of Government's attention has been on new build through the Code for Sustainable Homes and the target to have all new homes built to a zero carbon standard by 2016. Whilst these initiatives support worthy long-term objectives, they do not provide the significant early benefits in terms of reducing housing stock which is on average four times less energy efficient than new homes built to the current building regulations. And those built prior to the introduction of Part L of the building regulations are even less energy efficient.

THE CHALLENGE

4. Much of the existing housing stock can be significantly improved through existing low tech, low cost and low risk upgrades such as cavity wall insulation, loft insulation, and draughtproofing. If this were to be combined with decarbonising grid electricity, greater use of microgeneration, and/or district CHP for, say, blocks of flats, then even more significant savings could be made.

5. Part of the problem is that new technology is being promoted as the answer when in fact it is much more the social and behavioural issues that need addressing. In particular there is a need for some kind of incentive to persuade people to see investment in energy efficiency measures as a priority. In addition, we have to find a way to give householders the confidence that they will not face the "hassle" that is all too often associated with small scale domestic building work.

SOLUTIONS

6. The main focus of the recent Energy White Paper has been on providing people with more information about the use of energy in their home (smart metering) and the energy efficiency (Energy Performance Certificates) and increasing the support funding through the CERT scheme which will replace EEC from 1 April 2008. Whilst the significant increase in the targets set through CERT compared with the latest phase of EEC is welcomed, there is a major problem in the transition from EEC II, for which the allocated funding has been exhausted, and the start of the new CERT scheme. This has major implications for manufacturers and suppliers who cannot simply turn capacity on and off to meet the short-term requirements of funding support schemes. What Government urgently needs to do is to introduce mechanisms to allow immediate access to the allocation that will be made available under the new CERT scheme.

7. EEC funding has not, however, been available to help fund certain key measures which will improve the energy efficiency of housing such as the installation of more efficient heating boilers or double glazing. The argument has been that through the building regulations installation of more energy efficient solutions are now mandatory and therefore no incentive should be necessary. It does not, however, encourage people to change voluntarily, and can result in unintended consequences as the case study from the boiler industry illustrates.

Case study from the boiler industry

New regulations came into effect in April 2005 as a result of which all new domestic boilers had to be high efficiency condensing boilers except in a few specified cases. As a result these high efficiency boilers very quickly accounted for around 85% of new boiler sales whereas the figure had only been about a quarter prior to the change. However, because of the higher cost of these new boilers, sales actually fell by around 8% and there was very strong demand for replacement parts

for old boilers, indicating that more people were “patching and mending” their old boilers. Sales have now recovered roughly to where they were prior to the change, but Government should see as its objective a more rapid switch to these lower carbon solutions in the existing housing stock.

There are currently over 3.5 million open flue, gas boilers over 10 years old in service in British homes. The replacement rate for such boilers is low—on current trends at least 2.3 million of these aging boilers will still be in service in 2010. With typical efficiency rates of less than 60%, such appliances fall far short of the standards of modern condensing boilers. On average such appliances produce 1.4 tonnes Carbon equivalent (tCe) a year, 75% more than a condensing boiler.

Accelerating the replacement rate would secure a significant early reduction in household emissions. On recent trends, 1.2 million of these boilers would be replaced over the next five years, providing an annual carbon saving of 720,000 tCe by 2010. Cutting the remaining pool of aged boilers by a further third (or 750,000 boilers) over the period would provide an additional carbon saving of 450,000 tCe. This additional reduction would be sufficient to secure the Government’s original target of a 5MtC reduction in household emissions.

8. Encouraging people to make such improvements on a voluntary basis should be a key part of Government policy and this could be achieved in a number of different ways. First, VAT could be reduced to 5% on these products and their installation to bring them in line with the lower rate of VAT on other energy saving products. Alternatively, if Government wished to offer more focused support it should provide some kind of financial incentive for those who are provided with one of the new Energy Performance Certificates when they move house. This is a time when people are most likely to invest in their new property and we must encourage them to choose to invest in energy saving measures as a priority, based on the findings of the independent EPC. Such incentives could be provided through a grant, a refund on stamp duty paid at the time the house was purchased, or temporary reduction in Council Tax. Any financial support would be dependent on the measures being undertaken within, say, 12 months of the house being bought.

CONCLUSION

If you were developing a business case for reducing carbon emissions from housing, you would put your investment in the short term in the existing stock. The Sustainable Development Commission has shown that for every £ you spend increasing the energy efficiency of new homes beyond Level 3 of the Code for Sustainable Homes (the level to which all new social housing must now be built) you would get a 50 times better return in carbon savings by investing that money in the existing housing stock. Whilst we are not wanting to discourage the requirement for new housing to be built to the highest, cost effective, environmental standards, if climate change is the most important thing that mankind is facing (as many of our senior politicians keep telling us), then we really should be putting greater incentives in those areas which provide the most cost effective ways of reducing CO₂.

June 2007

Memorandum submitted by ConstructionSkills—The Sector Skills Council for the Construction Industry

SKILLS AND TRAINING IN THE CONSTRUCTION INDUSTRY

ConstructionSkills is the Sector Skills Council for the construction industry and the voice of employers in the sector on the subject of skills. It is uniquely placed to provide evidence to the DTI Select Committee on all matters relating to construction industry skills requirements, construction qualifications, construction training provision and funding requirements—see Annex 1 for more details. This submission focuses particularly on **the availability of, and investment in, skills in the construction industry**. It also touches on other areas of interest outlined by the Select Committee, namely the capacity of the industry to deliver large infrastructure projects, the use of imported labour and health and safety issues.

1. SUMMARY OF EVIDENCE AND KEY RECOMMENDATIONS

1.1 The construction industry has seen sustained growth over the last decade and this is set to continue with predicted Government spending on infrastructure, housing and schools and strong private investment in the commercial sector. To deliver this growth and replace those who will leave the industry, it is forecasted that an average of 87,600 people will need to be recruited every year for next five years. However, this does not mean that construction is facing a skills crisis.

1.2 Through the Sector Skills Agreement for construction, ConstructionSkills is already acting as an effective go-between—articulating the needs of industry to the education sector and brokering partnerships between the industry, education and training providers, funders and trainees themselves. As a result, significant progress has been made against managing the regional or occupation-specific skills gaps and shortages that exist—a real achievement given the unprecedented demand.

1.3 The industry has hugely improved apprenticeship completion rates (from 29% in 2003 to 68% in 2006), is qualifying and carding significant numbers of existing workers and is training people into jobs through local employment projects. It is also committed to improving health and safety, 2006 saw the one millionth pass of the Health and Safety test—see Annex 3 (separate printed document) for more details. Nevertheless, there are still significant challenges to overcome with a further 10.8% growth in output predicted by 2011.

1.4 As proposed in the recent Leitch Review of Skills (Prosperity for all in the global economy—world class skills), construction employers welcome the opportunity to be in the driving seat when it comes to shaping “fit for purpose” solutions to improve the skills and training provision for the industry. However, they also find Government funding on skills too complicated (particularly in England)—with a lack of cohesion between national strategy and regional delivery and a lack of recognition of the unique needs of the industry.

1.5 ConstructionSkills now needs Government to give it the real power to influence skills funding and policy to maintain industry confidence and ensure that the full range of opportunities offered by the Sector Skills Agreement for construction can be delivered.

1.6 Our key recommendations are:

- 1.6.1 **Government as policy maker**—give SSCs the real power to deliver employer-led skills and training solutions through Sector Skills Agreements in line with the vision and central recommendations of the Leitch Review on Skills which ConstructionSkills fully supports.
- 1.6.2 **Government as funder**—provide flexible solutions for the public funding of construction skills and training in response to the key skills issues the industry is facing. In particular, look to channel funding through project-based initiatives such as the National Skills Academy for Construction and re-prioritise funding by removing support for training that does not meet the minimum industry requirements and focusing resources on Level 2 and above qualifications and by supporting training which up-skills adult learners.
- 1.6.3 **Government as construction client**—set a good example as a construction client by recognising that it is in the Government’s own economic interest not to go for cheapest short-term price, but to value investment in the skills base that it will need in the longer term.

2. KEY SKILLS ISSUES

2.1 The Construction Skills Network (CSN) is an industry-wide alliance developed by ConstructionSkills to revolutionise the planning of construction recruitment, training and skills development. It combines a forecasting model with a group of national and regional industry experts, whose specific knowledge ensures the forecasts are authoritative.

2.2 By analysing demand from planned projects alongside current training supply across the sector, the Network provides the most comprehensive data on which to plan training resources that has ever been available to the industry. The first outputs of the network were launched in June 2006 and key stakeholders, such as the Office of Government Commerce, will be using these figures as the basis of their skills planning—see Annex 2 (not printed) for more details.

2.3 The CSN outputs indicate that the construction industry’s contribution to the health of UK Plc is significant. Construction Contracting and Professional Services together:

- 2.3.1 Employ almost 2.5 million—forecast to rise by 10% between 2007 and 2011 to a total of 2.8 million. This means 87,600 new recruits are needed to join the industry every year for the next five years.
- 2.3.2 Generate an estimated £203 billion of turnover and over £82 billion of Gross Value Added (GVA) and represents approximately 11% of the UK’s GVA—with its employees accounting for 9% of the total labour force.
- 2.3.3 Account for over 151,500 employers in the UK. However, fewer than 1% of these enterprises employ more than 250 people, whilst more than 900,000 people (approximately 36% of the workforce) are self-employed.

2.4 The unique nature of the industry presents key challenges in terms of the delivery of training and the development of a skilled and fully qualified workforce.

2.5 The site workforce is highly mobile, subsets of which group and regroup on a project-by-project basis. Employers are reluctant to invest in training, believing the benefits are more likely to be reaped by other companies as the workforce moves around.

2.6 The construction supply chain is fragmented. Design, project management, build and materials supply often take place with little continuity of companies or people from one project to another. On completion of the project the team breaks up and often lose the learning points.

2.7 There is also a major reliance on sub-contracting. With less than 20% of the workforce employed by large companies, there is a huge prevalence of SMEs and self employment. Traditionally, construction sub-contracts have been very short term, and have not encouraged sufficient long-term investment in skills.

2.8 There is considerable regional variation in construction activity which provides problems when planning where training should occur. The costs of travel and subsistence for trainees are often seen as a barrier/reason for not training.

2.9 Tight profit margins and contracts let on cost not quality mean that anything which may be seen to impact negatively on profit is not a priority—training often falls into this category. Three-quarters of construction employers do not train. These, mainly small businesses, are unconvinced about the bottom-line benefits of investing in their workforce. Similarly, too few professional consultancies have a structured training programme in place.

2.10 While Further Education provision for the main construction trades appears to be sufficient, less than half of those starting training become qualified, because of insufficient work-based placements. One factor is high levels of self-employment which restrict the number of starter jobs for new entrants. In the main craft trades in London and the South East, for example, self-employment averages 70%, making it difficult to place apprentices so that they get the work-based experience they need.

2.11 There is need to diversify the construction workforce. Despite concerted action by ConstructionSkills and the industry, women account for just 1% of craftspeople (and 10% of the total workforce). At 3%, the number of ethnic minority craftspeople in construction is also way below the 8% in the general working population. Although the picture is a little better in professional services firms, recruitment and retention of an appropriately diverse range of employees remains a problem.

2.12 There is growing demand for specialist trades throughout the supply chain. But FE colleges focus on the main trades, and there is insufficient Government funding for qualifying specialist occupations to offset the relatively high cost of this training. The National Construction College, for example, offers specialist apprenticeships in 16 disciplines including general construction, scaffolding, demolition, plant and crane operations. The cost of delivering apprenticeships in these occupations is high because they are residential and land/equipment intensive. On average, the cost per apprentice is £13.8k above the existing LSC funding levels in England.

2.13 Applications to construction and built environment degree courses saw a sharp decline in the 1990s. Some professional disciplines have since seen a revival but others continue to struggle to attract sufficient numbers. 65% of professional services consultancies report graduate shortages and difficulties recruiting people with the relevant skills.

2.14 The use of skilled migrant labour has been useful as a short-term measure to fill skills gaps and work has been done by the industry to ensure that migrants are legal, suitably qualified and working safely. However, long term reliance on migrant labour is not sustainable and there continues to be a need to invest in the UK skills base.

3. THE CONSTRUCTION SECTOR SKILLS AGREEMENT

3.1 ConstructionSkills is a pathfinder in developing a Sector Skills Agreement (SSA), between the bodies responsible for delivering training in the UK and those that demand it. The Construction Sector Skills Agreement is key to providing training and skills solutions to the industry. The partnerships it develops and the innovative, industry-led approach is designed to ensure that we have the right people in the right place with the right skills to ensure the industry continues to thrive.

3.2 The priorities in the SSA are to:

3.2.1 *Increase the quality and quantity of new recruits by:*

- Improving understanding of careers opportunities in construction.
- Increasing apprenticeship completions and widening opportunities for onsite practice through initiatives like programme-led apprenticeships in GB—see Annex 3 (separate printed document).
- Promoting diversity through local employment projects and early influence at schools.
- Increasing applications for construction related degree courses.

3.2.2 *Improve the skills of the existing workforce by:*

- Intensifying and widening the industry's Qualifying the Workforce initiative.
- Developing flexible training structures for specialist occupations.
- Assisting the effective integration of migrant workers.

3.2.3 *Improve business performance by:*

- Increasing the numbers investing in training.
- Developing management and leadership skills.
- Supporting lifelong learning in construction.

-
- Facilitating graduate development programmes to strengthen specific skills.
 - Developing skills for sustainability.

3.2.4 *In addition, ConstructionSkills will contribute to the infrastructure required to support these priorities by:*

- Improving intelligence on skills for the future.
- Developing a sector qualifications strategy.

3.3 Through the SSA, the construction industry set itself some challenging targets over the next few years and significant progress is already being made—see Annex 3 for our progress and plans. However, there remain significant uncertainties as to the availability of public funding in both the short and medium term. This poses a serious threat to the achievement of the targets and to the credibility of the SSA amongst employers who have made strong commitments against key targets.

4. DELIVERING “A DEAL FOR A DEAL” THROUGH SECTOR SKILLS AGREEMENTS

4.1 Employers have a key role to play in developing construction skills. But for the Sector Skills Agreement to succeed, we also need commitment from government agencies to deliver the necessary funding and support to affect a step change.

The general view of construction employers

4.2 To construction employers, despite increased funding for training over the past two years, Government funding on skills can appear complicated (particularly in England)—with a lack of cohesion between national strategy and regional delivery, the absence of significant resources to up-skill adult learners and a lack of recognition of the unique needs of the industry.

4.3 Employers welcome the opportunity to be in the driving seat when it comes to shaping “fit for purpose” solutions to improve the skills and training provision for the industry. They recognise that whilst good quality migrant labour offers short term solutions to skills gaps, for the long term stability of the industry more needs to be done to recruit and qualify the UK professional and contracting workforce.

4.4 The industry has endorsed ConstructionSkills as its voice on skills issues and signed up to a range of commitments through the Sector Skills Agreement. There is an expectation that, through ConstructionSkills and the SSA mechanism, the Government will deliver.

The general view of ConstructionSkills

4.5 ConstructionSkills can act as the go-between—articulating the needs of industry to the education sector and brokering partnerships between the industry, education and training providers, funders and trainees themselves.

4.6 ConstructionSkills now needs Government to give it the real power to influence skills funding and policy to maintain industry confidence and the credibility of the Skills for Business Network by delivering industry-led solutions to the training and skills needs of the whole construction team from designers through to craft and manufacturers. In particular, Sector Skills Councils need to be given specific statutory powers to deliver their post Leitch roles and responsibilities (such as the ability to determine how Government funding should be prioritised) and the roles of other key partners within the skills system then need to be re-aligned so they are able to respond appropriately.

5. RECOMMENDATIONS

Government as policy maker

5.1 The public sector accounts for almost 45% of construction output and its skill base touches all parts of Government. For example, DEFRA in terms of energy and sustainability, the Treasury/Office of Government Commerce in relation to procurement and best value and even DCMS in terms of design, public building and the 2012 Olympics.

5.2 Going forward it is critical that construction has a powerful sponsor in Government. The strategic consideration of skills solutions across Government Departments will be central to ensuring the successful construction of all major construction projects.

5.3 At present, ConstructionSkills deals mainly with DfES on training and skills issues (to which we are statutorily linked as a SSC) and the DTI regarding more general construction matters.

5.4 Our work with the DTI includes collaborating on the CSN forecasting model (the DTI’s Construction and Housing Statistics are a core feed into the model), establishing the link between productivity and industry performance, partnering on innovation and modern construction methods, developing the Sustainable Construction Strategy and liaising on DTI SSA commitments.

5.5 The joint work with the DTI on the drive toward sustainable development is particularly important given the significant demands it places on the industry. Process and product innovation will drive much of the required change but there will be an impact on the associated skills base at the craft, management and professional levels. The DTI's lead in the development of the Government's Sustainable Construction Strategy is a very welcome step. ConstructionSkills has played a full and active part in consultation events, the cross departmental steering group and the Sustainability Forum, which have all been feeding into the development of the Strategy.

5.6 Major undertakings with the DfES include the launch of the National Skills Academy for Construction (NSAfC). The project-based nature of the construction industry means large volumes of people come together on individual projects where there are specific training needs, so it makes sense to relate the training to the site or the project, rather than via the traditional college routes. The NSAfC model does just this but funding needs to be more flexible to take advantage of this huge opportunity to increase work-based learning for new recruits and up-skill existing construction employees.

5.7 As skills policy maker, the Government should:

- 5.7.1 Give Sector Skills Councils the real power to deliver employer-led skills and training solutions through Sector Skills Agreements, in line with the vision and central recommendations of the Leitch Review, which ConstructionSkills fully supports.
- 5.7.2 Endorse the Construction Skills Network and put its outputs to strategic use to predict future skills requirements and plan capacity.
- 5.7.3 Continue to engage with the skills and people elements of the sustainability agenda.
- 5.7.4 Support and fund work-based learning through the National Skills Academy for Construction which will provide portable, project-based regional Skills Academies, located on or near the site of large construction or infrastructure projects.

Government as a construction client

5.8 The government is the most significant construction client, with procurement of billions of pounds of construction projects ranging from new build of houses, schools and hospitals to the development of Olympics facilities and the entire road building programme—accounting for upwards of 45% of all construction demand. As such, long-term Government programmes, especially the high profile 2012 project which will come under much scrutiny, represent a huge opportunity to demonstrate client best practice from a procurement and commitment to people point of view.

5.9 The Public Sector Construction Clients' Forum, supported by the Smarter Construction Unit at the Office of Government Commerce, is fundamental in ensuring the Government understands its potential impact on the industry as a construction client. The DTI and ConstructionSkills have been strong supporters of the PSCCF through the OGC's modelling and intelligence group. ConstructionSkills is also partnering with OGC on industry intelligence issues and the outputs of the CSN are used as a direct feed into the OGC's own capacity model. As a result there is a common message coming from Government and the Sector Skills Council on the size of the skills challenges ahead.

5.10 In order to ensure that the Government's skills strategy is supported by the Government's behaviour as a best practice client, there are a number of procurement policies that could be adopted. This will give additional motivation to the industry to commit to the Qualifying the Workforce initiative, to conform to sustainability requirements and to increase the opportunities for underrepresented groups in the construction industry.

5.11 Specific recommendations are:

- 5.11.1 That capacity and skills planning is considered at the earliest stages of procurement.
- 5.11.2 That it becomes policy that central and local government funded construction contracts can only be delivered by appropriately trained and qualified workforces
- 5.11.3 Government as a repeat construction client needs to recognise that it is in its own economic interest not to go for cheapest short term price, but to value investment in the skills base that it will need in the future. The use of longer term framework agreements with contractors would assist with this.

Government as funder

5.12 Government funding formulas need to be made flexible enough to respond to the specific needs of the construction industry. This means ensuring that funded training meets the needs of employers and individuals. Training should be viewed as a "means to an end". In this case "the end" is only funding training and qualifications that lead to jobs in the industry.

5.13 In particular, the industry is keen to ensure that there is sufficient funding for attracting a diverse range of new recruits, qualifying adults entering the industry, up-skilling those already working in the industry and qualifying young people for whom traditional apprenticeships in construction are not the most appropriate entry to the industry.

5.14 Specifically, this means:

- 5.14.1 Re-prioritising Government funding, removing support for training that does not meet the minimum industry requirements and focusing resources towards Level 2 qualifications and above.
- 5.14.2 Funding for adult apprenticeships should be offered at the same level as 16–18 year olds to increase diversity of entrants as it has been established that women tend to enter the industry as adults rather than straight from school.
- 5.14.3 Funding should be made available for construction activities in schools, through Education Business Partnerships for example, to assist in changing perceptions of construction careers and encourage atypical recruits from an early age.
- 5.14.4 Sufficient funding for On Site Training and Assessment (OSAT) should be made available across GB for public and private accredited centres to deliver free Level 2 qualifications to people already working in the industry through Train to Gain and other funding streams.
- 5.14.5 Funding should allow for higher unit costs of specialist training provision to widen availability of training in these areas.
- 5.14.6 Apprenticeship funding should become more flexible to encourage the development of fit for purpose qualifications and to widen opportunities for on-site practice, for example through Programme Led Apprenticeships.

PROVIDING ADDITIONAL EVIDENCE

ConstructionSkills would welcome the opportunity to provide oral evidence to the Select Committee to expand upon the issues raised in this paper.

Annex 1

ConstructionSkills is the Sector Skills Council for the construction industry. It is a partnership between, CITB-ConstructionSkills, the Construction Industry Council (CIC) and CITB Northern Ireland and as such covers the whole industry from craft to the professions, the whole of the UK, and all of the skills and training issues that the industry faces.

CITB-ConstructionSkills is the construction industry's Industry Training Board and has levy raising powers. CITB-ConstructionSkills helps the industry in England, Scotland and Wales in all aspects of recruiting, training and qualifying the construction workforce. It also works with partners in government and beyond to improve the competitiveness of the industry as a whole.

CIC is the umbrella body for all professional services (such as architects, engineers and surveyors), research organisations and specialist trade associations. It represents more than 450,000 professionals and over 23,500 firms.

CITB Northern Ireland is the equivalent to CITB-ConstructionSkills in Great Britain, with powers to raise a Levy on employers in the Province.

ConstructionSkills has a leading role in:

- Providing sector skills intelligence.
- Defining the skills strategy for the sector—including a sector qualifications strategy.
- Increasing employer engagement in skills and training.
- Skills and training brokerage.
- Facilitating and leading skills and training delivery.

For an overview of our progress to date on delivering against this agenda, and our plans for the future, please see Annex 3 (not printed here).

May 2007

Memorandum submitted by Davis Langdon

1. EXECUTIVE SUMMARY

Given current concerns regarding the capacity of the construction industry to cope with forecast demand through to 2012, and beyond, we believe this Inquiry is both timely and warranted.

Davis Langdon LLP is one of the largest construction consultancies in the UK and we believe we are well placed to comment on topics that would be of relevance to the Committee.

We provide evidence concerning the following issues within the UK construction industry:

- The long term capacity for the delivery of large infrastructure projects, including delivery of the Government's capital investment programme (1.3.1)
- UK dependence on imported labour and expertise (1.4.1)
- The UK industry's performance against other countries (1.5.1)

It's fair to say that there have been several recent studies examining both capacity and productivity issues in the industry, however these often appear to be one-off research commissions with little follow-up and certainly limited buy-in from industry participants. We believe that a coordinated approach is required to consider these significant issues/challenges going forward, our evidence suggests a number of possible approaches that could be adopted to examine both the capacity of the industry and to establish the productivity of UK construction compared to other countries, specifically:

- Research into the effects of alternative procurement mechanisms on construction firms' willingness to bid for projects and the resulting prices tendered (1.3.10)
- Comprehensive study of migrant labour in UK construction (1.4.4)
- Examination of demand composition on productivity levels (1.7.1)
- The effect of construction industry size and structure on productivity levels (1.8.1)
- Estimates of fixed capital input to the construction industry (1.9.1)
- Review of the quality and completeness of statistical data (1.10.1)

We see these approaches as moving away from providing national aggregate studies of the construction industry, that often conceal more than they reveal, to a more disaggregated sub-sectoral approach which we believe will offer an opportunity to examine some key explanatory factors.

We are aware that there is some pressure to go beyond explanation to analytically informed action, however it is important that we refine our estimates of where UK construction currently is, before we start attempting explanations or drawing policy conclusions.

1.1 Introduction

1.1.1 Davis Langdon LLP welcome the opportunity to provide evidence concerning the House of Commons Trade and Industry Committee inquiry into the UK construction industry.

1.1.2 Davis Langdon is one of the largest construction consultancies in the UK with around 1,200 staff in 20 offices; worldwide, the firm has 2,500 staff in 80 offices in 25 countries. Our main business is construction cost consultancy and project management but the firm also has specialist groups including construction taxation specialists, legal support services and management consulting.

1.2 Relevant experience

1.2.1 Davis Langdon have undertaken a range of studies on aspects of national and international construction industry analysis and improvement. In the UK, Davis Langdon have undertaken market, economic and general studies for Government, institutional and private clients. These include a strategic study of the Building Materials Sector for the Department of Trade and Industry (DTI) and the Construction Products Association (2000) and a study of the timber products industries, again for DTI; a survey of construction professional services for the Construction Industry Council (originally in 1995, again in 2000 and a re-run is currently being undertaken).

1.2.2 Davis Langdon have been working with ConstructionSkills since early 2004 reviewing their existing labour and training demand model and considering how that could be improved. ConstructionSkills are now taking this work forward on two inter-related fronts: an improved model and national and regional skills and training observatories. The latter are representative groups that both inform the employment forecasting model and are informed by it. The ConstructionSkills forecasting model is currently being used by the Office of Government Commerce (OGC) to inform their capacity research.

1.2.3 In 2005 Davis Langdon developed, for OGC, a database of future new public sector projects that was designed to give early warning of excess demand—both regionally and by type of work. The initial work on that is now complete and OGC is establishing mechanisms for collecting and monitoring the appropriate data on an ongoing basis. Furthermore, Davis Langdon completed a national demand and supply analysis of the UK construction industry for the OGC in 2006.

1.2.4 In 2004, Davis Langdon completed a Sector Competitiveness Analysis of the UK construction industry that included construction productivity and other comparisons between the UK, France, Germany and the US, for the DTI.

1.2.5 Given our experience we believe that we are well placed to comment on topics that would be of relevance to the Trade and Industry Committee. More specifically, Davis Langdon would like to provide evidence to the Inquiry regarding the following issues within the UK construction industry:

- Long term capacity for the delivery of large infrastructure projects, including delivery of the Government's capital investment programme.
- UK dependence on imported labour and expertise.
- The UK industry's performance against other countries.

1.3 *Capacity of the UK construction industry*

1.3.1 The concept of capacity is important for policy makers and firms. The construction industry's capacity is cited as a possible constraint on delivering projects. In particular, it is a key concern in delivering the Government's investment pledges on time and to budget.

1.3.2 The capacity of any industry needs to be related to demand. The ability of the construction industry to satisfy the demand for new build, refurbishment, repair and maintenance work, depends on its capacity to produce output in any given period. This in turn depends on the total of both employed and unemployed resources, of skilled and unskilled labour, plant and equipment, materials and management.

1.3.3 There are a number of ways of assessing whether the construction industry is operating at either high or low levels of capacity utilisation. The former is usually associated with rising tender price inflation, poor quality, and delays in completion. The latter tends to prevail at times of high and rising unemployment, and when there is slow or negative growth in workloads. This approach assumes measurement of a number of variables including: construction new orders data; price and cost indices, labour productivity, levels of unemployment; construction wages; construction insolvencies; and the participation of foreign firms.

1.3.4 There have been previous attempts to map supply and demand in construction, many of these have used construction new orders data in an attempt to estimate future demand patterns, however these studies have exhibited little correlation between new orders and actual output.

1.3.5 Despite increasing construction output/orders trends in the last few years research conducted by Davis Langdon suggests there is little evidence to indicate a capacity problem within the aggregate construction industry, although an increasing trend in prices is evident. However, at a disaggregated level, our research highlights some significant increases in some sub-sectors of the industry.

1.3.6 Anecdotal evidence suggests there may be a possible shortage of general contractors willing to bid for some construction projects (particularly public sector projects). However, a recent supply analysis conducted by us suggests that generally the number of firms and total employment within the industry is increasing in line with demand and rather than supply shortages it's perhaps more a problem of procurement, more specifically an over reliance on private finance initiatives. It may be that the public sector could re-examine the way it procures construction services for general building work. PFI/PPP and other private finance initiatives by their nature limit the number of potential suppliers because of the large sums of money involved in both putting bids together and if successful undertaking service delivery.

1.3.7 PFI has become an increasingly important delivery route for the government in terms of procuring built assets and delivering its stated investment plans. Indeed, the number and value of signed PFI projects have increased significantly since 1990 (HM Treasury, 2004).

1.3.8 In addition, we observe that there are a surprising number of relatively small PFI projects ie those with a capital value less than £20 million, in particular PFI contracts signed by the DCMS, ODPM, DfES, DTI, DCA and the OGC. The average value of PFI contracts signed by these departments is significantly below the average value of all signed PFI contracts.

1.3.9 There are relatively high barriers to entry for PFI bidders hence it may be difficult to attract providers—depending on what else is in the market. Therefore, it would perhaps make sense to procure public general building work through other delivery routes ie framework agreements to minimise the cost of bidding and attract potential suppliers who would otherwise be put off bidding for PFI/PPP type work due to the high costs involved. Ultimately, an over reliance on private finance to deliver public buildings is likely to have the effect of reducing the number of potential suppliers and therefore reduce client options in terms of attracting competitive bids/submissions, which may potentially result in the cancellation or curtailment of public projects or programmes.

1.3.10 We believe it would be useful to commission research into the effects of alternative procurement mechanisms on construction firms' willingness to bid for projects and the resulting prices tendered. Without such research it is difficult to generalise as to which procurement routes impact the industry.

1.4 *UK dependence on imported labour and expertise*

1.4.1 There is much anecdotal evidence suggesting that the issue of migrant workers in the UK construction industry requires further understanding. According to a recent survey ‘one in ten builders are migrants’ (Construction Confederation, 2004). The survey of some 300 construction sites across the UK found that 10% of workers spoke English as a second language with many workers coming from Central and Eastern Europe. The survey found that few of these workers have work permits although many pay tax because of an anomaly in the system (the issue of temporary CIS 4 cards regardless of nationality).

1.4.2 Now what is the real extent of the migrant labour issue? The difficulties we have when examining the official statistics is the general paucity of data and the significant time lag between data collection and publication. Furthermore, it should be noted that the official statistics represent legal migrant workers, the issue of illegal migrant workers is an even more complex one, although it’s probably fair to say that much of the anecdotal evidence refers to both legal and illegal migrants.

1.4.3 The Home Office suggests that there are an estimated one million illegal immigrants in the UK, but there are no official estimates of the numbers working in the construction industry. The one million represents 1.5% of the population and, say, 3% of the workforce. The main activities of illegal migrants include agriculture, tourism and construction. It seems plausible that the proportion of illegal migrants in the construction workforce could be 5% or more.

1.4.4 However, given the recent accession of new member countries to the EU the picture may well be changing, therefore it seems to us that there is a need for a comprehensive study of migrant labour in UK construction “as it presently is”. This should be both quantitative (numbers, geographic origins, levels of pay and productivity) and qualitative (formation, skill levels, terms of employment, employment relations, recruitment).

1.4.5 We are aware of ongoing research conducted by ConstructionSkills in relation to workforce mobility in the UK construction industry and we understand that the survey will be asking some specific questions regarding migrant labour. This research could inform a comprehensive future study of the migrant labour issue in UK construction.

1.4.6 The construction industry has a long tradition of employing migrant labour. Given the current rate of growth in UK construction output with a demand scenario of around 3% per annum growth rate, this implies either a massive step-change is achieved in labour productivity by greater and more efficient investment in human capital (a challenge for the Sector Skills Council), or it implies labour force growth of around 3% per annum. Can the latter come from “domestic” sources?

1.4.7 It seems unlikely, even with substantial increases in relative construction wages, salaries and conditions but that needs to be explored. The alternative is to “import” labour on a large scale. Aside from political sensitivities to charges of “swamping”, this raises difficult questions about the impact on investment in human capital, skill levels, wages and salaries and labour productivity. The danger is that the short-term solution that government and firms will adopt will be to imitate what has happened in the USA in the 1960s and 1970s—i.e. replace increasingly scarce, productive but high-paid labour by abundant, less skilled and less productive but much lower paid migrant labour. In the US this was the start of a subsequent long “vicious circle” in which construction industry labour productivity and relative wage rates have chased one another downwards—with lower wages reducing incentive to invest in either fixed or human capital.

1.4.8 The construction industry accounts for some two million (over 7%) of the UK’s total labour force. But, because its manual workers stay in construction on average for only around 20–25 years of their working lives, maintenance of a sufficient construction workforce requires that the industry recruit an even higher percentage of new entrants to the labour market than that. Thus, in an expanding economy, with expanding construction demand, potential construction labour shortages will sooner or later become an issue unless an upward trend in the level of labour productivity can be achieved and sustained.

1.5 *UK construction industry’s performance against other countries*

1.5.1 The measurement of industrial productivity generally is problematic and the measurement of productivity in the construction industry is particularly difficult. Construction output and employment data are unreliable and in most countries—though not in the UK—reliable deflators are not available. It is also difficult to adjust for quality differences over time.

1.5.2 Productivity directly relates to the ability of firms to organise production. Thus quality of management, workforce skills, capital investment and capital intensity are all factors that determine labour productivity. Studies of labour productivity highlight the weaknesses and strengths of firms and industries in terms of their human capital and investment in plant and equipment per worker. This is not to say that firms alone are responsible for their levels of productivity. This is especially not the case in construction, where the market conditions within which firms operate affect productivity and the rate at which firms innovate. In the construction industry productivity improvements may also be closely related to opportunities to innovate given by project design decisions that are outside of the control of construction firms.

1.5.3 In 2004, Davis Langdon were involved in research for the DTI that provided a sector competitiveness analysis of the UK construction industry. The study investigated the relative position (in terms of labour productivity levels and rates of change) of the UK construction industry compared to the construction industries of France, Germany and the USA. A comparison was also made with vehicle production and repair in the UK. The report provided a picture of productivity in the construction industry from data available at the time.

1.5.4 In summary the headline findings of the research suggested that, within the constraints/limits of the available data, the labour productivity level of the UK construction industry was relatively poor compared to the three other countries studied, especially the USA and France. In addition, we found similar (negligible) rates of labour productivity growth in all four countries, for the period 1992–2001.

1.5.5 However, the analysis concluded that definitive findings, even as to national rank orders in terms of productivity levels, are simply not reliable at this stage, with the present state of the data. The main weaknesses in the data concern the definition of industrial classifications within the construction industry in SIC and NACE, missing data and the problems of international comparability, specifically comparative price levels (PPPs), price indices, and measures of labour input (DTI, 2004).

1.5.6 Our level of understanding of the explanatory factors affecting construction productivity is far from complete; and many of the explanations offered have not yet been subjected to sufficiently rigorous scientific testing. However, there is some pressure to go beyond explanation to analytically informed action.

1.5.7 Some of the explanatory factors found by research to be significant can be acted upon by industry and/or government initiatives, so as to increase the level and rate of change of UK construction productivity. Previous work highlighted some of the possible contributory causes of differentials in relative levels of construction productivity (DTI, 2004).

1.5.8 We suggest that some of these contributory causes are investigated further, specifically: the effect of demand composition on productivity levels; the effect of construction industry size and structure on productivity levels; and estimates of fixed capital input to the construction industry. We see this work as a move away from providing national aggregated levels of construction productivity, that often conceal more than they reveal, to a more disaggregated sub-sectoral approach which we believe will offer an opportunity to examine some key explanatory factors.

1.5.9 The headline finding of our previous work is that UK construction productivity is almost certainly below that of the USA. It is important that we refine our estimates of the gap before we start attempting explanations or drawing policy conclusions.

1.6 *Future directions*

More specifically, we believe that further investigation is required to examine both the capacity of the industry and to establish the productivity of UK construction compared to other countries.

1.7 *The effect of demand composition on productivity levels*

1.7.1 One potential source of inter-country differences in measured labour productivity may be differences in the composition of construction output. For instance, one country may have a relatively large share of output and employment in a sector of construction which is inherently less labour-intensive than other sectors. Indeed, previous research suggests that relative sizes of the various sectors could potentially cause substantial differences in aggregate productivity levels (DTI, 2004). Further work on sectors could therefore help to better understand the sources of productivity differentials.

1.7.2 The output-structure of a country's construction industry is most likely to influence average labour productivity through variance in the share of Repair & Maintenance in total output (it is uniformly acknowledged that labour productivity is much lower in R&M than in other construction—perhaps by as much as 40%).

1.7.3 Work on existing built stock is likely to be more labour-intensive for a number of unavoidable technical reasons compared to work on new build. It is also intrinsically harder to achieve efficient use of resources, including labour, in work on existing built stock. As a result labour productivity in repair and maintenance will be lower than labour productivity in new build. It follows that we would expect from the differences in output mix, *ceteris paribus*, the construction industries of France and the UK to have lower overall labour productivity than Germany and the US, but this expectation needs testing.

1.8 *The effect of construction industry size and structure on productivity levels*

1.8.1 If productivity is linked to size of firm, because of economies of scale or of experience then we would predict differences in industry structure to have an effect on average relative productivity levels, such that: the more “concentrated” the industry (the higher the output-share of larger firms), the higher the predicted level of productivity. Specifically, is US construction technology more “flexible” so as to operate efficiently over a wider range of scales; apparently, the productivity gap between small and large firms is much smaller in the US than the UK.

1.9 *Estimates of fixed capital input to the construction industry*

1.9.1 We believe that research is needed on developing a feasible but reasonably accurate method for measuring the value of capital inputs in each country’s construction industry, but especially in the UK. This approach would allow examination of productivity differentials that may be attributable to different levels of capital input.

1.9.2 The UK construction industry appears from the best available long-term source—National Institute of Economic and Social Research (NIESR) Sectoral Productivity Data set—to have much lower levels of fixed capital per worker than do the USA, France and Germany. However, when examined in more detail, and when measuring only machinery and equipment per worker, much of the difference with France disappears. The gap in machinery and equipment per worker between UK and the USA is now proportionately much smaller than it once was—in 1996 prices, approximately \$12,000 capital stock of equipment per worker in the US and \$6,000 per worker in the UK.

1.9.3 However, the data for measuring capital input in construction is particularly poor, because of problems in allocating equipment hired and used, but not owned, by the construction industry.

1.9.4 We believe we have developed an approach to estimate capital input that could well have implications much wider than the construction industry, and if successful, would be something the DTI could push the Office for National Statistics to look at for other industries.

1.10 *Review of the quality and completeness of statistical data*

1.10.1 Finally, Davis Langdon believe that there is a need and the scope for potentially valuable improvements in the collection, analysis and publication of data on construction labour input, capital input and output that would permit more accurate and reliable:

- inter-industry comparisons of productivities within the UK;
- inter-activity comparisons of productivities within UK construction;
- inter-country comparisons of construction productivities within the EU.

Recommendations for improvements in the statistical data:

- Further work is required to improve the construction element of the NIESR productivity dataset:
 - On PPPs.
 - On deflators (outside UK).
 - On self-employment (outside UK).
- Research is required comparing each country’s Labour Force Survey results for employees (as well as self-employed) in construction with that country’s employer-based survey results for employees.
- It would be highly desirable to add questions eliciting value added to the DTI’s Private Contractors Census survey of construction firms.
- Research is needed on developing a feasible but reasonably accurate method for measuring the value of capital inputs in each country’s construction industry, but especially in the UK.

1.11 *Summary/Conclusions*

1.11.1 Given current concerns regarding the capacity of the construction industry to cope with the forecast demand through to 2012, and beyond, we believe that this Inquiry is both timely and warranted. It’s fair to say that there have been several recent studies examining both capacity and productivity issues in the industry, however these often appear to be one-off research commissions with little follow-up and certainly limited buy-in from industry participants. We believe that a coordinated approach is required to consider these significant issues going forward, our evidence suggests a number of possible approaches that could be adopted to examine both the capacity of the industry and to establish the productivity of UK construction compared to other countries.

Memorandum submitted by Electrical Contractors' Association

The Trade and Industry Select Committee is about to embark on a very wide ranging inquiry into the UK construction industry. All the issues scheduled are particularly relevant and each merits careful consideration in its own right.

The Electrical Contractors' Association has contributed to the submission by the Umbrella Organisation, The Specialist Engineering Contractors' Group. This response represents our own further comments regarding the inquiry, and as such we attach detailed comments on some of the specific issues to be considered. However, it seems to us that the UK industry's performance against other countries is the most important topic in the inquiry schedule with many of the other issues being the means whereby to achieve optimum performance.

The ECDG Enterprise and Industry Construction Unit commissioned the pilot study "Benchmarking of Construction Costs in The Member States" which was produced by Bernard Williams Associates and published in March 2006. The UK industry came out as one of the poor performers of the selected Member States reviewed. The reasons seemed to centre on procurement, process and responsibility.

The industries in better performing states have a greater integration of the supply chain with Belgium's use of Project Insurance correlating with a high level of resource usage efficiency. Manufacturing technologies allow for quicker production often with factory quality and reduced waste. Whilst the work force is highly trained and well paid, it is usually more productive and time efficient.

A single point of responsibility for design and construction, with greater involvement of detailed design by the contractor also had a beneficial effect on the better performing industries.

The Select Committee might wish to take account of these findings when considering many of the topics included in the Inquiry. The Association is an advocate of integrating members of the supply chain to allow greater expertise to be brought to the project at all its stages. Encouraging a more efficient process will contribute to ameliorating the situation, however, the well flagged concerns about skills shortages remain.

The Association would be pleased to provide further views and evidence during the course of the Inquiry.

May 2007

DTI SELECT COMMITTEE CONSTRUCTION REVIEW

<i>Issue</i>	<i>Considerations</i>	<i>ECA Recommendations</i>
1. Employment and Payment Practices	<ul style="list-style-type: none"> — Electrotechnical Certification Scheme (ECS) card scheme — Increasing use of agencies needs to be controlled/influenced. — The Posted Workers Directive not fully implemented. — Agencies gaining tax/NI advantages. Encouraging distortions to level playing field for contractors who directly employ. — Falling off of apprentice recruitment due to increased numbers of agency operatives. — Clear support for Labour Agreements in the Construction Industry. — Clear support for Labour Institutions. — Support for adult training. — Tax/NI breaks for those who train. — Clarify payment arrangements for migrant labour (as well as posted workers). — Security of payment for all members of the supply chain should be a legal right. — Public sector projects should, as a matter of course, be financed through Project Bank Accounts. — Use of money held in Retention Funds by the “holder” should become unlawful as this encourages late payment and other abuse. 	<ul style="list-style-type: none"> — Statutory recognition — Support the Joint Industry Board (JIB) as a Registration Board for Agencies. — Recognise collective agreements within Posted Worker Directive. — Rigorously enforce Intermediate Regs. “Tackling Managed Services Cos. Regs.” — Engage agencies in training. — Encourage Agency Forums under the control/influence of ECA/JIB/HVCA. — Statement from DTI in favour of direct employment through Collective Agreements. — DTI to establish Construction Employer Association/ Joint Industry “think tank”. — Government to recognise the changing nature of skill training in favour of adults rather than apprentices. — Member companies who train to receive tax incentives. — National Agreements to be followed for migrant labour in the construction industry. — Maximum period for payment to be made should be incorporated in the Construction Act. — T&I Industry Committee should endorse the use of PBAs wherever possible, highlighting the material benefits to the client. — Retention money should be held in a Trust Fund as recommended by Sir Michael Latham. — Retentions to become obsolete through improved procurement practices.

<i>Issue</i>	<i>Considerations</i>	<i>ECA Recommendations</i>
2. Maintenance of standards within the sector	<p>1. Use of qualification and certification schemes for construction enterprises, eg</p> <ul style="list-style-type: none"> — Government Procurement—Constructionline; — Consumer Protection—DTI's TrustMark; — Building Regulations—DCLG's "Competent Person" self-certification schemes; — Low Carbon Buildings—DTI/BREC schemes; — Intruder alarms—ACPO recognised schemes; — Fire alarms—CFOA recognised schemes. <p>— The increasing use of schemes in support of legislation and government policies is actively compounding the existing and long standing concern of the industry about the plethora of qualification schemes and the absence of any generally agreed and authoritative competence requirements on construction enterprises.</p> <p>2. Need for appropriate investment in individuals' skills and mechanism for validation/certification.</p>	<ul style="list-style-type: none"> — Build upon the approach pioneered by the HSE for the purposes of the Health & Safety assessment of construction enterprises, ie establish "Core Competence Criteria" that should be required to form the essential platform for all qualification schemes for construction enterprises and thereby minimise wasteful duplication of effort by contractors and facilitate the mutual recognition between schemes; — Integrate competence requirements for enterprises with those for individuals thus encouraging the appropriate training and qualification of individuals and the active support of training institutions; — Integrate certification/qualification schemes for enterprises with those for individuals, i.e. the Electrotechnical Certification Scheme (ECA) in order to mutually reinforce the effectiveness and take-up of the two different types of schemes; — Coordinate the approach by government departments to the introduction of qualification/certification schemes and require a Regulatory Impact Assessment of any proposal to introduce a new certification or qualification scheme in support of legislation of related initiatives; — Develop Electrotechnical Certification Scheme as key vehicle to demonstrate individuals' qualifications and grading.
3. Long-term capacity for the delivery of large infrastructure projects on time and to budget, such as the Olympics.	<p>This topic links in with other matters identified as issues to be included in the scope of the inquiry, including:</p> <ul style="list-style-type: none"> — Imported labour and expertise; — Research and Development; — Investment in skills. <p>ConstructionSkills anticipate a significant increase in construction activity in many parts of the UK over the next four years which is not just confined to London and the Home Counties—clearly capacity is key.</p>	<ul style="list-style-type: none"> — Apprenticeships currently deliver around 2,500 operatives per year. Research indicates a requirement of up to 7,000 a year to meet anticipated activity. — More non-UK personnel to be attracted at both craft and management/professional levels. — Significant increase in R&D activity to industrialise the construction process where possible so reducing on-site trade activity as well as material waste.

Memorandum submitted by the Equal Opportunities Commission

SUMMARY

- EOC investigations have found a clear correlation between sectors with high levels of gender segregation—such as construction, where only 2% of the jobs are held by women³⁷—and skills shortages within that sector. This has massive implications for the UK’s competitiveness and productivity.
- However, occupational segregation does not only have a negative impact on the economy, but is also a significant cause of the gender pay gap. Women are still working predominantly in lower paid areas, the five “Cs”—cleaning, catering, caring, cashiering and clerical work—which is one of the reasons why their full-time pay on average remains 17% less per hour than that of full-time men, 38% less if they work part-time.
- Occupational segregation is a particular issue for ethnic minority. Our *Moving on up?* investigation found that 32% of all Bangladeshi women work in just five occupations. A quarter of Pakistani and Bangladeshi women work in the wholesale and retail sectors and 28% of Black Caribbean women work in health and social work. The highest concentration of white British women is 18% in health and social work.³⁸
- Flexible working; affordable, high-quality childcare; careers advice which challenges gender stereotypes; and lifelong learning are all areas which can be improved in order to increase the representation of women in the UK construction industry, thereby having a beneficial impact on current and projected skills shortages.
- There is an appetite for change amongst both employers; and future employees. Our research shows that more than a third of girls—36%—said they definitely would consider non-traditional work, 44 % said they might. 12% girls said that they were interested in working in construction—considerably more than the low numbers currently in the construction workforce. However, only 15% of girls and boys received any advice on work placements in areas dominated by the other sex.
- We would like to see the 2012 Olympics delivering a showcase project applying the recommendations of our occupational segregation investigation and the Women and Work Commission (WWC) report in practice to the delivery of the infrastructure for the Games, in order to increase representation of women across key delivery sectors.

INTRODUCTION

1. The Equal Opportunities Commission (EOC) is the statutory body for sex equality in Great Britain. Our specific statutory duties include “to promote equality of opportunity between women and men generally” (Sex Discrimination Act, Section 53 (1) (b)). The EOC is a non-departmental public body, funded through grant-in-aid, and is the leading agency working to eliminate sex discrimination in 21st Century Britain.

2. We welcome the opportunity to contribute to this inquiry on the UK construction industry, and will be focusing our response on the following areas: employment practices; long-term capacity for the delivery of large projects, such as the Olympics; availability of investment and skills; and the use of procurement. Given the EOC’s remit these areas will be considered from a gender angle and will explore occupational segregation and the impact on skills shortages, as well as the barriers to the construction industry that exist for women, such as lack of flexible training and employment.

3. It is not only the under-representation of women that has a negative impact on certain sectors, as the under-representation of men in areas such as childcare is also damaging and exacerbates skills shortages in those areas. However, given the focus of this inquiry is the construction industry, we will focus our comments on the barriers faced by women.

4. We have conducted a number of investigations which are relevant to this inquiry, including *Free to Choose*³⁹ (which explored gender barriers to jobs), *Transformation of work*⁴⁰ (this on-going investigation is exploring ways of increasing flexibility in employment), *Moving on up?*⁴¹ (looking at Black Caribbean, Pakistani and Bangladeshi women’s employment) and *Britain’s hidden brain drain*⁴² (an investigation into flexible and part-time working), and we will draw on these findings and policy recommendations in this submission.

³⁷ http://www.eco.org.uk/pdk/ocseg_oneyear_progress.pdf

³⁸ http://www.eoc.org.uk/PDF/BME_GFI_early_findings_England.pdf

³⁹ http://www.eoc.org.uk/PDF/ocseg_finalrep_england.pdf

⁴⁰ http://www.eoc.org.uk/PDF/working_outside_box.pdf

⁴¹ http://www.eoc.org.uk/PDF/bme_final_report2007.pdf

⁴² http://www.eoc.org.uk/PDF/brain_drain_final_report.pdf

5. Only 2% of jobs within the construction industry are held by women. Our investigation into occupational segregation found that this under-representation of women is true of a number of sectors demonstrating that women's skills are under-used in an economy that needs the best people, with high-quality skills, in the right place at the right time.

6. Women now make up nearly half of Britain's workforce and the proportion is growing. We have the highest workforce participation rate for women in Europe, with the exception of the Scandinavian countries. Women are excelling in education at all levels. Britain's economy and the construction industry in particular, would therefore benefit from breaking down occupational barriers, helping to tackle skill shortages and making better use of individual education, skills and potential. Occupational segregation causes employers to miss out on a huge potential pool of labour with which to plug their skills gaps.

7. To highlight the extent of the problem, recent statistics show that skills shortages continue to be of concern for projects, such as the Olympics—in addition to the shortfall of 300,000 workers for agreed construction contracts, estimates suggest demand of 33,500 full time equivalents employees for the Olympics and Paralympics. Widening the training and recruitment pool to include more women could provide one obvious solution.

8. Introducing more flexible working to enable atypical recruits with caring responsibilities has been shown to have a positive effect on businesses. For example, an EOC survey of employers found that 38% had experienced difficulties in recruiting staff in the previous 18 months (Smeaton et al, 2007). Over 50% of the employers surveyed by the Association of Graduate Recruiters said that their retention rates needed improving (AGR, 2006). Research in 2000 found that some small businesses saved up to £250,000 through reducing staff turnover, simply by using flexible working policies (DfEE, 2000).

9. This demonstrates the strong business case for increasing the representation of women in sectors, such as construction and we have found a definite appetite for change. 70% of employers in England reported that they thought atypical recruits could bring positive benefits to the business, and eight in ten said a better gender mix would create a better range of skills and talents. Yet this is not happening and construction (along with engineering, plumbing and ICT) remains amongst the most heavily segregated sectors of the workforce in Britain.

Ethnic minority women

10. Occupational segregation is a major feature of ethnic minority women's employment. Our recent investigation, *Moving on up?* found that 32% of all Bangladeshi women work in just five occupations, compared to 12% of white men. A quarter of Pakistani and Bangladeshi women work in the wholesale and retail sectors and 28% of Black Caribbean women work in health and social work. The highest concentration of white British women is 18% in health and social work.

11. Our research shows that once again, employers are missing a major opportunity. Firstly, the percentage of young Black Caribbean, Pakistani and Bangladeshi girls obtaining 5 GCSEs at A–C level has increased in recent years to nearly the same level as for white girls and, for Pakistani and Bangladeshis, performance exceeds that of white boys.

12. As well as being highly qualified, EOC research with girls at age 16 and with women employees under 35 suggests that young Black Caribbean, Pakistani and Bangladeshi women's aspirations are close to, or in many cases exceed, those of young white British men and women.

13. Yet despite the huge potential represented by their qualifications and ambition, Black Caribbean, Pakistani and Bangladeshi women are not seeing the same success in the labour market as white women. As highlighted above, occupational segregation is even more prevalent for these women, and as a result employers are missing an opportunity to tackle skills shortages.

14. The strong business case for enabling these women into the construction industry is demonstrated by the estimate that there are 90,000 ethnic minority women out of work in the four London boroughs covered by the Olympics site, compared to 65,000 ethnic minority men.⁴³ Based on EOC research for our *Moving on up?* investigation into ethnic minority women's employment, it is likely that over 22,000 (at least 25%) of these black and ethnic minority women who are out of work, would like to have a job⁴⁴—therefore these women present a major opportunity for the sector and by enabling those who want to work to gain new skills, experience and job opportunities, the Olympics Delivery Authority and the Games themselves could demonstrate the importance of recruiting and training atypical recruits as a means of plugging the skills gap.

⁴³ Nahid Majid's paper to the Ethnic minority employment task force.

⁴⁴ Equal opportunities Commission (2006) *Moving on up?* Manchester EOC.

Government targets

15. There is obviously a strong business case for tackling occupational segregation, but increasing the representation of women in sectors such as construction, would not only have an impact on skills shortages and the economy, but would also help government to achieve a variety of targets, including:

- Closing the ethnic minority employment gap.
- Abolishing child poverty.
- Reducing the gender pay gap.
- 80% employment level.

Pay gap

16. Occupational segregation is a major cause of the pay gap, as women tend to be concentrated in “female” jobs that offer low wages. In general, male-dominated sectors offer better opportunities for pay and career progression, while “women’s” work remains undervalued in social, economic and monetary terms. Despite the fact that girls and young women are excelling and outperforming boys in education, this is still not translating into equal pay for many adult women.

The effect on individuals

17. However, occupational segregation does not only have a negative impact on the economy, thwart achievement of government targets and exacerbate the pay gap, it also denies young people the chance to achieve personal or professional fulfillment by doing jobs they would love and be good at.

18. Research with women working in non-traditional sectors shows high levels of job satisfaction with women saying that their career choice had improved the quality of their lives. Many of these women had always wanted to do this type of work but had been put off when young. 92% of women and men said they would want children who are about to enter the workforce to be able to make job choices without worrying about traditional stereotypes of women’s and men’s working roles, rising to 100% in Wales.

19. The impact of segregation is particularly acute for girls from lower socio-economic groups who may not have access to information about a range of choices. 67% of women we surveyed were not aware of the differences in pay rates for work usually done by women and men and, of these, 67% of women aged 16–24 said they would have considered a wider range of career options if they had known.

20. This shows that as well as there being an awareness amongst employers that a diverse workforce would have positive benefits, there is also an appetite from young people to consider and enter non-traditional sectors. Our research showed that 80% of girls and 55% of boys said they would or might be interested in a non-traditional job and 76% of girls and 59% of boys wanted to try non-traditional work before making their job choices.

BARRIERS

Careers advice

21. Our research has shown that careers advice, rather than raising aspirations and widening horizons, often actually reinforces traditional choices and young people have no information on the pay advantages of nontraditional routes. For example, only 15% of young people in our research received any advice or information on work experience in a non-traditional sector. Where individuals are encouraged to find their own placements, children from higher socio-economic groups are better placed to find less predictable placements while other young people are allocated or choose from placements in sectors perceived to be suitable for their gender.

Training

22. EOC research has found that the apprenticeships which should be at the cutting edge of skills development in these sectors, are actually perpetuating segregation, with levels that are equal to or greater than the segregation in the workforce. This is because of the lack of apprenticeship places, lack of taster courses and inflexibility in the way training is delivered which disadvantages women with caring responsibilities. For example, training is often delivered on the rigid full-time full-day model which generally reflects hours in the industry, often starting at 7.30 am. This lack of flexibility is also a factor within the industry itself, and so continues to exclude women.

Lack of action by employers

23. There are pockets of best practice to recruit more atypical workers across all sectors, and in all parts of Great Britain, mainly in response to a perceived business need. But the majority of employers are not actively engaging with schools and 46% of apprenticeship employers that we surveyed recognised that they were not offering enough work experience opportunities to young people. At the same time, many women in non-traditional sectors face isolation and a culture of machismo, bullying and harassment, often with little or no support.

Lack of childcare

24. There are still not enough good quality, affordable childcare places for everyone who wants one. A key problem for working parents is the lack of fit between education and other forms of care.

25. Also, British parents face the highest childcare costs in Europe. This affects the type of work that women are able to take and the hours that they are able to work, which means that certain sectors, and also jobs at higher levels, are often closed off to them.

Attitudes to Ethnic minority women

26. Ethnic minority women face specific barriers which currently exclude them from certain sectors. Unfortunately these barriers and the position of ethnic minority women are often subsumed within broad generalisations about “ethnic minorities”, yet ethnic minority women’s experience is affected by their gender as well as their race. There are also significant differences in the labour market position of women from different ethnic and faith backgrounds, as well as important generational differences, which make generalisations unhelpful.

27. Our research demonstrates that ethnic minority women are facing discrimination as a result of their race and sex. For example, Black Caribbean, Pakistani and Bangladeshi women under 35 are three times more likely to be often asked about plans for marriage and children at interview. Also one in five working Pakistani and Bangladeshi women under 35 have heard negative comments about their religious dress at work.

28. There is a potential mismatch between some employer views, based on their interpretation of employing black and Asian women of all ages, and those of younger Black Caribbean, Pakistani and Bangladeshi women about themselves. For example, employers seem to believe that young Pakistani and Bangladeshi women are held back by their families, while 90% of the Pakistani and Bangladeshi 16 year olds that we surveyed say that their families support them in having a career as well as looking after a family.

29. In turn, this means that the fear of discrimination then restricts the career options of these young women. At 16, two thirds of Pakistani and Bangladeshi girls feel there are certain jobs they can’t apply for because of their ethnic background, faith or gender.

30. Childcare is also a substantial barrier for Pakistani, Bangladeshi and Black Caribbean women also have different family patterns to white women. On average they have their first child earlier than white British women. Pakistani and Bangladeshi women are likely to have a larger number of children—the average White British household size was 2.3 children in 2001, whereas the figures are 4.2 and 4.7 for Pakistani and Bangladeshi households respectively. Over a third of Black Caribbean women are lone parents.

POLICY IMPLICATIONS

Careers advice

31. We were extremely encouraged by the Women and Work Commission report which highlighted the importance and need for better careers advice, and we have recently responded to a DfES consultation on the draft standards for Information, Advice and Guidance (IAG) for young people. We welcome the standards and are particularly supportive of the aim of “raising aspirations, challenging stereotypes, and ensuring that young people are aware of all the opportunities which are open to them”.

32. Within the IAG standards, we would like to see more emphasis on non-traditional work placements. Work experience should be integrated, as part of career guidance, particularly in schools in poor areas and priority should be given to pupils from disadvantaged backgrounds. Evidence shows that such placements have a substantial influence on the career choices of young people.

33. We also have concerns about the lack of focus on ethnic minority women in the WWC report, and believe it should be stressed that career guidance should not exacerbate stereotypes about ethnic minority communities. Advice and work experience placements are extremely important for young ethnic minority people as their parents are less likely to be able to secure such placements in a positive environment. Unfortunately we have found that current careers advice makes assumptions about the expectations of young women which narrows their horizons.

34. The DfES, with EOC and National Association Of Connexions Partnerships has recently produced a good practice guide with case study examples of initiatives to widen choices, and funding has been made available for project work. This is very encouraging, but the funding support is very small and we would like to see a more strategic and resourced programme across careers information, advice and guidance to open up choices, with some focus on specific sectors where the under-representation is most acute, like construction.

35. Our investigation pointed to the lack of awareness of the higher pay rates for work and apprenticeships in male-dominated sectors amongst young people making choices. In a survey, 67% of young women aged 16–24 said that they would have considered a wider range of career options if they had known about the different pay rates. Information on pay for different types of work and training should be made available to all young people.

Gender equality duty

36. The Gender equality duty (GED) came into force in April 2007 and is an important tool to tackle occupational segregation, throughout education and training, and also through employment practices by procurement policy. This duty requires public authorities, including government departments, to demonstrate that they are promoting equality for women and men, girls and boys, and that they are eliminating sexual discrimination and harassment. This is the general duty. There are also specific duties, which include the need to set specific gender equality objectives and to prepare and publish a Gender equality scheme through consultation with employees, service users and other stakeholders. Progress must be reported on annually and the scheme must be reviewed and revised every three years.

37. The specific duties are an opportunity. Schools and colleges collate data on boys and girls already. What the duties will do is ensure they use that data intelligently to inform the decisions they make. They will open up new ways for schools to deliver a quality education that supports young people in making sound and informed transitions into the workplace. This can be delivered as part of their core activities and not as an additional requirement. It will enable institutions to ensure that careers advice and guidance are implemented in ways that secure the best outcomes for all young people.

Positive action

38. It is also important to note that the Sex Discrimination Act (SDA) allows positive action for women (or men), to fit them for particular work, or encourage them to take advantage of opportunities for doing that work, where the numbers of women in that sector were comparatively small at any time during the preceding 12 months. This can include single-sex training. For more information on positive action, please see the EOC website, which can be found at www.eoc.org.uk. The Women into Work Pathways initiative is an excellent example of a government-funded programme designed to challenge segregation in sectors, including construction, where women are under-represented. We would like to see this programme rolled out across the Skills for Business network.

Training

39. Vocational training schemes, whether apprenticeships or beyond, should be designed with the needs of atypical trainees in mind. This would mean tasters for young and adult apprenticeships; that young people and adult women trainees have more support to find adequate work placements, possibly through small employers sharing trainees and by project-based training; and there being local support networks for atypical trainees on training and apprenticeship schemes.

40. We welcome the positive response from DfES and the LSC to our investigation findings, and their commitment to work on this agenda. In particular, the DfES are developing a strategy for apprenticeships on equality and diversity and the Apprenticeship Ambassadors Network has created an equality and diversity group that are developing a programme of action. We are particularly pleased that the pilot adult apprenticeship programme has been extended and will have a reducing gender segregation focus. EOC is working to support these various initiatives and we very much hope to see some positive outcomes in the form of reducing the gender gap on apprenticeships in male-dominated sectors, including construction. Monitoring progress and assessing where additional support is needed should be a priority across government.

Flexibility in training and employment

41. We would like to see more flexibility in both training and employment. Extending the right to request to all employees would help a wider range of people, especially women, to enter and/or remain in work—even in industries and occupations that have traditionally been closed to them, reducing their segregated nature and helping employers alleviate their skills shortages. Crucially, this change will also tackle one of the major causes of the gender pay gap.

Employers and unions

42. We would like to see business leaders and major employers working with unions, LSCs and Sector Skills Councils to support and promote better, more flexible employer practices that would help and encourage more women to enter male-dominated sectors.

43. The reduction of occupational segregation, not just as an equality issue but also as a business and productivity issue, should be promoted amongst employers in the sector, CBI, TUC and their learning and skills partners. Employers should be encouraged to: train, recruit, and retain women in non-traditional sectors; re-skill women employees—Train to Gain provides the opportunity for a new national focus on in-house training of women in non-traditional skills; and offer at least one non-traditional work experience placement.

Childcare

44. The national childcare strategy is improving the quality and availability of childcare, and reducing the extent to which lack of childcare is identified as a barrier to work for workless parents—progress needs to be sustained.

45. Childcare must be flexible, culturally appropriate and affordable in order to allow women within families from all communities the opportunity to enter non-traditional workplaces, such as construction.

May 2007

Memorandum submitted by the Federation of Environmental Trade Associations (FETA)

INTRODUCTION

1. FETA consists of six diverse trade associations, representing nearly 400 companies in the building engineering services part of the construction industry. Although the majority are suppliers (manufacturers and distributors), many are contractors (eg building control systems houses and ductwork erectors). More information is available at www.feta.co.uk.

2. FETA works closely with other organisations in the building services arena (such as BSRIA, CIBSE, ECA, HVCA and ICOM Energy), is a member of the Specialist Engineering Alliance, and participates in the All Party Parliamentary Building Engineering Services Group.

3. We consider the Construction Sector Unit to be our sponsor within DTI, we are active with DCLG on building regulations and with DEFRA Global Atmosphere Policy on refrigerant legislation.

4. Consequently, there are many issues across the construction sector, which affect FETA member companies. These are, of course, addressed repeatedly, but progress is slow. Some of the more intractable concerns are listed below.

PAYMENT PRACTICES

5. *Retentions.* The equipment provided by our members (eg air conditioning units or ventilation products) is usually purchased by specialist and sub-contractors. They, in turn, are subject to the endemic, bad practice of imposed retentions by other parts of the supply chain closer to the client. This extraordinary custom will be presented as a major problem more eloquently by others. It is included here because it also affects those who supply the equipment and components essential to modern buildings. In other words, this regrettable practice adversely affects much of the supply chain and should be banned.

PROJECTS

6. *Specialist Advice.* Long-term ability to provide large projects on time and within budget is just as dependent upon the availability of advanced products, as it is upon those who install them. Unfortunately, the sequential process of design, specification and procurement, typical of most projects, will preclude manufacturers and specialist contractors offering expert advice at an early enough stage to improve the selection procedure in a timely fashion. This expertise needs to be brought forward in the design process. It is then essential for that advice to remain intact through procurement and installation in order to protect design integrity and avoid specified equipment being replaced by cheaper/inferior alternatives.

7. *Site Practices.* Clearly, a building site is a complex area to manage and, although concurrent activities are often feasible, there will inevitably be some that must be undertaken sequentially. This is especially true for building services. Yet time and again those early on site can make it complicated and difficult for those who follow. A simple example is that a water feed pipe to a fire sprinkler will be installed across the path of a much larger ventilation ductwork shaft, causing a redesign of the ductwork and refabrication, to place an

inefficient and costly bend around the much smaller pipe. These errors can be avoided with simple techniques, identified by organisations such as BSRIA, and already utilised on successful projects. Wider adoption of such techniques should be encouraged.

GOVERNMENT PROGRAMME

8. *Energy Efficiency.* A glaring deficiency in local and central government procurement of buildings is the lack of emphasis on energy efficiency. Quite simply, the initial capital cost is a separate consideration from running costs. Those procuring equipment for installation have no subsequent responsibility for the longer term use of the building and often choose the cheapest, least efficient item over the premium-priced, more efficient product. The results are obvious: more frequent repairs/replacements, greater energy used at higher cost, increased carbon emissions. Government contracts should highlight the need for the most energy efficient solution available in the context of whole life costings.

SKILLS

9. *Secondary Education.* Many of the products provided and installed by FETA members are complex electro-mechanical devices. They require a degree of technical competence to understand, install, service and repair. Such skills depend upon an ability to read complicated manuals and make calculations, hence the vocational training requires students to be reasonably able in reading/writing/math. Employers and colleges are inevitably disappointed that applicants are leaving secondary education without this ability.

10. *Vocational Training.* In the areas of interest to FETA, the courses are available with competent instructors to satisfy qualifications approved by industry. Sadly, the colleges are rarely inviting places, the industry does not have a good image, smaller companies (so often found in the industry) can ill-afford training, and government funding is hard to locate.

The results are: a lack of skilled manpower, a reluctance to update/refresh skills, adequate (rather than excellent) standards of workmanship. Manufacturers offer training on their products (but often to those already skilled and committed to the craft) and individual companies persevere with training according to their needs (but, of course, this is easier for the larger firms). An improved image for the industry and improved funding mechanisms (simpler/better grants) are needed to provide a step change in the take-up of vocational training.

REGULATIONS

11. *Health and Safety.* UK regulations are too onerous and their implementation is excessive. Nobody wishes to see avoidable harm to others, but the emphasis has shifted from real protection to procedural observance. Silliness is rife: charging for the loan of luminous jackets as a site visitor/short-term worker and no eating at workstations are just two examples. Inconsequential regimentation merely dissipates efforts that should be directed at minimising truly significant risks.

12. *Building Regulations.* Those Approved Documents affecting FETA members (Part L and F in particular) have become too cumbersome. There is a sense that they are not being complied with, or policed. Similar views may be offered on other parts of the building regulations, pointing to the need for a root and branch review of the actual need for such regulations and how the requirement may be better met.

23 April 2007

Memorandum submitted by Federation of Master Builders (FMB)

INTRODUCTION

We are writing in response to the invitation to submit written evidence to the House of Commons Trade and Industry Committee's inquiry into the UK construction industry. The Federation of Master Builders (FMB) is the largest employers' body for the building industry with over 13,000 members and is the recognised voice of small and medium sized firms. FMB is committed to promoting excellent standards in craftsmanship and assisting builders to improve levels of building performance and customer service.

UK CONSTRUCTION SECTOR

According to the Department of Trade and Industry (DTI), the UK construction industry has 250,000 firms employing 2.1 million people, and contributes 8.2% of the nation's Gross Domestic Product (GDP). Construction companies provide employment for every skill level from labourers to architects as well as provide the opportunity to work for every size of firm from family run businesses to major contractors. Its

efficient operation and competitiveness is also essential to the fulfilment of the Government's commitment to improve public services and infrastructure. The delivery of new schools, hospitals, affordable housing, eco homes, all depend on the success of the construction sector to deliver.

FMB KEY RECOMMENDATIONS

1. FMB calls for the appointment of a dedicated Construction Minister to act as a champion for the construction industry, both within and outside government.
2. FMB calls on the Government to treat legislation as a last resort, not a first option, and to focus instead on simplifying the existing regulatory burden.
3. FMB calls on the Government to introduce changes to the building regulations in a planned and controlled manner and to allow a period of stability in between.
4. FMB calls on the Government to reduce VAT from 17.5% to 5% for all retrofits and refurbishment work so as to encourage homeowners to make their homes more energy efficient and help the Government reach its target to reduce carbon emissions.
5. FMB calls on the Government to dedicate more resources for the provision of recycling facilities for construction waste and to carry out an immediate cross departmental review of regulations surrounding waste and arrangements for recycling.
6. FMB demands that the Government makes all its health and safety guidance freely available to download from the internet by the end of 2007.
7. FMB urges the Government to develop a coherent system for vocational education and training incentives for apprenticeship schemes.
8. FMB calls on the Government to streamline the planning process to make it more responsive to the economic and social needs of the country and to abandon its proposed Planning Gain Supplement (PGS) which will result in fewer, not more, affordable homes being built.

THE ISSUES

1. *Joined-Up Government*

Given that the construction industry is at the heart of everything that the Government aspires to, it is extraordinary that it does not appear amongst the 10 policy responsibilities of the Minister of State for Industry and the Regions, on the DTI website. This is indicative of the Government's inability to comprehend the centrality of the industry to the successful delivery of its public service programme. As a result, responsibility for the construction industry is spread across Whitehall with little or no effective co-ordination. The inevitable result is ineffective policies backed by often counterproductive policy drivers that more often hinder than help the industry in its attempts to deliver government priorities. It is time construction took its rightful place at the core of government policy.

FMB calls for the appointment of a dedicated Construction Minister to act as a champion for the construction industry both within and outside government. The Minister should focus on developing strategies, attracting resources, and help to improve the image of the construction industry.

2. *The Regulatory Burden*

Compared to some other industries the construction industry is heavily regulated. The Government wants the construction industry to be efficient but restrains it from becoming so by constantly introducing new regulations or changing the existing ones, thus increasing the size and complexity of business obligations. This drains business resources, disproportionately impacts on SMEs and increases the competitive advantage of the informal economy which already revels in a 17.5% head start on price. All of this impacts on the overall competitiveness of the construction sector.

FMB calls on the Government to treat legislation as a last resort, not a first option, and to focus instead on simplifying the existing regulatory burden.

3. *Building Regulations*

FMB is committed to promoting the highest standards within the construction sector but is frustrated by the Government's continuous changes to the Building Regulations without proper consideration of their impact on the SME sector. Although the Department for Communities and Local Government (CLG) wants construction carried out to meet specific standards, as laid out in 14 parts of the Building Regulations, it keeps changing them as part of a rolling programme of revision and amendment. The net effect is that business is in a constant struggle to keep up with the new changes and provide the required training of its staff. This has a disproportionate effect on small firms as they have the least resources with which to adjust to the change but this continues to be ignored by the Government.

FMB calls on the Government to introduce changes to the building regulations in a planned and controlled manner and to allow a period of stability in between. FMB is willing to work with government to advise how best this can be achieved.

4. Low Carbon Homes

The Government has declared that it is committed to reducing carbon emissions and has been focusing its efforts on encouraging energy efficient new build. Whilst FMB supports the Government's aim, new build only accounts for between 1–2% of the total UK stock per annum. More importantly, we fail to understand why the Government is ignoring the existing housing building stock which is responsible for 27% of the UK's carbon emissions. If the Government wants to achieve its own target of reducing carbon emissions by 60% by 2050 it needs to provide a series of measures to encourage owners to retrofit their homes with energy efficient measures.

FMB calls on the Government to reduce VAT from 17.5 to 5% for all retrofits and refurbishment work so as to encourage homeowners to make their homes more energy efficient and help the Government reach its target to reduce carbon emissions.

5. Minimising Construction Waste

According to the Empty Homes Agency, demolition waste is responsible for 17% of the UK's total waste, most of which goes straight to landfill. The Government's response has been to increase landfill tax but without doing anything about increasing the availability of recycling facilities even though it claims to want construction firms to recycle. Even more alarming for construction firms is the fact that the Government has allowed the situation to persist whereby builders who take waste back to their yard for sorting and recycling run the risk of being prosecuted for running illegal waste transfer stations.

FMB calls on the Government to dedicate more resources to the provision of recycling facilities for construction waste and to carry out an immediate cross departmental review of regulations surrounding waste and arrangements for recycling.

6. Health and Safety

FMB is committed to the promotion of health and safety within the construction sector as demonstrated by our forthcoming series of site management and safety training schemes seminars starting in June and running through until early 2008 in 63 different locations across the country. It is, therefore, very concerning to us that at a time when the Government wants construction firms to abide by its health and safety regulations it reduces its resources for the Health and Safety Executive (HSE) and charges for its Approved Codes of Practice. It is fundamentally wrong to enact law and then restrict access to the information on how to comply with it.

FMB demands that the Government makes all its health and safety guidance freely available to download from the internet by the end of 2007.

7. Skills and Training

The long-term success of the UK's competitiveness depends on having a skilled and trained workforce. The Government claims it wants an inclusive educational system but has not done enough to redress the balance between academic and vocational courses. What is needed is a coherent system for vocational education and training incentives for apprenticeship schemes.

FMB urges the Government to develop a coherent system for vocational education and training incentives for apprenticeship schemes.

8. Planning

The planning system is heavily criticised from all sectors of industry and business for being too slow and ineffective in meeting the economic and social needs of the country, particularly with regard to the provision of affordable homes. We very much hope the forthcoming Planning White Paper will help to address these concerns. However, we continue to remain very concerned about the inconsistent use of Section 106 agreements and the threat of the Government's proposed Planning Gain Supplement (PGS) in 2008. It should be remembered that every single attempt since 1945 to capture the increase in the value of land once planning permission has been granted has failed. Furthermore, it will discourage development land coming onto the market and lead to a decrease, not an increase as the Government purports, of affordable housing.

FMB calls on the Government to streamline the planning process to make it more responsive to the economic and social needs of the country and to abandon its proposed Planning Gain Supplement (PGS) which will result in fewer, not more, affordable homes being built.

18 May 2007

Memorandum submitted by the Flat Roofing Alliance

The Flat Roofing Alliance is a Trade Association representing both contractors and manufacturers involved in the flat roofing industry. Some issues arising out of current procurement practices are causing concern to our members, and I have been asked to bring them to your attention.

The specific issues are summarised below. Should you require any further information please do not hesitate to contact us.

PURCHASE OF MATERIAL

There is evidence that some Local Authorities are proposing to let tendering on a labour only basis with the Local Authorities purchasing all the materials directly. The purpose for this would be to drive down the costs by removing the profit element, which is added by merchants and contractors. There are a number of reasons why this is, in our view, counter productive to both the client and the whole supply chain.

It is likely that the contractor would increase the mark up on his labour charges to ensure that he maintains his profit margin and so defeat the whole object of the exercise.

The question of ownership or title of materials becomes more complicated, as does delivery to site at the right time. The contractors right to charge extra whilst waiting for or moving materials, storage, unloading and general management of the site are all matters that would suggest that this should be avoided.

Whilst we understand that this practice may work in the heavy materials sector, we do not believe that it is appropriate in the Specialist Contractor Sector.

ONLINE BIDDING

The use of the Internet to carry out Dutch Auctions is a development that should be watched very closely.

The practice involves putting tender lists online and extending the deadline to allow tenderers to amend their price downwards. This can be seen to work when components are being purchased from their manufacturers and the unit cost is known. If however, it is extended to contractors the scenario is very different. If a main contractor reduces his price under these circumstances it will be with the intention of enforcing reductions further down the supply chain. The effect of this will be to cut the amount allowed for Health & Safety and then to try and reduce specialist contractors' prices. This can only be done by reducing quality and standards. This in turn may lead to an increase in defects, contract periods, poor co-ordination with other trades and clients' dissatisfaction.

This process when applied to contracting may lead to a lower initial price, but a poorer quality project— is this Efficiency in Procurement?

CHANGING SUPPLIERS

As part of the procurement process the client, quite often a Local Authority, will call in a manufacturer and use them to work up a specification. The tender documents go out based on that specification and quoting the manufacturer with the mandatory clause "other equal or approved". Tenders are submitted and one is successful. Surely at this point the specification put out by the client is accepted, it seems however, that the clients are allowing the successful tenderer to change the specification after they have been awarded the contract. Thus there is no protection for the manufacturer, which has spent time advising the client and preparing a detailed specification.

7 June 2007

Memorandum submitted by Greater London Authority

INTRODUCTION

The following represents the Greater London Authority's (GLA) submission to the Trade and Industry Committee's Inquiry into the UK's construction industry.

In February 2006, GLA Economics published a review of London's construction industry in *Laying the Foundations: London's Construction Industry*. Against the backdrop of the Mayor's spatial development strategy, The London Plan, the aim of the study was to develop a deeper understanding of a sector that is traditionally hard to measure and identify whether the construction industry can adequately meet the demands that economic growth will place upon it. This submission draws upon the findings of that review.

SUMMARY

The worldwide and domestic construction industry will be able to meet London's requirements for the foreseeable future. Construction in London is a small part of the capital's overall economic activity (5%). The capital has in the past managed to proceed simultaneously on many large projects—such as Wembley and T5 in recent years, and the Jubilee Line and the Thames Barrier in the 1970s—and it will continue to do so in future. It will be able to deliver large programmes and projects such as the Tube PPP and other transport improvements, such as the Thames Gateway Bridge, alongside the Olympics and Crossrail in order to maintain London's globally competitive position.

The representation of women, black and ethnic minority and disabled people in the construction industry is relatively low compared to other sectors of the economy and the Mayor of London is determined to support efforts to increase the diversity of this part of the workforce.

THE NATURE OF LONDON'S CONSTRUCTION INDUSTRY

Output and Employment Trends

1. As in the rest of the UK, construction accounts for a relatively small proportion of total economic activity. In London, construction represents around 5% of its economy.

2. London's construction industry has a total output value of £8 billion in 2005, employing 200,000 workers or 4.5% of London's total employment. The construction sector is characterised by rising real output but little change in employment. This is perceived to be partly a function of increased labour productivity and partly due to the unreliability of statistics—the prevalence of small business, contracting, sub-contracting and cash payment makes the sector difficult to assess.

3. The composition of the industry in London is different from the UK due to its greater levels of private commercial building. London has a much greater share of private commercial construction (27.9% and 16.6% respectively).

4. The construction industry is highly fragmented, mostly being British companies catering for a British market and none holding a dominant position in the market as a whole.

5. It is estimated that there are more than 90,000 construction businesses in London and almost 89% of these are made up of self-employment—a slightly higher share than nationally. 80% of London's construction firms are not registered for VAT, also a higher share than nationally. The share of self-employment varies due to legislation defining construction work but is usually 35–45% of all construction jobs.

6. Small firms in London make up almost 94% of all construction firms, employ 39% of all construction workers and provide 20% of the construction work done. Medium-sized firms make up almost 6% of all construction firms, employ 30% of workers in the construction sector and account for 34% of the work done. Large firms have nearly half a percent of the share of construction firms, employ 31% of workers and carry out 46% of the work done.

Construction demand in London

7. The GLA report provides four key drivers of demand for construction in London:

- new housing demand resulting from population growth and household composition changes;
- demand for non-residential premises arising from economic growth (ie commercial, industrial and public premises);
- investment in London's infrastructure; and
- repairs and maintenance.

8. New housing is 10% of total construction activity, mostly private housing. Other new non-housing work is over half of all activity. Infrastructure also accounts for 10% of the total but is expected to be the best-performing sector from 2007 to 2011, averaging almost 11% annual growth. This reflects large existing and planned projects such as Heathrow T5, the East London and Docklands line extensions, the Victoria underground station expansion and the Olympics. With work on Crossrail planned to start before the Olympics, the growth rate will be higher.

9. *The London Plan* (2004) and subsequent alterations reports set out the need for additional housing and the policy to increase the overall supply of housing in London. Mayoral policy aims to achieve an additional 30,000 homes per year in London with provision up to 2006 based on 23,000 new homes per year. This marks a substantial increase on the current average annual number of housing completions. London has 16% of national activity in construction but only 9% of new private housing. Therefore it would appear prima facie that there is potential for London to increase its housing construction activity, which will be required for the new targets to be met.

10. The GLA projects that London needs 380,000 new dwellings over 2001–2016. This is over double the 150,000 that were built over 1991–2001. With an additional 600,000 jobs forecast to 2016 it is expected this level of build will be met.

11. The final component of the demand drivers for construction is repairs and maintenance. Around 50% of repairs and maintenance work relates to housing, a ratio that has remained largely constant over the past decade. While there is little statistical evidence on the patterns of repairs and maintenance in London, it appears that, as the stock of dwellings increases, then we should expect the level of construction activity associated with repairs and maintenance also to increase. As investment in new housing increases, spending on repairs and maintenance is also expected to increase (60% of London's construction activity is new work and 40% is repairs and maintenance).

LONDON'S CONSTRUCTION WORKFORCE

Occupational make-up

12. Construction occupations are not necessarily confined to the construction industry and similarly not all jobs in the construction industry are construction occupations. For example, there are high numbers employed in construction occupations in utilities, in parts of manufacturing, transport and communications, and business services. Similarly, many jobs in the construction industry may involve administration or sales and have little connection with doing actual construction work.

13. Construction is distinctive in that up to 50% of workers are in skilled trades occupations compared to just 8% for London as a whole. In contrast, construction has a lower share of jobs in higher-level occupations. Construction in London has just 26% of workers in management, professional and associate professional occupations compared to 53% for London's workforce as a whole.

Distributional make-up

14. Currently the construction sector does not reflect population groups adequately (in terms of gender and ethnicity). The construction workforce has few women and a low share of workers from BME groups. Men dominate the construction sector. In London, only 10% of construction workers are women, the lowest of any sector, showing that women are substantially under-represented. Construction is also relatively unrepresentative for BME groups. In London, 13% of construction workers are from minority ethnic groups compared to 21% of London's workers as a whole.

15. The GLA believes greater effort needs to be placed on boosting the employment prospects for Black, Asian and Minority Ethnic (BAME) people, women and disabled people in construction. With the support of the Construction Industry and Training Board—ConstructionSkills (CITB) and the Southern and Eastern Region Trade Unions Congress (SERTUC)), the LDA and GLA jointly commissioned a short exploratory study—*The Construction Industry in London and Diversity Performance*. It concluded that the structure and behaviour of the construction industry acts as a barrier to the development of integrated skills, training and employment of the population in a sustainable London labour market.

Details on diversity performance of London's construction sector can be found at:
(http://www.london.gov.uk/mayor/equalities/docs/construction_industry_feb07.pdf)

Skills make-up

16. Of London's construction workforce, 16% are qualified to NVQ4+, contrasting with the much higher London average of 38%. 29% of London's construction workers have NVQ1 or no qualifications compared to the London average (18%).

17. Construction depends more upon workers with middle-level qualifications. In particular, workers in construction hold almost a quarter of all trade apprenticeships in London. Over 18% of London's construction workers have trade apprenticeships compared to less than 5% for London's entire workforce. Production managers in construction are often qualified with over 40% holding NVQ4. However, even in this management group, over a quarter have qualifications of NVQ2 or below or no qualifications.

18. Around 64% of London's construction companies reported difficulties in recruiting. The main skills shortages were highlighted as being in "practical and technical skills". However construction businesses in London have a lower share of unfilled or hard to fill vacancies than the rest of the UK.

19. Due to the inability to recruit in certain trade areas, 75% of companies reported increasing workloads on current staff and 47% reported an increase in operating/ labour costs.

Training initiatives

20. It is estimated that the building work and preparations for the games will create an estimated 150,000 jobs over the next seven years. New Opportunities (Round 2) funding of £11million has been awarded by the LDA to 27 different organisations to support Olympics-related training over the next three years. In addition to this, the LDA will be providing in excess of £10 million across London over the next three years to support both construction and other vocational training associated with the Games. It is understood that further funding for vocational training will also be made available from the LSC in this same period.

21. As part of the Government's skills strategy, new specialist diplomas and GCSEs are being developed, such as those in professional cooking, facilities management and construction. Further education colleges in Newham and Hackney are working with sector skills councils to provide local residents with literacy, numeracy and communication skills, as well as skills in specific trades needed for the Olympics. For example Hackney Community College has teamed up with Westminster Kingsway, the best known hospitality and catering college, to offer NVQs in these trades.

22. The "Train to Gain" project aims to encourage employers to train their own staff. SummitSkills and the Graduate Forum are supporting 200 undergraduates to get more people from ethnic minorities into jobs on Olympic sites. ConstructionSkills and employers are jointly funding scholarships for female and ethnic minority students to study construction-related degrees (applications are up 50% on last year).

The price of labour

23. Earnings for construction workers in London are higher than the rest of the UK. The New Earnings Survey is the main source for measuring wages—in 2003, workers in skilled construction and building trades (standard occupation code 53) in London recorded higher earnings than those in construction trades across the UK as a whole (an average gross weekly wage of £492 per week). This is 20% higher than the £409 for skilled construction and building trade workers in the UK as a whole.

24. Construction wages have been growing faster than wages for all industries and services, though not by a large amount: between 2000 and 2006 hourly wages in construction in London rose by about 1.3% per annum more than in all industries and services in the UK as a whole. In the UK as a whole, hourly wages in construction rose fastest for managers in construction and lowest for those in elementary construction occupations, with those for skilled construction and building trades in between.

25. Earnings are highest for trades such as steel erectors and plumbers but lowest for trades such as glaziers, decorators and bricklayers. The growth rates in full-time male nominal wage rates are similar between 2000 and 2006 for All Industries and Services (in the UK). Between 2003 and 2006, average nominal wages for workers in the construction of motorways, roads, railways, airfields and sports facilities has grown fastest (22.1%), whilst average nominal wages for workers in building installation has grown slowest (11.1%). The indices seem to be converging by 2006 except for nominal wages for workers in the construction of motorways, roads, railways, airfields and sports facilities. The 11.1% growth in average nominal wages for workers in building installation between 2003 and 2006 is still above the growth rate for average nominal wages for all industries and services over the same period, which rose by 10.1%.

26. An economics consultancy, NERA, investigated the relationship between prices and output at the national level by considering whether we can observe a simple correlation between increases in construction output and increases in construction prices (in which increasing labour cost is a major component). They did this for both construction as a whole and construction of infrastructure. While there is some evidence of a positive relationship, that is construction prices do rise when output is increasing, the relationship is weak (NERA *Cost Escalation in Crossrail: A Report to CLRL* Feb 2007).

Labour supply forecasts

27. GLA Economics presented six projections of employment in London's construction industry for the coming years. Two of these projections have been published by the GLA, one is an IER projection for the Learning Skills Council and Sector Skills Development Agency, and the remaining three are by commercial consultancies. For 2012, three of the projections (GLA and IER) suggest that employment in the industry will fall, while the other three suggest it will rise. The range of the projections for 2012 is from 155,000 to 275,000, compared to the current estimate of around 200,000. Figures from an Experian report suggest growth is expected to continue within the construction industry at a rate of 2.5–3% per year up to 2015, which equates to an additional 90,000–120,000 workers per year.

This is dealt with in more detail in the *Laying Foundations* report (http://www.london.gov.uk/mayor/economic_unit/docs/layingfoundations.pdf). Having looked at London's construction industry and workforce, we now turn to London's capacity to construct.

28. The GLA is confident that the construction industry can deliver all the infrastructure projects planned for London over the next decade or so. Within a year, one of Europe's largest construction projects, Heathrow's Terminal 5, will be complete and free up resources for the construction of Crossrail and Olympic developments planned thereafter.

- The OGC (Office for Government Commerce) *Construction Demand/Capacity Report* (2006) report indicates that no significant constraints are expected and the industry has always traditionally been able to adjust to meet demand.
- The NERA *Capacity and Availability of the Supply Market for Implementation of Crossrail Phase 1* (2004) report indicates that the Crossrail scheme would face some capacity issues, but these would be in some of the specialist trades and professional disciplines.

Crossrail

29. Crossrail would be one of the largest infrastructure project ever undertaken in the UK and in its peak year absorb more than 20% of total resources assigned to new UK infrastructure construction. There are some indications however that other major tunnelling projects will end as Crossrail starts, which will release resources. Professor Robert Mair, Professor of Geotechnical Engineering, Cambridge University has recently shared the following insight "a boom in UK tunnelling may well coincide with a slow down in places like Singapore, Japan or Hong Kong, which will lead to a natural migration of resources to the UK".

30. There will be some tunnelling schemes aside from Crossrail but the schemes are relatively small in comparison. Crossrail's demands for signalling and track resources will account for only about 10% and 7% of total national railway industry resources of these types over the Crossrail construction period.

31. The Channel Tunnel Rail Link provides a recent example of when anticipated shortages in tunnelling and diaphragm walling did not materialise.

32. According to NERA, construction of the Olympic facilities, including some transport facilities, will be well under way once construction of Crossrail is started. But in the period up to 2012 when the Games are held, Crossrail expenditure will be below its peak with relatively little competition for the resources used in tunnelling and trackwork. Furthermore, the specific skills required in tunnelling necessarily come from internationally mobile labour. Crossrail's main requirements for "general building trades" (ie not tunnelling) will not occur until Olympic construction is finished.

33. There is a range of other construction projects planned in the London region, though these will pose less severe demands on Crossrail resources. Such projects include major motorway widening, the Thames Gateway Bridge, and major commercial building development.

Olympics

34. According to Franklin and Andrews *2012 Bulletin—Economic Impact of the Olympic and Paralympic Games* (2005) in order to build the games in 2012, the building sector needs to increase output by only 15% per annum, a figure that should be easily absorbed by the market.

35. Although there will be an impact on the building sector, the majority of pressure will be felt in infrastructure where key skills are likely to be stretched.

36. There have been a number of estimates of the specific impact of the Olympics on construction costs, in the order of 1 to 2% per annum additional cost increases. But these estimates are unlikely to reflect actual construction cost figures rather than the original estimates, so they are likely to underestimate the effect of the London Olympics on construction prices in London over the Olympic build period up to 2012 (NERA 2007).

December 2007

Memorandum submitted by The Heating and Ventilating Contractors' Association

1. The Association represents the interests of 1,400 building service contracting companies and firms within the heating, ventilating, air conditioning, and refrigeration contracting industry in the United Kingdom. Our members are involved in the provision of these services to the industrial, domestic, commercial and public sectors; they often act as sub-contractors to main contractors or as sub-sub contractors to principal sub-contractors.

2. We agree with the Trade and Industry Committee that it is an appropriate time to assess the current performance of the construction industry. Recent forecasts suggest that over the next five years the industry will continue to experience sustained growth.¹ To a large part this is due to current levels of public sector spending, and it is evident that there are significant high profile projects now underway across the United Kingdom, including the Olympic projects, the Thames Gateway development, and the Building Schools for

the Future initiative. This activity coincides with continued growth in projects under the Private Finance Initiative, and strong private sector activity. It is therefore useful to consider whether the industry's infrastructure is capable of delivering the projected workload and whether changes to its practices are required.

3. It is clear that there have been significant efforts to improve the industry over the last decade; nevertheless the Association remains concerned that there are some fundamental difficulties which prevent the UK construction industry from becoming wholly efficient and competitive. Evidence from our members suggests that a number of these initiatives are now having some effect, and that there are examples of progress towards best value procurement, collaborative working relationships, and proper payment. However, it is also true to say that in large part construction procurement continues to be a fragmented activity, and that traditional approaches to contractor appointment remain the norm.

4. In this submission we identify several areas where we feel that further progress would be of significant benefit and we invite the Committee to consider our suggested recommendations on the following matters:

- Payment practices: payment abuse continues to plague the industry; proper reform of Part II of the Housing Grants, Construction and Regeneration Act 1996 will improve the industry's efficiency and will reduce the incidents of industry insolvency. Further measures are also needed to encourage the public sector to move away from the practice of deducting retentions, and to adopt project bank accounts.
- Best practice on contract management: the industry suffers from a lack of standardised pre-qualification procedures, adding to inefficiency and creating large overhead costs for all participants, particularly small and medium-sized firms; greater efforts need to be made by the public sector to standardise procedures and introduce core qualification requirements.
- Availability of and investment in skills: the medium to longer term ability of the industry to fund its skills and training infrastructure needs to be addressed through a review into training funding.
- Encouraging Sustainability: all public sector procurers should take the lead in creating the right procurement environment for the construction industry to make its central contribution to the challenges that surround the issues of sustainability.

5. We would be pleased to provide the Committee with oral evidence related to any of the matters raised in this submission and we would add that as a member of the Specialist Engineering Contractors' Group (SEC Group), we also support the recommendations contained within the SEC Group's submission to the Committee.

PAYMENT PRACTICES

The legislative framework for construction contracts

Payment

6. While most people are familiar with the big names in construction, in reality the industry relies upon the work of a large number of specialist contractors—primarily owner-managed firms employing less than eight people, for whom cash flow is crucial to survival.

7. Despite the introduction of statutory measures to control late and non-payment for construction industry contracts, many construction firms—particularly small and medium sized enterprises—continue to experience payment problems. Part II of the Housing Grants, Construction and Regeneration Act 1996 (the "Construction Act") was designed to provide sub-contractors with fairer, quicker, and simpler mechanisms to ensure certainty of payment. However, we believe it has failed to address two of the key issues it was designed to tackle: *how much* a construction contractor is paid; and *when* a contractor is paid.

8. Most organisations can enforce their right to be paid for the services they provide. However, the failure of the Act to address this point with a sufficient degree of clarity means that certainty of payment is not available to companies in the construction industry—a circumstance which is unfair, and which can contribute to very high levels of insolvency.

9. It was an acknowledgement of this unsatisfactory state of affairs that prompted the passage of the 1996 Construction Act. But because the Act has not delivered the levels of protection envisaged, the Chancellor of the Exchequer announced a Review in his 2004 Budget statement.²

10. The Construction Act Review has provided the Department of Trade and Industry (DTI) with an opportunity to put in place effective measures that (a) will deliver the improvements sought by Government and the industry itself; and (b) will enhance profitability and productivity in an important sector of the British economy.

11. Although the outcome of the review is still awaited there is widespread concern across the building services sector that the Government will fail to propose effective measures to improve the industry's payment performance. We therefore invite the Trade and Industry Committee to consider whether the DTI proposals to review the Construction Act will resolve the payment concerns identified by the industry. We believe that the following measures will greatly improve the payment procedures within the Act.

RECOMMENDATIONS

The Construction Act should be amended to ensure the following:

1. A statutory definition of a payment mechanism that defines what is to be paid and when.
2. All conditional payment provisions to be outlawed.
3. Cross contract set-off clauses to be made ineffective.
4. The Act to specify that the statutory right to receive interim payments comes into being at the commencement of the contract.
5. There should be statutory protection available to the payee in the event of a payer's insolvency.

Adjudication

12. The Act also introduced adjudication procedures for construction industry disputes and these have proved to be a considerable success in addressing the industry's need for a streamlined dispute resolution process. However, over the last few years there has been some alarming anecdotal evidence from our members that the cost and complexity of the adjudication process is growing. This evidence appears to be supported by academic research into the use of adjudication in the construction industry.³

13. In large part this problem results from (a) the number of bespoke adjudication procedures routinely adopted within industry contracts; and (b) a tendency for responding parties—and their legal advisers—to instigate immediate jurisdictional challenges when an adjudicator is appointed, thereby increasing the time and cost of the adjudication process.

14. The Association is therefore concerned that the rising costs of the process means that adjudication many now fall outside the means of many small and medium sized enterprises. We believe that the following measures would greatly improve the situation.

RECOMMENDATIONS

The Construction Act should be amended to ensure the following:

1. A single adjudication procedure for all adjudications.
2. The jurisdiction of the adjudicator should be widened.
3. The Act should make clear that the adjudicator should not have power to award “party and party” costs under any circumstances.

Retentions

15. The Association has long been committed to improving payment security in respect of public sector construction contracts—and, in particular, to the phasing out of retention clauses by the end of 2008. We submitted evidence to the Trade and Industry Committee's previous inquiry into this matter.

16. The construction industry is dominated by small businesses. Approximately 150,000 firms out of 160,000 firms in the industry employ less than eight people. But, the profitability of small businesses in the construction industry continues to be adversely affected by the archaic and adversarial system of retentions. Retentions involve the deduction of monies from sums acknowledged as owing to contracting firms in case of defects at a subsequent stage.

17. In theory, retention monies are withheld by clients and main contractors in order to ensure that any defects in the completed work are made good. In practice, they are all-too-often used as a convenient excuse to delay or withhold payments which are due to sub-contractors and sub-sub-contractors. The practice leads to significant monies—an estimated £3 billion across the UK at any one time—being unnecessarily and unproductively tied up in retentions. Members have reported that in some instances as much as 20% of the turnover of their businesses can be tied up in retentions.

18. In practical terms those hardest hit by retentions are small businesses which have to wait many months and sometimes years before they are able to recover their retentions. The system invariably gives rise to disputes.

19. The cost of maintaining cash retentions far outweighs the perceived benefits; retentions are often withheld on the smallest of contract values eg, between £1k and £2k. They are therefore a needless drain on scarce resources and detract from a sustainable construction industry that is concerned with the elimination of waste (including economic waste). Retentions do not promote quality; this is achieved through rigorous qualification and inspection procedures and engendering positive relationships comprising incentives rather than disincentives.

20. Sir Michael Latham in his report (Constructing the Team) in 1996 recommended the replacement of cash retentions by bonds; an Early Day Motion in the House of Commons during the 2002 Parliamentary Session (attracting some 150 signatures) called on the Chief Secretary to the Treasury and the Local

Government Minister to phase out retentions in contracts for public sector work; and the Trade and Industry Committee's Report in 2002 condemned the practice of retentions as "outdated", "inefficient" and "frequently harmful".

21. However, despite these powerful messages our members report that retentions are still present within most public sector contracts, and it appears evident there had been little change in industry practice.

22. The recent work undertaken of the Public Sector Construction Clients' Forum, however, has been a helpful development in highlighting the use of project banks accounts. We believe that the adoption of project bank accounts would provide some measure of protection to all parties in the supply chain and would, in addition to our suggested changes to the Construction Act, facilitate improvements to payment certainty, particularly for SMEs.

RECOMMENDATION

That further the measures are put in place to phase out retentions in public sector contracts, and that all public sector procurers are encouraged to adopt project bank accounts.

BEST PRACTICE ON CONTRACT MANAGEMENT

23. There are three key areas related to contract management where we feel significant improvements could be achieved:

Integration and collaborative working

24. Since the publication of the Latham and Egan Reports there has been much work underway to improve the procurement practices of the construction industry. Nevertheless, many of our members continue to be procured under traditional methods. Our members have identified that greater involvement at the earliest stage of procurement, encouragement of integrated supply chains and more collaborative working would greatly improve the industry's efficiency.

25. There is growing body of evidence from Association members that they are becoming more involved in collaborative arrangements. Recent research into the current attitudes of our members towards collaborative working within the sector concluded that:

" . . . collaborative forms of working—where properly applied—have real advantages over more conventional forms. In particular, the early involvement of contractors and the closer working relationships implied under a collaborative approach enable design and buildability issues to be resolved more swiftly and efficiently. Early involvement also promotes a more realistic costing and bidding process. Furthermore, where multi-project collaborative working occurs, contractors experience benefits in terms of sustainability, which in turn encourages higher levels of inward investment in organisational capacity."⁴

26. The Association is pleased that such principles are intended to be applied on the procurement of 2012 Olympic projects.⁵ However, as identified in the SEC Group's detailed submission on this point, more effort is needed to encourage the use of collaborative working relationships—and we support their recommended solutions.

RECOMMENDATION

The public sector should take the lead in insisting upon the use of collaborative contacts for the whole supply team.

Pre-qualification—public sector

27. Pre-qualification procedures for public sector work remain complicated and are a source of constant and bitter criticism by the industry.

28. Constructionline was conceived by Government as a single register of companies pre-qualified to tender for construction contracts, for use by all public sector agencies across the UK. There is much criticism amongst Association members of the "patchy" use of Constructionline by the public sector, especially amongst local authorities, many of which persist in maintaining their own bespoke lists of "approved" suppliers. Qualification for these lists involves a great deal of unnecessary, time-consuming, and expensive paperwork and bureaucracy. Increased use of Constructionline would much reduce this unnecessary regulatory burden and encourage business growth, particularly among very small firms.

29. Many public sector bodies have chosen to conduct their pre-qualification procedures through organisations other than Constructionline. However, despite significant lobbying from the construction industry—and for reasons related to European competition law—Ministers remain reluctant to insist that

public sector bodies adopt the exclusive use of Constructionline. As a consequence members therefore bear the (sometimes significant) additional administrative and financial burdens associated with joining more than one organisation if they wished to pre-qualify for public sector work.

30. In 2005 the Chancellor of the Exchequer asked the Office of Government Commerce and the Small Business Service to undertake an investigation into the public sector's use of third party accreditation providers to pre-qualify suppliers.⁶ The initial report, published in December 2005, identified:

“ . . . that the public sector's use of third party accreditation is currently uncoordinated and does present barriers to suppliers' participation”.⁷

31. However, despite this acknowledgement of the existence of the problem, many sectors of the construction industry—across all parts of the United Kingdom—continue to feel frustrated by the lack of demonstrable simplification of pre-qualification procedures by central and Local Government.

32. It may be the case that the creation of a single national pre-qualification process is unachievable, for the reasons stated by Ministers, and that the industry will have to live with an open marketplace where Constructionline and other third party accreditation providers compete to provide services to Contracting Authorities. However, we suggest that greater effort is needed to create a system where mutual recognition between service providers will reduce much of the burdensome paperwork, form filling, and cost overhead currently shouldered by the industry.

Corporate Competence Schemes

33. Allied to concerns about pre-qualification, are those related to the proliferation of schemes that seek to qualify firms. The Association believes that the industry should move towards greater reliance on schemes that recognise the quality and competence of firms. This is not a barrier to entry but rather a means of improving the quality and effectiveness of the industry in matters such as technical skills, health and safety competence and general business procedures. The Association introduced its own member assessment scheme in 2003.⁸

34. There has, however, been an increase in the creation of such schemes over the last few years—not all of which are aligned to public sector pre-qualification requirements. Examples of these include TrustMark, the Construction Licensing Executive, and the Office of Fair Trading's Consumer Codes Approvals Scheme (which seek to qualify firms operating in the consumer marketplace); the Competent Persons Schemes (qualifying firm to self-certify installations under the Building Regulations) and CORGI registration (created to regulate the safe installation of gas heating appliances).

35. The Association, and its members, support such initiatives, many of which are designed to combat the prevalence of rogue traders who provide poor quality services to consumers. The activities of such “cowboy” traders harm the operations and reputation of legitimate contractors in the building and construction sector. Nevertheless, we believe that there is now scope for a more rationalised approach.

36. Many of the schemes apply different criteria to verify technical and business competence; there are also varying requirements related to the frequency with which firms are inspected. Some schemes, for example, require firms to be inspected annually, while others impose inspection on a less frequent basis. The Association believes there is a danger that the development of so many schemes, without some form of mutual recognition arrangement, may in the longer term prove counter-productive as firms chose not to participate because of the increasing cost involved.

37. We feel the time has come for Government to take the lead in establishing a more simplified process for such schemes; it has done so in other areas of business regulation following the recommendations in the Hampton Report.

38. The recent publication of core criteria for construction health and safety⁹ provides an excellent model for establishing a common approach to competence accreditation, and we suggest that this model could be expanded to embrace other matters related to the business and financial competence of firms.

RECOMMENDATION

To address concerns about pre-qualification requirements, and the widely varying requirements of construction industry competence schemes, a set of core criteria should be developed by Government which will lead to mutual recognition arrangements between scheme operators.

TRAINING AND SKILLS

Funding

39. All sectors of the United Kingdom construction industry have seen an increase in migrant labour. While this is a potentially attractive option for employers to resolve short-term labour shortages there are also longer-term difficulties. There are concerns that many of those engaged may not be contributing to the UK economy and such solutions are at the detriment of “home grown” investment in training. At the same

time, the UK population is ageing—more than 70% of the 2020 working population is already over the age of 16—and working lives are lengthening, increasing the need for already acquired skills to be regularly refreshed and updated.

40. In recent years, there has been a ready supply of suitably qualified potential recruits to building services engineering, at both craft and technician level. Yet the level of new-entrant training currently being undertaken is less than half of that required to ensure the existence of a skills pool sufficient to meet the present and future needs of the sector.

41. The principal reason for the low level of new-entrant training lies in the growing reluctance of employers within the sector—the vast majority of which are small and medium enterprises (SMEs) and micro-businesses operating to very tight margins—to devote the necessary investment to vocational education. The evidence that emerges is that the majority of employers depend on the minority to train.

42. Meanwhile, Government is making it increasingly clear that it is looking to industry to take responsibility for its own skills development, and not to expect this process to be financed from the public purse. In the wake of the Leitch Report¹⁰ on the nation's long-term skills needs, the majority of whatever Government funding remains available is likely to be focused on providing the non-employed with the basic skills required to attain “employability” (ie, to achieve five GCSEs at grades A to C or equivalent).

43. The Government will also be encouraging employers to support all their employees who wish to do so in achieving a National or Scottish Vocational Qualification at Level 2. This will almost certainly further divert potential funding away from qualifications at Level 3 and above.

44. A widespread appreciation exists among employers that, to develop the building engineering skills required fully to meet the challenges of the future, there must be a radical shake up in the funding of new entrant training.

45. The Association believes that the key to a reversal of the current state of affairs within building services engineering is the introduction of funding arrangements that truly meet the needs of the sector—funding which embraces not only school leavers, but also recruits from “non-traditional” backgrounds.

46. The concept of a training fund has received support within the Leitch Report which favours giving employers greater control over the allocation of training funding. The Leitch Report also suggests the implementation of “collective arrangements” to encourage and motivate employers to develop their workforce.

47. Although much work is underway to examine the impact of the Leitch Report on the construction sector, the Trade and Industry Committee may wish to consider seeking further evidence of the longer-term ability of the industry to fund its skills and training infrastructure.

RECOMMENDATIONS

Skills provision in the building engineering sector will be improved by:

1. A formal review into the industry's funding arrangements.
2. Introducing “collective arrangements” as recommended by the Leitch Report to encourage and motivate employers to develop their workforces.
3. The removal of inequitable funding provisions.
4. The removal of age limit barriers on entry levels.
5. The further rationalisation of Vocational Standards.

ENCOURAGING SUSTAINABILITY

48. The quest for sustainability in construction presents both challenges and opportunities for the building services engineering sector—the primary focus being on the design, installation and maintenance of low and zero carbon (LZC) technologies. The Association, and its members, have responded positively to the challenge and much activity is underway to equip the industry with the right skill level and the right incentives to ensure that it can provide a central contribution to issues of sustainability and combating climate change.

49. A report recently commissioned by the Association from consultants Faber Maunsell has identified the actions that must be taken to ensure that our members are well-placed to deliver an expert service to their customers and clients. These actions include the establishment of standards for low and zero carbon systems and the creation of an appropriate training infrastructure.

50. However, we believe that there are also significant parallel challenges for the industry's clients, particularly across the public sector. We feel that they too have a major role to play and must take the lead in creating demand for innovative sustainable solutions from the building engineering services sector. In many cases this will involve a cultural shift away from traditional procurement approaches that are based on a “lowest price” and fragmented supply chains; these will not deliver the solutions that are needed.

51. The recent publication by the Treasury of its report “Transforming Government Procurement” is a welcome start to this process. The report identifies that:

“At the heart of any procurement are the people involved in carrying it out. To get goods and services that are consistently fit for purpose and value for money is challenging and requires people with specialist skills whether in the public or private sector. The Government needs to attract, develop, and retain people in the Government Procurement Service who . . . do not retreat to the lowest price because it appears at first sight to be the most easily defensible. Government needs people who properly understand, and can apply, the principles of value for money on a whole-life costing basis”¹¹

52. The measures identified in the report set out a framework for delivering the Treasury’s vision of improved procurement processes across Government departments. However, we believe that there is an equal, if not greater, challenge to transform the approach of Local Government so that it can adapt to a new era where all parties in the supply chain are properly engaged in the delivery of sustainable buildings.

RECOMMENDATION

The Trade and Industry Committee is invited to seek further evidence from the Office of Government Commerce, the National Audit Office and the Department for Communities and Local Government on the practical steps that are being taken across the whole of the public sector to deliver improved processes for sustainable procurement.

May 2007

REFERENCES

1. Recent forecasts produced by Construction Skills, the Sector Skills Council for the building sector, suggest that the UK construction industry will achieve 2.8% growth per annum for the next five years.
2. Budget Red Book 2004—Chapter 3, paragraph 3.59—“*Following concerns expressed by the construction industry on unreasonable delays in payment, the Government will review the operation of the adjudication and payment provisions in the Housing Grants, Construction and Regeneration Act 1996 to identify what improvement can be made*”.
3. Glasgow Caledonia Adjudication Reporting Centre—Adjudication Report Number 7 (August 2005).
4. “*A Study of Opportunities and Obstacle to Collaborative Working in the M&E Supply Chain*”—Dr Dan Bishop (University of Leicester) And Professor Alan Felstead (Cardiff University).
5. “*2012 Construction Commitments*” published by the Strategic Forum for Construction identifies several key areas of best practice relating to procurement and integration, including the early involvement of the construction team. The Association is a signatory to the *Commitments*.
6. Budget Red Book 2005—Chapter 3, paragraph 3.65—“*In response to particular concerns from SMEs on the public sector’s use of third party assessment providers to pre-qualify suppliers, the OGC and SBS will research the effect this has on potential suppliers and identify solutions to reduce any barriers to SME participation*”.
7. “*Third Party Supplier Accreditation Study*”—December 2005—Office of Government Commerce.
8. All Association members, for example, are subject to third-party inspection and assessment by a recognised third party certification body. Potential members must undergo independent inspection and assessment prior to admission. Inspection and assessment is then repeated for all members every three years; it comprises two elements: commercial capability and technical competence.
9. For further details please see the Approved Code of Practice under the Construction (Design and Management) Regulations 2007.
10. Leitch Review of Skills—“*Prosperity for All in the Global Economy*”—December 2006.
11. “*Transforming Government Procurement*”—HM Treasury—January 2007, Chapter 2, paragraph 2.4.

Memorandum submitted by The Home Builders Federation

THE HOME BUILDERS FEDERATION

1. The Home Builders Federation (HBF) is the principal trade association representing private sector home builders in England and Wales. Its members range from large national companies through regional companies to smaller, local firms. Between them, HBF member companies are responsible for about 80% of the new homes built annually.

INTRODUCTION

2. Residential development is an important sector of the construction industry with its own characteristics distinguishing it from civil construction and contracting.

3. Home builders serve a mass retail market of individual purchasers. Although the annual output of new homes has increased by some 25% since 2001 to over 160,000 homes, such sales only constitute around 10% of residential property sales at anyone time. In consequence home building is a price-taking rather than a price-making industry with new homes always competing with a much larger stock of existing properties in the property market.

4. There is also a high degree of risk in home building relating to a range of factors from the uncertainties involved in securing planning permission for particular sites to the potential volatility of the residential property market.

5. This business environment is an important factor to be taken into consideration in assessing the issues that the Committee wishes to investigate in its current inquiry.

THE MAIN CURRENT ISSUES AFFECTING HOME BUILDING

6. The housing market in England and Wales is characterised by a significant under supply of new homes. The latest Government figures for 2005–06 indicate that there were 185,000 net additions to the housing stock in England. This figure compares to an estimated increase in the number of households of 223,000 and the Government's target of increasing output to 240,000 net additions a year by 2016. As the problem of under supply has existed for well over a decade it has contributed greatly to the current problem of affordability affecting all parts of the country.

7. The main constraint on home builders supplying more homes to meet this shortfall is an insufficient supply of land with implementable planning permission for housing. Between 1997 and 2003, Government figures show that the amount of land coming through the planning system annually for residential development fell by 7%. The level of home building has only increased since 2001 as a result of an increase in densities from 25 to 41 homes per hectare. As it is unlikely that the average density levels can increase much further, the only means of further increasing the supply of new homes will be to bring more land through the planning system.

8. In this regard, the HBF welcomes the Government's new Planning Policy Statement 3 (PPS3) on Housing which entered into force in April 2007. PPS3 requires local authorities to identify a rolling five year forward supply of developable land sufficient to meet their agreed housing requirements. Consistent and effective implementation of PPS3 will be fundamental to successfully resolving the current housing supply crisis.

9. The other major current focus for the home building industry is action to further improve the environmental performance of new homes.

10. The HBF is working closely with the Government with a view to achieving its objective that from 2016 new homes should be built to a zero carbon performance standard resulting in no net carbon emissions from the use of the home following construction.

11. Achieving this standard would make the UK a world leader in low carbon housing and the objective is very challenging for the industry to attain. New forms of partnership with suppliers, local authorities and energy providers are likely to be necessary. The industry will also need to determine carefully which solutions work well for consumers to prevent the risk of a public loss of confidence.

INDUSTRY CAPACITY

12. Provided the policy and regulatory framework—most importantly the planning system—enable sufficient land for residential development to be made available to meet demand, the industry does have the capability to increase its output.

13. The HBF jointly commissioned with CITB-ConstructionSkills, a study of the labour and skills issues associated with a significant increase in housing output following the publication of Kate Barker's 2004 report on housing supply. A copy of the summary report is attached (not printed).

14. In broad terms the report found that with the right business conditions and sufficient land supply, home builders would be able to achieve sustained improvements in labour productivity. As a result, the scale of increase in the numbers of the workforce required to build significantly more homes would not itself be a constraint on expansion.

15. The report did, however, point to skills shortages in management, professional and trade occupations which need to be tackled. The HBF and its members are working with CITB-ConstructionSkills and other bodies on these skills challenges.

16. Approximately one third of the industry is directly employed by the home building companies, with the remaining workforce being sub-contractors. In order to ensure the workforce as a whole is safe and competent the members of the HBF's Major Home Builders Group have adopted the objective of a fully

qualified workforce. Their aim is that all site workers will have CSCS or equivalent cards by the end of 2007 and be competent with the appropriate vocational qualifications by the end of 2010. The HBF is also seeking to extend this initiative to other member companies.

17. Migrant workers from the new EU Member States have played an important part in meeting skills requirements in the last two or three years. Many of these workers are skilled in their trades and professions and have usefully supplemented the indigenous workforce usefully.

18. Major home builders are also working with the Princes Foundation to promote and recognise the constructive use of urban design principles in new housing developments and to build skills capacity in this field within the industry. In addition, the HBF—with the Commission for Architecture and the Built Environment—is one of the two principal sponsors of the Building for Life initiative and awards. Building for Life promotes good urban design principles for residential development.

19. The increasing focus on sustainability is opening a new series of research, design, skills, and implementation challenges for home builders. These challenges are most clearly seen currently in the work being undertaken by home builders in relation to the Government's objective that all new homes should meet a zero carbon performance standard from 2016. Many of the major companies are conducting research and modelling potential means of achieving this standard and the interim steps towards it set out in the Government's proposed 2010 and 2013 changes in Part L of the national building regulations.

20. As well as companies' own research, publicly backed programmes such as English Partnerships' Carbon Challenge should assist the industry in working out the most technically and cost-efficient means of achieving improved carbon efficiency as well as design solutions that are acceptable to purchasers and those living in new homes.

21. Significant work is also now being undertaken on water efficiency in the light of the Government's plans to introduce new national building regulations in 2008 based on a usage standard of 125 litres of water per person per day. Further reductions in the amount of water used in new homes are likely to be sought in future and such changes will raise some significant product and design challenges both for home builders and their product suppliers.

22. More generally, the HBF is participating actively in discussions being led by the Department for Business, Enterprise and Regulatory Reform on a new Sustainable Construction Strategy and with the Department for Communities and Local Government on the deployment of the Code for Sustainable Homes.

23. In view of the comparatively fragmented nature of the industry, HBF considers that an enlightened longer-term strategy for the evolution of national building regulations is of great importance to assist effective innovation in sustainable construction and other fields.

24. The HBF has held detailed discussions with the Department for Communities and Local Government about the reform of building regulations and other policies over the last year with a view to providing a more effective future framework within which the industry and its supply chain can innovate. We would in particular welcome a simplification of the structure of the regulations, a focus on required outcomes rather than specific or prescriptive means of achieving them and a longer-term strategy for changes in the key areas. Collectively such changes would enable the industry to work out the best solutions as cost-efficiently as possible while promoting effective forward planning by suppliers.

25. We would favour the adoption of similar principles in other areas of regulation affecting home builders. The industry faces a plethora of regulatory requirements in the planning system and otherwise. Overall these requirements have made the business climate increasingly complex and it is important that "better regulation" principles are applied to minimise the risk of delivery of the Government's housing supply targets being adversely affected.

NATIONAL AND LOCAL PARTNERSHIP

26. The challenge of tackling the national housing supply crisis while improving the sustainability standards of new homes and meeting other housing objectives cannot successfully be met by any one party alone—whether it be national government, local authorities, the industry, regulators or the supply chain.

27. Current policy priorities such as the 2016 zero carbon homes target illustrate the need for partnership very clearly. In the case of zero carbon the recognition of the need for co-operation between different parties has been publicly recognised in the 2016 Commitment—signed by national government, the HBF and home builders, construction products manufacturers and suppliers, local authorities, energy suppliers, and other bodies including green NGOs.

28. Similar partnership approaches will be required at regional and local level in order to translate the growing consensus on national housing supply and policy objectives into reality on the ground.

Memorandum submitted by HR Wallingford Ltd

1. HR Wallingford is a research and development company operating in the area of impacts of the built environment on the natural environment, and vice versa, in terms of water. HR Wallingford has its roots in the Hydraulics Research Station, a laboratory of the Department of the Environment, privatised in 1982. We will focus on the aspect of research and innovation, leaving others to deal with other issues.

2. We are keen to be part of a world leading construction industry. However, at present we do not consider Britain to be a leader in terms of setting standards in construction *process*—that was what the Latham and Egan reports addressed, and what all the subsequent process initiatives are about. On the other hand, Britain is perceived to be a leader in *artefact*, largely due to imaginative design. As we travel the world it is the clear, innovative and holistic thinking of British engineers which is widely valued. This is especially true of those providing services into the infrastructure sector (energy, communications and transport, water—domestic agricultural and industrial, waste, societal protection and leisure). This position enables our consultants and contractors to generate considerable visible and invisible export earnings for Britain. But this position is maintained only because of the quality of the research and guidance which our research base provides. It is essential that government support for this research is enhanced and not reduced, to ensure that we remain at the forefront of developing technologies.

3. The contribution that the construction industry makes to the economy is considerable placing it amongst the key industrial contributors in Britain. However, the construction industry is structured very differently from almost all other industries, with very little vertical integration and considerable fragmentation. When construction was the responsibility of DETR, it was dealt with in a unique way, recognising the particular idiosyncrasies of construction. However, since adoption by DTI we see signs of construction being treated in just the same way as any other industry—as may be desired for reasons of fairness and transparency. This may lead to difficulties, with construction struggling to compare favourably with other industries based on the paradigms of those other industries. We are particularly concerned that construction may suffer with regard to research funding if ‘general’ industry rules are made to apply. To improve construction performance, a more planned and strategic approach to research is necessary (as indicated by Fairclough). We ask you to consider construction as a special case, not because it cannot fairly compete with other industries, but because the nature and structure of the industry exhibit special characteristics for which a modified approach is probably necessary.

4. Within construction there are a considerable number of RTO’s (Research and Technology Organisations) undertaking research, but perhaps more importantly, technology translation and transfer. We are such an organisation. Our perception is that the science and technology research drive of the present Government focuses unnecessarily closely on universities and university/industry linkages. This focus appears to work well in some industries, such as pharmaceutical and aeronautical for example, where the industry itself is research intensive and, through its vertical integration, benefits directly from research gains. This is not so clear in construction. Here the RTO’s play a valuable role in bringing their own, and others, research findings to the construction industry. We believe that DTI should focus on the benefits arising from a greater encouragement (and funding) for RTO’s to play an even more prominent role in research engagement with the deliverers of construction.

4 May 2007

Memorandum submitted by the Institution of Civil Engineers (ICE)

1. INTRODUCTION

1.1 The Institution of Civil Engineers (ICE) is a UK-based international organisation with over 80,000 members ranging from professional civil engineers to students. It is an educational and qualifying body and has charitable status under UK law. Founded in 1818, the ICE has become recognised worldwide for its excellence as a centre of learning, as a qualifying body and as a public voice for the profession.

1.2 ICE is a member of the Construction Industry Council (CIC). In addition to this submission the CIC are combining with the Construction Confederation and the Construction Products Association to present a joint industry-wide submission.

1.3 Construction accounts for *circa* 5% of UK GDP on a narrow definition (on-site construction activity) and 10% of GDP on a wide definition (including professional services and the manufacture and sale of construction products). Based on this wide definition the construction industry employs three million people in 350,000 firms and Government accounts for *circa* 40% of UK annual construction spending.

2. TRENDS

2.1 Output and demand, particularly in London and the South East is expected to rise significantly in the next five years. It is anticipated to peak in 2008–09. The Olympic build represents just over 5% of new construction in the South East during the period 2006–12.

2.2 Health and safety risk management is improving. However, there were 71 fatalities in 2004–05; the same as in 2003–04. During this period there was a 5% drop in major injuries to employees to 3,760 major injuries in 2004–05 from 3,978 in 2003–04. ICE endorses the new CDM regulations which focus on improving health and safety risk management performance.

2.3 Skills: The industry requires in the short-term 30,000 additional operatives, designers and managers. In the long-term there are serious issues surrounding the diminishing supply of engineers. Full-time civil engineering undergraduate numbers have fallen by 28.69% between 1997–2004 (12,495 down to 8,910).

2.4 Innovation: Research and innovation time series data on R&D investment is not available, however indications are of a significant fall in the last 25 years. ICE welcomes the tax credits for research outlined in the 2006 budget, but more action is required, including improvements to academia-industry knowledge transfer. The UK also needs to drive down the costs to industry of investing in research. The failure of the UK to attract investment in research is a serious issue. Investment in research fell in the UK last year whilst it rose in other industrialised nations.

3. CIVIL ENGINEERING

3.1 While construction and civil engineering is often viewed within the parameters of “hard” major infrastructure development, they also have a “softer” side which has an effect on other important areas of government policy, such as new schools, hospitals and house building programmes. As a further consequence construction and civil engineering help deliver government’s wider social and health policy goals, for example developing sustainable communities and improving quality of life.

4. LONG-TERM CAPACITY FOR THE DELIVERY OF LARGE INFRASTRUCTURE PROJECTS ON TIME AND TO BUDGET, SUCH AS THE OLYMPICS

Availability of skills

4.1 In March 2007 the Construction Skills network published, *A Blueprint for Construction Skills 2007–11*. This estimated that in the period 2005–11, employment in construction will grow by 17.5% from 2.41 million to 2.8 million. In practice an average of 87,600 workers will need to be recruited annually to meet this growth and to replace people leaving the industry. Within this overall figure:

- Construction professionals and technical staff will rise from 277,550 to 302,010, with an average annual recruitment requirement of 12,340.
- Construction managers will rise from 193,250 to 211,140, with an average annual recruitment requirement of 6,270.
- Senior and executive managers will rise from 9,270 to 9,820, with an average annual recruitment requirement of 200.

4.2 This study confirms that demand will be acute in London and the South and East of England and we explore the situation in the region in some detail below.

4.3 The Committee should be aware that significant pressures exist elsewhere in the UK. The practical task of recruitment may be harder in the relatively closed markets of provincial regions which do not share the cosmopolitan attractions and pressures of Southern England. As an example the Scottish Executive’s planned £3 billion capital investment programme in strategic road and rail projects will see an average annual growth rate in the Scottish infrastructure sector of 6.2%; one of the drivers for a projected 8% growth in construction employment between 2007–11. Figures for total construction employment can also mask an imbalance between general construction employment and the demand for the much smaller pool of technical experts and professionals. The North East England is projected to see a growth rate of 7.7% for professionals against an overall growth rate of 4%, whilst the figures in North West England are 10% and 6.6% respectively.

4.4 Construction is the most white and male-dominated of all major industrial sectors. Women, make up only 7% of ICE membership. We do not know the make up of ethnic minorities in the profession, although according to CITB-ConstructionSkills ethnic minorities make up only 3% of built environment professionals. Similarly we do not know how many disabled civil engineers there are, although it is estimated that they account for less than 0.3% of all construction professionals.

4.5 Research on women’s and ethnic minorities’ experiences within construction have shown that the industry reproduces a white male culture in which women and ethnic minorities experience marginalisation, discrimination, disempowerment, prejudice and “glass ceilings” to their career progression. This, in turn, leads to vertical segregation within construction firms.

4.6 In less than six years, the Commission for Racial Equality estimates that only 20% of the total UK workforce will be the current white, non-disabled, males that have traditionally made up the construction industry's recruitment pool. This means that the industry has to diversify. According to the Disability Rights Commission, one in every five people of working age is disabled. Disability also increases with age, and, with the population as a whole aging, it is likely that there will be increasing numbers of disabled people in the labour market in the future. Furthermore, employment rates for women of working age continue to rise. Clearly, the industry will need to promote equality and encourage greater workforce diversity to ensure a sustainable civil engineering workforce for the future.

London and Southern and Eastern England

4.7 The ConstructionSkills forecast model for 2007 to 2011 in London indicates a 13.5% increase in workers, with a 4% growth in the South East and 13.4% in Eastern England. In total, demand for workers across the three regions will rise from 925,560 to 1,045,750 at an average annual requirement of 36,600. Once again within this overall figure:

- Construction professionals and technical staff will rise from 119,510 to 130,060 with an average annual recruitment requirement of 5,200.
- Construction managers will rise from 77,990 to 86,980, with an average annual recruitment requirement of 3,150.
- Senior and executive managers will rise from 3,780 to 4,310 with an average annual recruitment requirement of 190.

4.8 Similarly, a December 2005 study for the Highways Agency (HA) on issues around the M25 Design, Build, Finance and Operate (DBFO) project found that an additional £37 billion (over and above a nominal "average" period) of increased construction investment was needed between 2006 and 2013 in the London and the South East. The Olympics were projected to account for *circa* 5% of this additional demand, with the remainder made up of commercial office building, infrastructure (mainly rail), government spending on the Thames Gateway developments and the M25 DBFO. In relation to professionals the HA report calculated that by 2008 an extra 1,628 designers and 3,256 extra managers would be needed to service the projects in London and the South East.

4.9 A significant proportion of the additional professional staff highlighted by these two studies will need to be drawn from the civil engineering profession. The ConstructionSkills report identifies infrastructure as one of the major drivers for growth both nationally and in London and South and Eastern England. London will see the final stages of Heathrow Terminal 5, extensions to the Docklands Light Railway and East London Lines and of course Olympics infrastructure. Eastern England infrastructure growth will include expansion to ports at Harwich, Felixstowe and Great Yarmouth and Dunstable Northern bypass.

4.10 Earlier ConstructionSkills figures show that there are on average 1,200 civil engineers graduating every year and that the total population of fully qualified practicing civil engineers is *circa* 60,000. In addition, at the professional level, training takes typically four years academic study followed by five years vocational experience. These figures indicate that there is likely to be recruitment into London and South and Eastern England from other UK regions and that additional overseas professionals will be required. In practice many of the largest consultant and contracting companies are already recruiting staff from Europe as a matter of course.

4.11 While we believe that this is a situation the industry is able to cope with, there are significant management issues raised by both a multi-national workforce and short-term movement of workers from other parts of the UK, not least around health safety and welfare. ICE has recently commissioned a study from the University of Loughborough to examine these issues in relation to migrant workers, which is due to be completed in autumn 2007.

- The ConstructionSkills model quoted above does not include forecasts of skills required in transport or utilities. These are included within Goskills, E-skills and Energy and Utility skills. Given pressures on technical skills and the need of industry to plan ahead for major forthcoming projects such as Crossrail, the DTI should review the coverage and cross-working of these bodies to ensure that modeling provides an accurate picture of future skills requirements across all industries.
- There are also a large numbers of engineers and other construction professionals who have left the industry following academic study. It would be of benefit to encourage these workers back into the industry.
- All parties must do more to understand and address the health, safety and welfare issues raised by both increased use of migrant workers and UK workers living away from home for extended periods of time.

4.12 Much of the activity in the construction sector is unregulated with voluntary schemes of professional qualification and competency being the norm. Professional institutions, such as ICE, promote competence and ongoing commitment to professional development through professional qualification.

4.13 Members of a number of professions are required to be licensed by statute in order to practice. In the UK this includes all health professionals working in the NHS, solicitors, teachers in state schools in Scotland, gas installation businesses, chiropractors and architects. Architects are governed by the Architects Act, 1997. In the absence of mandatory licensing of engineers and engineering technicians, professional institutions such as ICE have to promote the value of membership and, *de facto*, professional qualification to all stakeholders including aspiring members, employers, and clients. Competence schemes exist throughout the industry and some, notably the Construction Skills Certification Scheme introduced by the Major Contractors Group, are valiant attempts to drive competence and skills across all levels of the industry with emphasis on Health & Safety Risk Management. However professional qualification goes further.

4.14 Undertaken voluntarily, professional qualification through bodies such as ICE is the demonstration of competence and professional commitment to independently audited standards and processes. Licensing bodies such as ECUK and the Society of the Environment, which control the titles Chartered Engineer, Incorporated Engineer and Engineering Technician for the former, and Chartered Environmentalist the latter, are an effective means of establishing competence standards across a wide range of disciplines. Professional institutions play the vital role of qualifying their members to these standards, and, by providing knowledge and support through Continuing Professional Development (CPD), the mechanism to maintain competence. We would wish to see clients demand high qualification standards from those they consult and contract as a matter of course.

4.15 Professional qualification is also the underpinning competence required by the many Specialist registers and lists that have been developed and introduced either through Statutory Legislation (eg Qualified Civil Engineers [Panel Engineers] under the Reservoirs Act 1975), demonstrable societal need (eg the conservation accreditation register for engineers [CARE]), or in response to specialist industry need (eg the Construction Health, Safety & Welfare Register to demonstrate the competence requirements for Co-ordinators under the CDM Regulations). These registers and specialist lists have a key role to play in setting and maintaining standards and in promoting their appropriate use and value. ICE would again wish to see clients making appropriate and effective use of these.

5. GOVERNMENT AS CLIENT

5.1 Whilst there are issues for the industry to address, it is the government, which in all its guises is by far the UK construction industry's largest client, that must play its part. The increased use of partnering arrangements requires government clients to behave differently. In addition clients must have access to high-level skills in estimating risk, programme, project and commercial management. Without these skills Government will struggle to set realistic budgets and timeframes, and to manage projects effectively. Finally there are strategic and institutional issues which are currently hindering the ability of government to deliver its capital investment programme.

Partnering

5.2 The UK construction industry has, since the mid 1990's, moved away from adversarial contractual relationships to the framework and partnering approaches as recommended in the *Latham* and *Egan* reports, and endorsed by the National Audit Office (NAO) and embodied in NEC3 Contracts. Partnering is not, however, an easy option and to be effective needs to be much more than a statement of intent. Partnering principles should cover enforceable aspects of the contract between the various parties. However importantly there must be a genuine two way relationship with real commitment to sharing risk and reward on an equitable basis. This applies to government as well as its private sector partners. When problems arise on large projects, clients will be better served by a willingness to work within arrangements that allow for an equitable sharing of additional costs, rather than striving to maintain a budget that is unachievable, and in so doing damaging relationships with their delivery partners. In an extreme example of this approach, BAA has assumed all the project risk for the Heathrow Terminal 5 contract itself and put in place co-operative arrangements with its contractors based on the principles of problem-solving and benefit sharing.

5.3 BAA has taken this approach after studying the failures of other "mega-projects" where efforts to transfer major risks to contractors led to outcomes damaging to the project including:

- A focus on blame avoidance, rather than working co-operatively, to solve problems particularly those created by other contractors.
- Underbidding and undercharging for risks to secure contracts being followed by efforts to recover costs later, for example through squeezing subcontractors or charging for unforeseen extras.
- Contractors pursuing individual gain, rather than looking to maximise benefits and efficiencies over the whole project.

5.4 This approach will not be suitable for all projects and requires a large contingency to be built into projects. It also requires the client to have the skills to be able to challenge contractors on value for money and to put in place a robust incentive scheme to encourage the client to perform well. However, Terminal 5 is scheduled to be delivered on time and to budget.

- Government should ensure that the attitudes, structures and skills are in place to ensure that it can realise the benefits of long-term partnering arrangements with the construction industry.

Institutional issues and public sector client skills

5.6 We would advise the Committee to study the March 2007 report by Mike Nichols (a Fellow of ICE) to the Department for Transport on cost over-runs in the Highways Agency major roads programme.

5.7 Nichols pointed to the difficulties the Department for Transport had in fulfilling its oversight and sponsorship role for its Agency's road programme. This resulted in a strategic vacuum, with no link between (unclear) policy goals and the list of projects making up the Highways Agency capital works programme. This created obvious problems for prioritisation and resource allocation, a situation exacerbated by a lack of clarity on the governance arrangements between DfT and the Agency.

5.8 This report identified a number of operational issues. In particular that the Agency was setting "final" budgets at too early a stage of projects, when they were surrounded by uncertainty, and proposed that a variant on the model used by Network Rail should be employed. This allocates funding on a three-stage basis covering requirements definition, development and construction. He also identified that Agency had suffered from the loss of experienced staff and should look to improve its capacity in estimating, risk management, retention of skilled staff, and programme, project and commercial management.

5.9 The Office of Government Commerce (OGC) has produced guidance on "fair payment" practice by public sector clients, including payment within 30 days. This should lead to a "Fair Payment Charter" to be adopted by all public sector clients. Fair payment practice is vital for a healthy industry, particularly smaller contractors down the supply chain.

- Government should consider if the problems and solutions highlighted in the Nichols report on the Highways Agency Major Roads Programme are relevant in other areas of the public sector, particularly where there is a lead department/agency relationship.

6. IMPROVED CO-ORDINATION OF THE GOVERNMENT'S CAPITAL INVESTMENT PROGRAMME

6.1 At present there is little evidence of serious co-ordination of major capital investment programmes emerging from different departments and agencies. Further consideration of the Government's capital investment and expenditure programmes over time will allow companies to maintain and grow their staff, skills and employment practices. The current environment of boom and bust within different engineering and construction industries allows many workers and skills to leave the industry and the country. It is far more difficult to entice these professionals back when the work returns. An example of this is the nuclear industry. Any construction of nuclear power stations would now require a substantial import of skills from outside the UK when the previous building programme used domestically sourced professionals. Major investment in sectors such as energy, transport, waste facilities and flood defenses are expected over the coming decade. We therefore welcome the Chancellor's commitment in his pre-budget report in December 2006, that as part of reforms to the planning system Ministers will be responsible for statements of long-term need and hope that this increased visibility leads to much improved co-ordination of workflow between departments. Spikes of demand can also create short-term difficulties in sourcing and delivering plant and materials.

6.2 Investment in infrastructure is often compromised, unlike in other publicly funded sectors such as health and defence. This often leads to elected officials rejecting plans or imposing delay. For example, regional decision-making bodies, such as Regional Transport Committees are refusing to commission urgent highway improvements because the project will eat into their budgets. To ensure that infrastructure receives similarly consistent funding to the health and defence sectors infrastructure, investment must be depoliticised to eradicate the assumption that it can easily absorb cuts.

6.3 The Committee should be aware that construction inflation is currently running at *circa* 6–7%, which is considerably above the standard measure of inflation in the economy. In addition, within this headline figure there is a degree of complexity. Increased international demand has led to considerable volatility in the price of some raw materials, notably steel, whilst variations in the price of energy have also had a significant impact.

- A realistic assessment of overall construction inflation and the volatility of prices for materials and energy should be a feature of government construction procurement.

7. THE OLYMPICS

7.1 In relation to the Olympics, and indeed to other major programmes, the Committee should be aware that as a project, it is of a different character to the type of ongoing commercial relationships on which alliancing, partnering and frameworks rely. It is to all intents and purposes a one-off project with a fixed end date and an increasingly politically sensitive out-turn cost. In this context what needs to be avoided is a model whereby the client creates its own Project/Contract Manager from within its own organisation (or the Project Manager and the Client are really the same organisation). This approach is flawed because the drivers for the client and the Project Manager should be entirely different.

- Government should ensure that in relation to the Olympics and other major programmes, the roles of Client and Project Manager are clearly defined and separated.

7.2 It is also notable that the Thames Tunnel and Crossrail projects will be working closely together to share equipment, skills and planning programmes to maximise the efficiencies created by the similarities of these two projects. Further identification of project similarity could deliver considerable cost savings, minimise disruption and also develop a broad range of required skills.

- Government should give consideration to its long-term investment programme and give clear indications of long-term plans in different engineering and construction sectors. Statements of long-term need promised by the Chancellor in his pre-budget report should be accompanied by increased cross-Government planning of construction work flow.
- Government should work to identify similar projects in its overall programme and exploit opportunities for efficiency savings by sharing equipment, skills etc.

8. CONSTRUCTION R&D

8.1 Investment by the industry itself into construction R&D has traditionally been considered to be low compared to other sectors. However, there is a lack of clear figures and definitions, for example much design work on one-off projects, might in other sectors be classified as R&D. There are however, a number of issues which militates against investment in R&D.

8.2 The industry's products are often very heavily specified by clients, who should be the driver for product development to avoid wasted research funding. At least two major public clients, Network Rail and the Highways Agency operate their own standards department, which obviously have a major impact on final specifications. This situation does not create a good incentive to invest in R&D as any new product or technique faces a lengthy and uncertain approval procedure. Encouraging clients to set functional requirements has the potential to encourage innovative solutions from contractors.

8.3 A second issue is that much of the financial or other benefit of construction R&D accrues to society in general, for instance in the form of reduced environmental impact or higher performance standards of public buildings. The sector has therefore traditionally looked to government to overcome the collective action/free rider problems this situation appears to inevitably entail.

8.4 In terms of Government support, the DTI's construction specific Partners in Innovation Programme was closed to new applications in 2002, when the department moved away from sector specific research to embrace a thematic approach to industry support. Construction has not always been successful in attracting funding from this source. One result of this situation is that whilst support for academic research through the Research Councils remains high, the number of projects that codify technological breakthroughs into industry codes of practice has declined. While this is only one knowledge transfer path it remains a concern. In general, the fractured, unconsolidated nature of the sector does make knowledge transfer and the spread of best practice a problem for the UK construction industry. DTI's Innovation Strategy recognises this as a generic issue for the UK and is funding a raft of knowledge transfer Networks (KTNs) which aim to build up a critical mass of well connected and well informed people. However, it is unclear how KTNs will break down the commercial disincentives for knowledge sharing or if they will be successful in drawing in participants from SMEs who make up a large percentage of the UK construction industry. All of these issues could impact on the industry's capacity to innovate and maintain its competitive edge.

8.5 A difficulty in assessing the level of government support for construction R&D is the fragmentation of responsibilities across departments and agencies. Whilst DTI support has declined, other aspects of construction, for instance flood defense, water supply, energy are receiving R&D support elsewhere in government. Furthermore, fragmentation not only across government but also across public procurement and industry, has led to a lack of buy-in to the untapped resource of EU funded research programmes.

8.6 The Committee should also consider the influence of the government's role as client on R&D expenditure. In principle the partnering type arrangements promoted elsewhere in this submission should create an environment in which the government's construction industry partners have an incentive to invest in R&D to improve performance over the life of a 25–30 year concession.

- A government-wide assessment of support to R&D for construction and infrastructure would be valuable.

-
- Assessments of levels of government support for construction R&D should take into account the contribution of construction to meeting policy goals in other sectors such as education and health, and in meeting broader policy goals around carbon emissions and quality of life.
 - Greater attention is needed to mitigate the impact of any shortfall in R&D and knowledge transfer on the industry's ability to absorb innovation and maintain competitiveness.
 - Government and industry should assess if there is a significant link between contractual form and R&D investment.

We would also hope that the Committee consider if construction has suffered disproportionately from the disbanding of sector specific support.

9. REGULATORY MATTERS, SUCH AS HEALTH AND SAFETY, AND THE BUILDING REGULATIONS

Health and Safety Risk Management

Safety

9.1 The Health & Safety Executive's approach to launching the revised Construction (Design and Management) Regulations should be applauded for focusing on improving H&S risk management performance on the ground, whilst reducing complexity and bureaucracy. We also applaud the fact the revised regulations make it clear that all partners in a project, including clients and designers, have a shared responsibility for health and safety.

9.2 However, regulation alone cannot save lives and it is unrealistic to believe that an Agency could police an industry on the scale of construction. Driving cultural change is, therefore, a major ongoing task, with industry taking a lead in ensuring that individuals buy into H&S risk management. UK performance does stand up to international comparisons but there were still 70 deaths on site in 2006.

9.3 The importance of strong leadership can, therefore, not be overstated and the personal commitment of individuals such as Keith Clarke, CEO of Atkins, should be applauded. Conversely the late opposition of groups representing clients to the additional responsibilities placed on them under CDM 07 was disappointing.

9.4 As with sustainability there is a great opportunity for the public sector to use its procurement leverage to drive improvements in the sector. This will require an enlightened approach by public clients, who may need to shift focus from maintaining adherence to a rigid budget at the capital expenditure phase of a project to deliver long-term, non-monetary benefits. There is a significant amount of guidance for public sector clients on health and safety risk management from the Office of Government Commerce and others. However, whilst some large bodies, for instance the Highways Agency, are putting greater resources into meeting their H&S risk management responsibilities, there is anecdotal evidence that this is by no means universal—smaller local authorities have been identified as particular culprits in this area. Furthermore, 40% of all procurement contracts are with central Government. While having the potential to lead on and make significant impact on the health and safety risk management agenda, central Government is presently too fragmented, hence becoming a poor example of implementing its own aspirations.

9.5 As a professional institution ICE recognises it has a major role in this area in ensuring members develop and maintain H&S competence. In the last two years ICE has upgraded the H&S competencies that must be developed during initial professional development and made passing the H&S element of the professional review compulsory for any candidate seeking full chartered membership.

- All construction bodies with skills/competency functions must prioritise health and safety risk management to others.
- All public sector clients and not just large agencies or departments should place close attention to fulfilling their H&S duties and use their leverage to drive good practice across the sector.
- Government should place greater emphasis on setting quality health and safety risk management examples and lead on the H&S agenda.

Health

9.6 The Institution would also support a greater focus on the health aspect of the health and safety equation. There are a number of serious health issues prevalent in the industry including Musculoskeletal Disorders (MSD), Hand Arm Vibration Syndrome (HAVS), Noise Induced Hearing Loss (NIHL), Dermatitis and Mesothelioma. These problems can be exacerbated by the nomadic nature of the industry, which can lead to employees having difficulties accessing basic services. We do not believe the industry has been as effective as it could have been in addressing these issues. Again a cultural change is needed to encourage active case management and effective communication between the employer, employee and health support. This should have the benefit of allowing employers to reduce the number of days lost through ill health.

9.7 Successive changes to the Building Regulations since the early 1990s have led to significant improvements in the energy/carbon performance of buildings, with energy efficiency standards for new buildings now 40% higher than in 2002 and 70% higher than 1990. However the low replacement rate of the building stock (0.1% per annum) has meant that reducing the UK energy requirements needed for heating and cooling buildings has not moved on at great pace. The Chancellor's announcement in his budget for assistance with insulating domestic homes is welcome, but attention will need to be paid to the detail of the scheme, the pace of its roll-out and the continuing need to improve the performance of non-domestic buildings.

9.8 ICE welcomes the introduction of the Code for Sustainable Homes, and in particular the promise that it would flag upward movements in the Building Regulations, allowing the main body of the industry valuable time to adapt. However, we were disappointed that the original concept of a code for sustainable buildings was watered down. We would also point out that the code has narrow boundaries, covering making housing units, fittings and appliances more sustainable. To get a true picture of the sustainability performance of a building would require a series of life cycle assessment of the structure and fittings to be carried out in the context and location in which they are being used. We felt it is important that guidance was issued with the code to make users aware of these limitations.

- The government should consider expanding the code for sustainable homes to cover all buildings and provide guidance on limitations of a sustainability assessment limited to structures, fittings and appliances.

10. ENCOURAGING SUSTAINABILITY

10.1 Leverage from public procurement is obviously a major opportunity. The report of Sir Neville Simms' sustainable procurement task force found that, "incentive systems neither reward sustainable procurement nor do they punish failure to comply with existing policies in this area".

10.2 Government has responded with a package of measures but the revision of central departments' Public Service Agreements, as part of the forthcoming Comprehensive Spending Review, is a major opportunity to address key issues identified by Simms, such as the failure to properly assess long-term benefits against up-front benefits and a failure to include non-financial benefits in options appraisals.

10.3 One key area where progress is needed is around the selection and use of materials and other resources. Construction and demolition accounts for 32% of the total annual waste arisings in the UK. Furthermore, a series of "Biffaward Mass Balance" studies of the industry suggested that 350mt of materials flow through the construction sector which generated 90mt of wastes while adding 270mt to the stock of buildings. Although it recycles 46mt of materials, the amount still going to waste disposal suggests considerable further potential for recycling.

10.4 We noted above that a positive aspect of CDM 2007 is that it forces clients, designers and contractors to integrate health and safety considerations into their plans. ICE's Demolition Protocol, which has been promoted extensively by the government's own Waste and Resources Action Programme (WRAP) agency, extends this logic to material use. The protocol enables users to make a realistic assessment of the material that can be recovered at the demolition phase of a project and crucially links this figure to the specification of materials for any new build on the same site.

10.5 At macro level, ICE has regularly drawn attention to the split in policy responsibility for Sustainable Development across Government. As civil engineers we can contribute strongly to delivering sustainable development, but would be greatly helped by a policy framework making stronger linkages to be made from the sustainability of infrastructure to longer-term quality of life, conservation and biodiversity, and resource use impacts. Our series of reports on resource management with the Institution of Mechanical Engineers have demonstrated how the much needed investment in waste processing infrastructure could realise wider benefits if placed in such a framework.

- Government should revise PSAs to ensure departments use procurement leverage to drive more sustainable construction.
- Mechanisms such as the ICE Demolition Protocol should be employed to focus the attention of clients, designers and contractors on improving the efficiency of resource use in the construction sector.
- Government should encourage greater co-ordination between policy on physical infrastructure and wider environmental and societal impacts.

11. BEST PRACTICE ON CONTRACT MANAGEMENT

11.1 We have made extensive comments above on partnering, alliancing and frameworks. Developed by the ICE, NEC Contracts encouraged the development of these concepts by providing a flexible contractual framework that promoted a partnering ethos by stimulating good project management. We believe these principles should be regarded as best practise in contract management and should be filtered down the supply chain.

11.2 ICE believes that there remains resistance to this practice. In particular with regard to advice provided by the legal fraternity to their clients, leading to standard forms of contract being heavily amended and collaborative intentions of contracts being heavily diluted. Therefore, we would recommend that all parties to contracts should be encouraged to use the same standard forms of contract to avoid the dilution of collaborative intent.

11.3 Written in plain English, the NEC has provided a step change in effectiveness of contract management in the construction industry. It is gaining ground fast but needs government promotion to speed up the process. We note that the National Audit Office has endorsed the use of the ICE developed NEC 3 Contract as a basis for such collaborative working and that the OGC recommends the use of NEC3 by all public sector procurers on their construction project. A similar endorsement by the DTI would greatly assist in encouraging the private sector to adopt the use of a collaborative and integrated set of contracts for all construction projects and services. It would also be a powerful tool for promoting a distinctive UK initiative in the international market. In addition if central and local government are going to support the contract they need to provide adequate skills and sufficient resources in order to manage it.

11.4 However, contractual arrangements alone will not guarantee success and is not a substitute for developing the procurement and project management skills outlined above.

11.5 Finally, the competence of resources particularly in local government is a significant issue. The volume of resources is also significant with many individuals carrying out procurement activities as only part of a complex portfolio. This demonstrates a lack of appreciation that for any client the procurement of built environment assets is a significant investment and often prevents adequate interaction with the users and occupiers of the asset. The outcome, therefore, continues to be unsatisfactory both from the management of the provision of the asset and the perceived value for money of the end product.

- All parties to contracts should be encouraged to use the same standard forms of contract to avoid the dilution of collaborative intent.

4 May 2007

Memorandum submitted by Local Authority Building Control (LABC)

1. LABC is the representative and marketing body for building control surveyors working in local authorities. We represent some 4,000 professionals working in 376 local authorities in England and Wales, and we aim to ensure that clients, designers, contractors and everyone involved in the construction process are fully aware of the strengths of and services offered by local authority building control.

2. LABC's vision is to ensure that local authority building control is at the forefront of securing healthy, safe, sustainable and accessible buildings in the UK. Our mission is to promote, support and enhance local authority building control in the public sector, by providing a strong central and co-ordinating role.

3. We therefore welcome this opportunity to submit evidence to this inquiry. LABC is a member of the Construction Industry Council (CIC), and we understand that they will be submitting evidence jointly with the Construction Confederation and the Construction Products Association. We welcome this joint approach from an industry which is often considered to have too many disparate voices, and this short supplementary note focuses on issues of particular concern to LABC.

SCOPE OF THE INQUIRY—REGULATORY MATTERS

4. Of the topics listed for consideration by the Committee, the one of greatest interest to LABC is "Regulatory Matters, including Building Regulations". LABC strongly believes that the safety and quality of buildings constructed in the UK can only be maintained and enhanced by a comprehensive set of Building Regulations, with compliance ensured by checks and inspections made by building control surveyors working in local authorities.

5. Private sector competition was introduced into building control in the mid 1980s. Undoubtedly at that time local authority building control had a bad reputation, and twenty years plus of competition has ensured that now both local authorities and private sector approved inspectors deliver a high-quality customer-responsive service to the construction industry. Local authority building control is involved in around 75% of all building projects in England and Wales. This includes over 95% in the domestic sector and 80% in the commercial sector (retail, industrial and office). Even in new homes, the weakest area for local authorities, it still retains over 50% of the building control function.

6. Relationships and working practices have been revolutionised by local authorities to ensure that customers get building regulations advice and guidance during the design phase to avoid time delays or expensive changes during construction. This change of approach has enabled local authorities to retain private sector clients in the face of competition. LABC customer feedback reveals that companies value local authority building control because it provides independent advice, wide ranging expertise and is uncompromised by commercial relationships.

7. The risk of competition is that the price of the service is driven down, and this has a detrimental effect on the number of inspections which can be made. The effects of this have been lessened by voluntary agreements between local authorities and private sector approved inspectors covering performance standards, backed up by performance indicators. However, now that the benefits of competition have been achieved, LABC believes that it would be in the public interest for building control to revert to being a service provided by local authorities alone. This is the position in both Scotland and Northern Ireland.

8. If this were to be done, this would help to overcome another problem experienced by industry. Small and medium-sized businesses in the construction industry in particular are concerned about the triple regulatory burden imposed upon them by planning, building control and CDM2007. If all three of these control systems were administered by local authorities alone, then steps could be taken to integrate them, building on previous attempts by local authorities to develop one stop shops.

9. Another concern of LABC has been the introduction in recent years of some self-certification into building control. Whilst we recognised the necessity of this for things like the introduction of replacement double-glazing into the Building Regulations, a number of other schemes in relation to electrical wiring and energy efficiency have led to problems for building control officers. They have the ultimate responsibility of determining whether building work does or does not comply with the Regulations, and a proliferation of certificates purporting to claim compliance for individual elements does not necessarily help.

10. From time to time suggestions are made that the current system of building control should be replaced by self-regulation, backed up by comprehensive insurance. However, LABC strongly believes that it would be a retrograde step to adopt such a system in the UK. Prevention of death and injuries from unsafe and unhealthy buildings is surely far better than insurance companies paying compensatory damages afterwards, and the consumer would undoubtedly prefer a building to be built correctly in the first place rather than suffer disruption whilst remedial measures are undertaken.

MAINTENANCE OF STANDARDS WITHIN THE SECTOR

11. As noted above, LABC believes that building control delivered by local authorities is a major factor in ensuring that high standards of safety and quality are maintained. To assist in this, it is helpful if all products and systems used in the sector either comply with a British or European standard, or have been certified by a body like the British Board of Agreement (BBA) or BRE Certification, with both of whom LABC works closely. To lessen the burden on designers, LABC has introduced a system of Type Approvals through which a design or system can be checked by one local authority and then accepted by all others. We also have a Partner Authority Scheme where again the architect or developer can obtain all his building control advice at the design stage from a single local authority with whom a very close working relationship can be developed.

CONSTRUCTION R & D

12. This is essential if the performance of the sector is to improve. Before new systems and products are introduced into the market it is vital that all the implications for building performance are thoroughly investigated. In the past changes in the Building Regulations have inadvertently led to building defects, for example rain penetration through fully-filled cavities, and it is questionable whether enough is yet known about the long-term performance of some of the products used in modern methods of construction. Investment in R&D by both the Government and industry continues to be disappointing, and the Committee may wish to consider whether tax incentives or even a levy on firms might be introduced to remedy this.

AVAILABILITY OF, AND INVESTMENT IN, SKILLS

13. Media interest in skills shortages in this sector tends to focus on craftsmen, but the shortage applies just as much to building control. The age profile of existing building control staff is very worrying, and an influx of new staff is urgently required. LABC is tackling this by:

- trying to raise the profile of building control surveyors, pointing out the attractiveness of taking responsibility for ensuring regulatory compliance of buildings—and Olympics 2012 should help to enhance this;
- working with professional bodies such as RICS, CIOB and ABE to encourage greater graduate intake; and
- developing apprentice schemes for building control surveyors.

ENCOURAGING SUSTAINABILITY

14. LABC fully supports the wishes of all political parties to place greater emphasis on encouraging the sustainability of buildings. The Building Regulations are already the most effective tool in driving up standards of energy efficiency in new buildings, and the improvements introduced in 2006 are now starting to bite. The Sustainable and Secure Buildings Act 2004 gives Government the power to make Building Regulations for other aspects of sustainability, such as water efficiency, and LABC and local authorities look forward to working with Government in ensuring compliance with any new Regulations made in this field.

15. The proposal for zero-carbon homes by 2016 is a challenging one, and will require probably at least two more step changes in the energy efficiency requirements in the Building Regulations to achieve. It is important that the Government works closely with LABC and everyone in the construction sector, perhaps most importantly the product manufacturers, if this goal is to be achieved. The recently-introduced Code for Sustainable Homes may provide stepping stones for the more demanding clients, and may establish sustainability levels to which the Building Regulations can move in a few years time.

THE UK INDUSTRY'S PERFORMANCE AGAINST OTHER COUNTRIES

16. Along with some 30 other organisations in 20 countries, LABC is a member of the Consortium of European Building Control, which enables us to compare the building control systems in the UK with those elsewhere. In general, the strength of the UK system is recognised, and the flexibility provided by our combination of goal-based regulations backed up by Approved Documents is widely admired. A number of countries which have tried to reduce the role of local authorities in checking compliance in favour of greater self-regulation have not liked the consequences, and are moving back to systems such as our own.

FURTHER EVIDENCE

17. We have tried here to focus on key points for local authority building control. If the Committee would like further clarification of any of these points, either orally or in writing, we should be happy to supply it.

3 May 2007

Memorandum submitted by Medscreen

DRUGS AND ALCOHOL MISUSE

1. INTRODUCTION

Medscreen welcomes the opportunity to submit evidence to the Trade and Industry Committee inquiry into the UK construction industry.

2. Substance misuse is increasing in the UK workplace and Medscreen has evidence that shows the UK non regulated sector including construction is showing increasing levels of positivity to drugs and alcohol in the work place.

There is a known link between substance misuse and risk in the safety critical sector to which construction belongs. This link threatens employment practices and health and safety records of construction companies. There is credible evidence from US and Australia, as well as anecdotal evidence from the UK that the construction industry has a higher incidence of substance misuse than other sectors. This is being actively addressed through education, training and testing programmes. A number of proactive UK construction companies are adopting the same policy. Greater and more unified focus in this area should be a Health and Safety objective.

3. ABOUT MEDSCREEN

Medscreen was founded in 1987, to provide management solutions for the problems that drugs and alcohol bring to the working environment. The misuse of drugs and alcohol can harm the safety, efficiency, and reputation of any organisation. We offer a complete range of services to support a company's policy on drugs and alcohol. These include policy advice, education, employee assistance, administration support and the full range of services necessary for testing programmes. We provide drug testing products and analytical services for urine, oral fluid and hair testing, advising our customers which of these best fits with their requirements.

4. Fundamental to our approach is the recognition that behind every drug test there is an individual. We believe that enabling recovering problem users to hold down jobs is as important as protecting working environments from the hazards that drugs and alcohol can create.

5. DRUG ABUSE IN CONSTRUCTION INDUSTRY

In the UK there is anecdotal evidence to suggest that there is a problem with substance misuse in the construction industry. In June 2006 results showed that 6% of workers randomly tested at Heathrow Terminal 5 tested positive.⁴⁵

6. In the last two years Medscreen has experienced a growth in interest in its services from the construction sector. A number of organisations have implemented drug and alcohol testing programmes driven by concerns over site safety and employee welfare. Laing O'Rourke has been one of the most proactive in this area with a testing programme that has been running since 2005. Positivity levels have been running consistent with current social trends although there are indications that this is decreasing and that this is having a positive impact on site Health and Safety.

7. This is consistent with the experience of the US and Australian construction industry where the issue is more widely documented and testing is more established.

8. According to the US Department of Health and Human Services 13.2% of all construction workers used some form of illicit drug during their working day, 2.5% used legally prescribed medication for non medical reasons and 63.3% consumed alcohol at a heavy level.

9. Research by the Centre to Protect Workers Rights carried out a study of injuries to construction workers in one US state. They found workers with a substance misuse problem had an injury rate of 15% whilst those without had a reported injury rate of 10.9%.

10. According to the National Centre for Education and Training on Addiction in Flinders Australia construction workers are the second heaviest users of illegal drugs (behind the hospitality sector) with 20.7 admitting to recent use whilst 4.2% admitted to being under the influence whilst in the workplace.

11. In the US random testing programmes have proved effective in reducing drug usage on construction sites "random drug-testing is the best way to reduce employee drug use" CEO of Avitar.⁴⁶ This has also had a significant impact on health and safety where a US study has shown that companies who tested workers for drugs experienced a 51% reduction in injury rates within two years.⁴⁷

12. DRUG & ALCOHOL ABUSE AND WORKPLACE

Home Office statistics shows 35% of the working population has used drugs in their lifetime and this figure increases to over 45% in the age group 16–24. Moreover, the figure for those who have used drugs in the last month (indicating habitual or regular use) is around 7% of the population. This figure increases to 16.3% of aged group 16–24.⁴⁸ Alcohol abuse is similarly increasing with the number of people admitted to hospital with alcohol related liver disease more than doubling in the last decade.⁴⁹

13. The impact of drugs and alcohol abuse in the workplace is similarly well documented. Work related alcohol misuse costs the UK economy an estimated £6.4 billion per year.⁵⁰ Over 60% of employers reported problems due to alcohol misuse and 27% reported problems due to drug misuse⁵¹ according to reports from both Alcohol Concern and DrugScope⁵² with 25% of those seeking help with a drug problem in work, whilst 75% of alcoholics remain in employment.⁵³

14. More specifically within safety critical industries such as the construction industry the National Treatment Agency have estimated that alcohol is estimated to contribute 20–30% of workplace accidents.

15. Medscreen is the largest and longest established provider of work place drug education, training and testing services in Europe. We have over 10 years of statistical data covering drug and alcohol testing trends by industry sector. Our database comprises details of regulated industries, where drug testing is compulsory and the unregulated industries. It represents much of the UK workplace that carries out testing and also includes the international shipping sector. In essence, regulated industries tend to be more conscience of safety critical environments.

⁴⁵ Building Magazine, issue 24, 2006.

⁴⁶ quoted in Obesity, Fitness and Wellness Week 2006.

⁴⁷ Cornell University School of Industrial and Labor Relations 2000.

⁴⁸ British Crime Survey 2004–05.

⁴⁹ NHS Statistics on Alcohol: England, 2006.

⁵⁰ Cabinet Office Strategy Unit (2003) Interim analytical report.

⁵¹ Alcohol Concern Quarterly Information Bulletin, Winter 2006.

⁵² Alcohol Concern/Drug Scope 2002, joint survey "The State of the Nation".

⁵³ The London Drugs Policy Forum and The Priory.

16. Analysis of positive test results by drug group across the past 10 years shows the following trends:

Figure 1

%CHANGE IN POSITIVE DRUG TEST RESULTS—BY DRUG GROUP

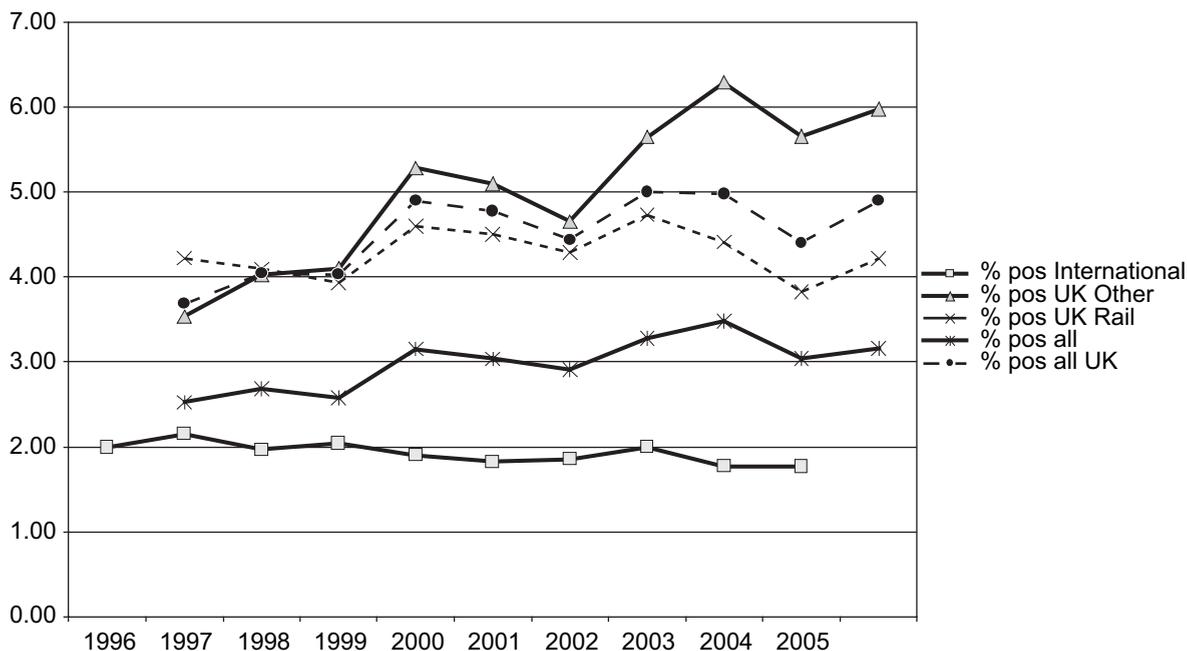
<i>Drug group</i>	<i>% change</i>
Alcohol	- 25
Amphetamines	+ 9.7
Barbiturates	+ 53
Benzodiazepines	- 54
Cannabinoids	+ 30
Cocaine	+ 3,000
Opiates	- 1.9
Propoxyphene	- 44

17. The most significant increase is in cocaine and cannabis which is consistent with Home Office statistics quoted above showing these to be the most abused drugs in UK society.

Trend analysis by industry sector reveals the following:

Figure 2

OVERALL % POSITIVE RATES BY INDUSTRY OVER THE PERIOD 1996–2005



18. This indicates the following:

- The international shipping and UK rail sectors (both safety critical and where there is regulation to support testing) show relatively low levels of positivity, and these low levels are being maintained against a backdrop of increased levels of abuse in the workplace overall.
- The UK non regulated sector including construction is showing increasing levels of positivity.

19. DRUGS, IMPAIRMENT AND SAFETY

“It is widely accepted by employers and employees’ bodies such as the Trades Union Congress that drug screening is of value in safety-critical occupations such as railway workers”.⁵⁴ This is due to the established link between substance misuse, impairment, and safety.

“Alcohol is known to affect judgement and physical coordination . . . drinking even small amounts of alcohol whilst carrying out work that is safety sensitive will increase the risk of an accident” (HSE).

⁵⁴ Parliamentary Office of Science and Technology Report September 2004, Issue Number 228.

There is equally a significant body of scientific research relating to drug related impairment particularly with regard to cannabis. For illustration:

1. Department for Transport Research Report 202 examines the incidence of drugs in road accident fatalities. Figures showed that in the period 1984–87 cannabis was the commonest drug [apart from alcohol] found post mortem in fatal road traffic accidents [RTAs]. Cannabis use was estimated to increase the risk of fatal RTAs by a factor of 3.5.
2. Heishman *et al.* “Pharmacology Biochemistry and Behavior”, This study substantiates observations made that even small doses of alcohol and marijuana impair performance.
3. Australian Safety Transport Bureau 2003 identified a clear link between cannabis consumption and performance in a safety critical environment. It also showed the effects lasted for up to 24 hours.

20. CONCLUSIONS

Our submission clearly shows that drug and Alcohol abuse is becoming more prevalent in the UK workplace. There is a clear link between drug and alcohol misuse and impairment which brings a huge risk to the safety critical workplace. Medscreen would welcome further efforts by the construction industry and policy-makers to tackle health and safety risks associated with drug and alcohol misuse.

June 2007

Memorandum submitted by National House Building Council (NHBC)

NHBC (National House Building Council) is the world’s most established standard setting body and home warranty provider with over 20,000 builders on its Register and 1.7 million homes protected with its Buildmark home warranty.

As a non-profit distributing company with over 70 years’ experience working with the industry and the consumer, NHBC is uniquely placed as an independent authority on the housing industry.

NHBC also supports the industry and consumer by providing essential services including building control, training, health and safety and environmental services and by investing in research, innovation and delivering industry solutions through the NHBC Foundation and National Centre for Excellence in Housing.

NHBC welcomes this Trade and Industry Committee inquiry into the UK Construction Industry. NHBC has not responded to all aspects of this inquiry but only to the specific questions on which NHBC is best placed to provide an expert response. Our submission is based primarily on our views and experience of the house-building industry. NHBC would welcome the opportunity to give oral evidence to the Committee.

HEALTH AND SAFETY

NHBC is the largest provider of health and safety services to the housebuilding industry, currently supplying services to around a third of the UK house building industry. NHBC has close contact with a full range of companies from national volume builders to small and medium enterprises (SMEs) and compiles accidents statistics for the Home Builders Federation’s (HBF) Health and Safety Charter which is a part of the Government’s Revitalising Health and Safety initiative, a ten-year strategy launched jointly by the Government and Health and Safety Commission in June 2000.

Improving health and safety standards is an essential objective and challenge to address. NHBC supports builders in their endeavours to improve the quality of new homes by supporting strong and successful health and safety management. A construction site that is being well managed for health and safety more often than not also demonstrates a high quality of new homes.

There has been a move by the Health and Safety Executive (HSE) over the last few years to shift progressively away from prescriptive legislation—outlining exactly what must be done—to risk-based legislation which leaves a company to interpret the law in relation to its circumstances and operations.

Larger companies have the resources to employ specialists or engage consultants to support them in meeting their health and safety obligations but SMEs often cannot bear such costs or deal with the often plethora of uncoordinated changes. Whilst their obligation under health and safety law is no less they often lack the necessary resources to devise and fully implement a health and safety strategy.

SME's present the single largest risk group for accidents and work related ill health. As illustrated by the data contained in the following table:

<i>Proportion of self-employed and contractors employing:</i>	<i>Construction work (by Value)</i>	<i>Workforce</i>	<i>Fatalities</i>	<i>Injuries</i>	<i>Ill-health</i>
< 15	17%	26%	67%	57%	61%
> 15	83%	74%	33%	43%	39%

“The proportion of self employed and contractors employing more or less than 15 employees, the proportion of construction work, the workforce, fatalities, injuries and ill-health are shown in the table above. It is clear that those working for the smaller companies face a disproportionately high risk (roughly double) of injury and ill health than those who work for larger employers”. [(Health and Safety Commission Paper HSC/07/16 (9 January 2007))]

NHBC is actively engaged in meeting the needs of this market sector by providing support which enables SME's to fulfil their health and safety obligations. Recent research in this sector has enabled it to devise a health and safety service specifically tailored to the needs of the smaller organisations.

Through the Revitalising Health and Safety campaign changes have been made to several pieces of health and safety legislation, examples being working at height, noise and vibration. Additionally an overhaul of the Construction (Design and Management) Regulations 1994, has produced the Construction (Design and Management) Regulations 2007. This has resulted in clients having more responsibility for ensuring safety on their projects and designers having greater clarity over their role in reducing hazards inherent in their designs. In addition the changes will create a new duty holder—the Co-ordinator—to replace the planning supervisor and new levels of competency will be defined for all the parties involved in construction.

Risk Factors and issues to address in the industry include:

- Lack of resourcing/understanding at SME level and the difficulty engaging with thousands of small and micro firms.
- Overly bureaucratic handling of health and safety in larger firms. Excessive amounts of time and money spent in the production of paperwork that serves little purpose other than to be available as evidence should the need arise. This is recognised by the statement “any paperwork produced should help with communication and risk management. Paperwork which adds little to the management of risk is a waste of effort, and can be a dangerous distraction from the real business of risk reduction and management” paragraph 4, Approved Code of Practice to the Construction (Design and Management) Regulations 2007.
- Fear of prosecution as opposed to ensuring worker safety drives action.
- Lack of clear understanding of legislation/regulations.
- Migrant workers do not have localised health and safety knowledge. Increasingly site managers are faced with the prospect of a large number of those on site being unable to communicate in English. As effective communication is probably the single most important element to managing health and safety it is vital that resources are concentrated on providing assistance in this area. This could come nationally by encouraging non-English speakers to learn the language and also on a smaller scale by providing resources to enable printed and electronic guidance to be translated into the relevant languages.
- Migrant labour standards vary greatly.
- Migrant labour will increase to plug the resource gap in the industry but this is not being managed.
- Difficulty in educating migrant labour where there is no common language.

BUILDING REGULATIONS

The implementation of building regulations has important implications for the industry. In recent times the industry has suffered from poor implementation of regulation by Government, for example Part L of Building Regulations in 2006 and the current introduction of Home Information Packs. NHBC believes that a regulatory framework where the Government sets objectives, but the industry works on methods and processes to implement those objectives, is the most successful framework and the most likely to deliver successful outcomes for Government and industry.

It is within this context and the debate about the quantity, role and implementation of regulation that NHBC can help play a vital role in the future. NHBC, in partnership with the Building Research Establishment (BRE), has set up the National Centre for Excellence in Housing, a new industry led partnership. The Centre is working to identify practical solutions and address the challenges and opportunities facing the housing sector. It will establish a group of experts and key opinion leaders to facilitate policy development and strategic thinking to help frame the research and policy agenda for housing in the UK.

NHBC believes the Centre could provide the Government with an ideal platform to consult the industry on a range of regulatory and associated issues.

SKILLS AND TRAINING: AVAILABILITY OF, AND INVESTMENT IN SKILLS

NHBC provides strong support to the industry's skills development agenda with its provision of training and qualifications programmes. Our primary focus is on homebuilding, with many of our programmes focussed on site-based management staff, but we also offer programmes to the wider construction industry.

We are the largest provider of construction management NVQs in the UK. We also offer our own site manager accreditation programme which combines assessment of management and technical competence with a check on quality of work on site and an assessment of commitment to continuing professional development. Accreditation is renewable every three years and is dependant on managers continuing to deliver acceptable site quality and continuing to update their skills and knowledge.

In addition to our qualification/accreditation programmes we deliver approximately 1,150 days training per year. This provides around 12,000 person days training. Subjects include management skills, personal skills, technical knowledge and health and safety.

The availability of skills within the housebuilding industry was addressed in Professor Michael Ball's investigation and report for the Home Builders Federation (HBF)—*The Labour Needs of Extra Housing Output: Can the House Building Industry Cope?* One of the report's conclusions was that, while training issues are important in the expansion of house building, it can be concluded that skills shortages are unlikely to represent a barrier to expansion of the house building industry. ConstructionSkills in its 2004 report "Skills Needs Analysis for Construction" estimated that the construction industry as a whole needs to recruit and train 88,000 entrants per year for the next five years (based on the "most likely" growth figure of 2.3% per year).

From our experience providing training services within the industry, NHBC believes that there has been substantial improvement in the last 10 years in investment and training. We have seen greater recognition in the industry that skills development rather than "hire and fire" does have a contribution to make to business success. The Major Contractors' Group and, more latterly, the Major Home Builders' Group's commitment to the Qualified Workforce initiative is further indication of this improvement.

The current structure in homebuilding (and in areas of general construction), with largely sub-contracted labour, puts a lot of responsibility for quality control on the site manager or site management team. For this reason much of NHBC's training provision is aimed at assistant site managers, site managers, project managers and contracts/construction managers. Competence requirements for site management staff can be divided into two broad areas—technical and managerial.

Historically technical competence was less demanding with construction methods for low-rise housing changing only slowly over time. More recently, and for the foreseeable future, there is a real need for managers to keep abreast of technical developments around the move towards greater use of Modern Methods of Construction (MMC), technical issues surrounding the sustainability agenda and the move to more high-rise apartments and mixed-use developments employing more complex and/or "commercial" methods of construction. It is very difficult to quality control methods of construction which are not fully understood. Structured training programmes are required to ensure managers are competent in the methods of construction they are overseeing. Work done by the HBF, concerning the increased use of MMC, in a response to the Barker Report also highlighted this need.

Equally important to site management staff are managerial competencies. The site or project manager role is complex and is becoming increasingly so with more apartments, more mixed-use developments and higher densities.

STANDARDS AND QUALITY

NHBC makes a considerable investment in the NHBC Standards, the key on-site reference text for new home construction which NHBC's Registered builders—currently numbering more than 20,000—agree to build in accordance with. These are updated continually and republished annually to reflect changing trends in housing construction which NHBC establishes through experience of problems arising both during and in the 10 years after construction.

Possibly the best example of how Standards can help to reduce problems for homeowners is that of "fill failure"—the settlement of the fill placed under ground-bearing floor slabs. Up to the early eighties there were significant failures and claims against the NHBC warranty due to fills containing unacceptable materials (timber, plasterboard, etc) and the fill not being properly compacted.

In 1982 NHBC introduced restrictions on the types of material suitable for use as fill and a requirement that the depth of fill should not exceed 600mm, as beyond this depth it is difficult to achieve satisfactory compaction. These changes encouraged more attention to be paid in this area and a transition by many builders towards the use of suspended floors instead of concrete ground-bearing floors, which avoids the problem altogether.

As housing technology advances, NHBC increasingly tries to be pre-emptive with the Standards—developing appropriate requirements and guidance before problems occur. Recent examples include:

- Light gauge steel frame housing—a new Standard was introduced in 2005 to cover this technology, which is rapidly establishing itself as the third most significant form of construction.
- Curtain walling and cladding—Standards Chapter 6.9, also introduced in 2005, is especially relevant for the growing number of high-rise buildings under NHBC cover. The Chapter encourages the specification of systems that have been appropriately tested and introduced guidance on how interfaces between systems should be dealt with to avoid the problems sometimes encountered where these systems have been used in the commercial sector.
- The April 2007 edition includes a revised specification for flat roof coverings—it restricts the specification for acceptable materials to those which offer enhanced durability and responds to the sustainability agenda by including specifications for “green roofs”.

RESEARCH AND DEVELOPMENT

Two of the key challenges which the industry faces at present are developing new methods of construction and working to improve the environmental efficiency of new buildings. NHBC invests in research, innovation and delivering industry solutions through the NHBC Foundation and National Centre for Excellence in Housing.

The NHBC Foundation was set up in 2006 to address the “information gap” in the industry on a variety of topics. Chaired by former housing minister, Rt Hon Nick Raynsford MP, the Foundation has dedicated itself to a programme of pragmatic, delivery-based research of relevance to the industry. Its inaugural project delivered a web-based resource tool on Modern Methods of Construction (MMC) and subsequently it has delivered a research document offering a detailed guide to MMC and most recently the first in a programme of research dedicated to the sustainability and zero carbon agenda. The latest finding focuses on reducing the consumption of energy and water and minimising waste. Throughout 2007 it will also be delivering research on renewable energy systems, site waste and other topics of relevance to the sustainability and zero carbon agenda.

The National Centre for Excellence in Housing, is also chaired by Rt Hon Nick Raynsford MP. The Centre, also independent, arose from considerable interest and support for a body with a wider function and a significantly wider remit. The Centre is focusing on enabling and inspiring excellence and improved standards in new and existing housing.

The Centre brings together stakeholders and interested parties to develop policy solutions to issues faced by the industry. The Centre is also currently focused on the sustainability agenda and in May 2007 is hosting a series of focus group events specifically tasked to the zero carbon home target.

NHBC Standards also play an important role. They are reviewed to take account of changes in materials and construction methods and require that new systems and materials be adequately tested and accredited. NHBC also carries out its own research to ensure it is best addressing the issues posed by changes in the industry and works in conjunction with Government on relevant projects. Currently NHBC is working on the joint Department of Trade and Industry/Building Research Establishment (BRE) project developing certification systems for renewable energy systems.

In addition NHBC Technical is carrying out its own review of renewable technology to deliver best practice guidance and information to the new home building industry. NHBC’s Building Control Services department acts as a specialist advisor to Parliament on Building Regulations and regulatory reform and change.

SUSTAINABILITY AND CARBON NEUTRAL AGENDA

NHBC is ideally placed to represent the views and concerns of both the industry and the consumer on sustainability and the zero carbon homes objective. NHBC has specialist understanding of and involvement in the technical aspects of house building as well as unique knowledge of consumer protection issues through its Buildmark warranty.

NHBC supports the sustainability agenda and we are supportive of the Government’s objective to achieve carbon neutral homes. However, NHBC has raised some concerns about the implementation of this policy within the industry. These concerns focus on:

1. Consumer: Ensuring the protection of the consumer.
2. Science: Sound solutions based on credible science.
3. Reputation: Ensuring consumer support and backing of the objectives.
4. Implementation: Need for nationally applied consistent standards.
5. Partnership: Ensuring industry, Government and Stakeholders work together.

Consumer protection must be placed at the forefront of technological advances. We strongly believe that consumers must not be exposed to unnecessary risks and used to trial zero-carbon technologies and systems that have not undergone thorough testing and accreditation. There is currently a dearth of tested and certificated microgeneration technologies and systems. Asking consumers to pay for and maintain products and systems that are not reliable or fail to deliver the claimed benefits is inappropriate and could have damaging repercussions. There are also important lessons for us to learn from the past and from around the world.

In British Columbia a massive failure of new homes due to water penetration, rotting and eventual failure of inadequately designed and constructed timber frame housing systems affected up to 10,000 homes, in a market roughly the size of Scotland. The total cost to the British Columbian economy was between two and five billion Canadian dollars. The British Columbian warranty programme failed, many homebuyers faced considerable hardship and the housebuilding industry was seriously affected for a number of years.

Similar failures experienced in New Zealand and the USA illustrate that change must be well thought through, well managed, and the risks identified and eliminated to avoid causing great distress and cost to home buyers.

NHBC has significant concerns about the role of planning in raising environmental standards. Evidence suggests that there is growing competition between planning authorities setting increasingly tough, and sometimes ill thought out, targets in their planning guidance. Given that climate change is a national and international issue, we would question the logic of competing local targets being set—it makes more sense to have one national target.

The fact that planning authorities have different targets causes problems for architects and designers (often SMEs), designing homes in more than one planning authority area. Differing targets are also a challenge for house builders and are likely to reduce their efficiency, reduce economies of scale and increase the potential for defects to occur, as well as having implications for achieving the output of new housing proposed in the Barker review.

Based on the evidence we have seen, we would question the ability of the professionals working in planning authorities, especially smaller authorities, to deal with the technical aspects of sustainability. There is no doubt that building control professionals are able to deal with these complex issues. We are strongly of the view that most of these, with the exception of spatial issues, should be dealt with through building regulations.

Taking a national view, it would appear that each extra pound spent on further improving new housing may be better spent elsewhere, eg improving the existing stock. Instruments that allow offsetting in this way should be explored fully.

Therefore, NHBC's policy supporting the industry on sustainability includes:

1. Standards: Through NHBC Standards, which more than 20,000 builders apply across the industry, NHBC will continue to work to raise standards and ensure that quality sustainable homes are built.
2. Consumer protection: NHBC is working to protect the consumer by ensuring new technology is thoroughly tested.
3. Science: NHBC is investing in research and development through the NHBC Foundation and National Centre for Excellence in Housing.
4. Partnership: NHBC is working with the Government, Parliament and industry to help achieve carbon neutral homes.

4 May 2006

Memorandum submitted by the National Specialist Contractors Council

1. Please find attached a submission from the National Specialist Contractors Council (NSCC), the umbrella organisation representing Specialist Building Contractors operating in the UK Construction Industry. It is these trade contractors that employ and train the construction workforce and carry out the majority of construction work on site. NSCC represents 29 specialist trade organisations which collectively represent almost 8000 Specialist Contractors. The 29 specialist trade organisations are at the end of the submission.

2. The NSCC submission covers three key issues:
 - A. Payment Practices in the UK Construction Industry.
 - B. Integration of the supply chain.
 - C. Skills in the Specialist Sectors.

3.A PAYMENT PRACTICES IN THE UK CONSTRUCTION INDUSTRY

(a) There is a deep-seated culture among main contractors of delaying, reducing or simply avoiding payment to their sub-contractors.

(b) This culture is driven by their business models as cash managers which in turn are driven by the procurement process in the industry; this is outdated and does not recognise the structural changes of the last 30 years.

(c) Main contractors enjoy a degree of dominance and power which is no longer merited by their contribution to and investment in the construction process.

(d) In the modern construction industry it is Specialist Contractors who are the real engines of change. They are major investors, employing the majority of the skilled workforce, training most of the apprentices, investing in plant, process improvements and manufacturing facilities, driving research and development, and implementing the improvements in health and safety which everybody wants to see. Most of these businesses are Small Medium Enterprises (SMEs) with a desire to grow and improve; they cannot do this effectively if they are starved of cash. It is a sad but unavoidable fact that when a business is starved of cash, the first things to suffer are training, R & D and investment in both new staff and equipment.

(e) The development of the industry depends to a large extent on the investment, commitment and ingenuity of the thousands of SMEs that make up the specialist sector. Improving their certainty of timely and correct payment can only help to boost their contribution.

(f) Real improvement will only come through a change in culture in the industry—this needs to be brought about by a combination of coercion and encouragement.

(g) Legislation is a necessary first step. The current position is simply too easy to exploit. History shows us that voluntary reform is at best slow and at worst non-existent:

- The DTI proposals for amending the Construction Act (in principle) should be adopted as they will create greater clarity as to how much is owed to whom and when it is payable. This will allow payees (of all tiers, not just first line sub-contractors) to use the remedies of adjudication and suspension more readily when they are being unfairly treated. Whilst a Fair Payment Charter has been introduced by OCG, the Construction Act is the underpinning legislation.

(h) Clients also need to provide a more positive incentive to encourage cultural change. In principle:

- Contractors should be given a realistic chance of enhancing profits through good performance.
- Clients should recognise the reality of the amount of risk that a contractor can sensibly take with a profit margin of 1–3%.
- The supply chain should be “flattened” to encourage greater collaboration between key suppliers/sub-contractors, contractors, consultants and clients. This can be done through formal “partnering” but can be equally effective if the client leads the process and uses it as a tool for ensuring best practice.

(i) The Fair Payment Charter adopted by the Public Sector Construction Clients’ Form (PSCCF) must be implemented and enforced from 1 January 2008:

- Public sector clients should be asked to publicly affirm their adoption of the Charter throughout the supply chain.
- Main contractors and others in the supply chain that do not implement the Charter must be called to account and precluded from future public sector contracts.
- Public sector contracts should consider allowing a profit margin to contractors greater than the 2.5% which is currently typical.
- Public sector clients should play a more active role in the project management, in particular more regular communication with the supply chain. Greater transparency across the tiers promotes trust and understanding, which are prerequisites for any meaningful performance improvements.

(j) A fundamental issue in relation to payment practices is the continued practice of withholding a retention from Specialist Contractors within the supply chain. Retention is a contractual mechanism whereby a proportion of all payments made to a main contractor is held back by the employer or client until expiry of the defects liability period of the main contract (usually 12 months after the completion of a project). In turn the main contractor holds a retention (usually between 3–5%) against his specialist trade contractors (often referred to as sub-contractors). This results in a substantial amount of money withheld from subcontractors at any one time.

(k) The first half of the retention is usually paid to the subcontractor upon practical completion of the subcontract, ie when he has completed his element of the works. The second half is retained until issue of the final certificate or making good defects certificate, usually 12 months after the practical completion of the whole project. For subcontractors who carry out work early on in the project, eg piling, this can involve a wait of some considerable time (years on many projects).

(l) On many occasions retention monies are not automatically released to Specialist Contractors even when due. A substantial amount of monies continues to be withheld and can be extremely difficult to retrieve. A recent NSCC survey into payment practices in the construction industry demonstrated that £950 million is withheld from Specialist Contractors in retention monies; yet only 27% of contractors are ever requested to return and rectify defects.

(m) A Trade & Industry Committee published a report into the practice of retentions in 2002 and stated:
“Given the doubtful benefits and the clear disadvantages of retentions, it would obviously be in everyone’s interest for such an inefficient—and frequently harmful practice to disappear”.

(n) Despite the Select Committee report and the alternatives to retentions that are available, ie retention bonds, retentions are prevalent within the industry and Specialist Contractors continue to suffer cash flow problems that frequently result in the demise of long serving contractors.

(o) The very existence of retentions within the construction industry has a huge impact upon NSCC members, Specialist Contractors within the construction industry, the majority of whom are small and medium sized enterprises (SMEs) and the practice of cash retentions should be eliminated throughout the supply chain.

(p) The PSCCF Fair Payment Charter requires retention practices to be mirrored through the supply chain; as the majority of public sector clients do not withhold a cash retention, enforcement of the Charter would go some way to achieving the elimination of cash retentions.

4.B INTEGRATION OF THE SUPPLY CHAIN

(a) Many of the payment issues within the construction industry arise due to a lack of trust between the various parts of the supply chain, which in turn is a result of a lack of involvement from the supply chain.

(b) Specialist Contractors are the main source of technical expertise within the industry yet are still appointed too late to contribute to the design and development stage of a project therefore missing the opportunity to input their knowledge and skills and improve the construction process in terms of process, quality and cost.

(c) The industry, in Accelerating Change, has set a target of 50% of projects being carried out by integrated teams by the end of 2007. Due to a lack of engagement by clients and main contractors this target will not be achieved and a great opportunity for the public sector to realise substantial savings is being missed, and the best practice, usually learned from the public sector making improvements, is not being transferred throughout the industry.

(d) If the construction industry and its clients wish to see a real improvement in efficiency, quality and costs then the early involvement of the specialist trade contractors and the integration of the entire supply chain must be implemented as standard practice.

(e) Central government has pledged that integrated teams are the preferred method of working and this should be enforced wherever public funds are used for construction projects.

5.C SKILLS IN THE SPECIALIST SECTOR

(a) Specialist trade contractors are the main employers of the skilled construction workforce and with support from ConstructionSkills, investment in training in the specialist sector is at long last increasing. However more still needs to be done.

(b) Specialist apprenticeships are being developed in some of the specialist trades yet as these do not follow the traditional apprentice route, due to the more focused skill base required, funding has to be arranged on a case by case basis.

(c) There is a shortage of specialist assessors for many trades; this is due to a variety of reasons one of which is the lack of investment in the assessor infrastructure. NSCC is encouraging the training of specialist assessors and currently has to apply for funding for each sector to train a sufficient number of assessors. This issue is seriously inhibiting the progress towards achieving a fully qualified workforce by 2010.

(d) A barrier to many Specialist Contractors taking on trainees or apprentices is the lack of forward orders, the industry still looks very short term yet an apprentice or trainee requires a long term investment which many SME employers find difficult to commit to. Clients in both the public and private sectors can help to overcome this problem by working more closely with their supply chains to plan work over the coming years. Integrated supply chains give Specialist Contractors the confidence to invest long term in the training of their workforce.

(e) The NSCC is working towards achieving a fully qualified workforce by 2010. Clients in the public and private sectors have committed to using contractors that hold CSCS carded workforces, yet this is still not happening in practice, which is causing consternation amongst the Specialist Contractors that have invested in qualifying their workforces.

6. The UK construction industry is responsible for 9% of the GDP with a turnover of £114 billion, and is the employer of almost 3 million people. It is an asset to this country and is capable of contributing even more if the industry supply chain is provided with the opportunity to deliver workmanship of the highest quality. 90% of construction work is carried out by the supply chain, the organisations and people we represent. Without Specialist Contractors the industry would not be capable of delivering the buildings and infrastructure society requires to function. It is vital that every part of this substantial industry is provided with a business environment that enables it to grow, develop and deliver.

NSCC MEMBER ORGANISATIONS

ACIFC	Association of Concrete Industrial Flooring Contractors
AIS	Association of Interior Specialists
ASA	Association of Sealant Applicators Ltd
ASFP	Association for Specialist Fire Protection
ATLAS	Association of Technical Lightning & Access Specialists
BBSA	British Blind and Shutter Association
BDA	British Drilling Association
CFA	Contract Flooring Association
DSA	Drilling and Sawing Association
FASET	Fall Arrest Safety Equipment Training
FBSC	Federation of Building Specialist Contractors
FeRFA	Resin Flooring Association
FPS	Federation of Piling Specialists
FRA	Flat Roofing Alliance
GGF	Glass and Glazing Federation
INCA	Insulated Render & Cladding Association
MAC	Mastic Asphalt Council
NASC	National Access & Scaffolding Confederation
NFRC	The National Federation of Roofing Contractors Ltd
NFTMMS	National Federation of Terrazzo Marble & Mosaic Specialists
PDA	Painting and Decorating Association
RIDBA	Rural & Industrial Design & Building Association
SAEMA	Specialist Access Engineering and Maintenance Association
SAPCA	Sports and Play Construction Association
SFGB	Stone Federation Great Britain
SMWBA	Scottish Master Wrights and Builders Association
SPRA	Single Ply Roofing Association
SWA	Steel Window Association
TTA	The Tile Association

May 2007

Supplementary evidence submitted by the NSCC

SELECT COMMITTEE INQUIRY INTO THE CONSTRUCTION INDUSTRY

1. CLIENT DRIVERS FOR USING INTEGRATED SUPPLY CHAINS

Q354 Mr Weir: *It does not sound to me like there is an awful lot of drivers for anybody to actually push this forward in any way, the contractors or the clients, from your explanations*

The majority of clients do not understand that the industry operates in such a fragmented manner and they presume that when talking to their preferred main contractor that he will bring a “team” with him and will advise his client on issues such as a project bank account if they were appropriate. This does not happen as the tier 1 or main contractor (for reasons outlined during our evidence session) has his own reasons for not implementing an integrated team and a project bank account does not benefit him directly he is unlikely to recommend its use.

We believe that as the majority of clients are unaware of how beneficial a transparent payment process is and that by reducing disputes over payments which ultimately lead to delays, overruns in programme and budget, they and their project will benefit.

Essentially if clients really want their project to meet their expectations in terms of quality, performance and construction programme, they need to ensure that members of the supply chain (those that actually build the project) are paid for the work carried out when they should be. Many clients do not recognise that it is the supply chain that carries out the actual construction work, are not made aware of this by their main contractor and are not equipped to, or have no wish to, get involved in supply chain management.

However, the implementation of a project bank account is a good way for the client to facilitate a fair payment procedure. Payments are transparent which means it can easily be seen if a particular contractor has been paid for his work or if the fact that he has not been paid is actually causing a delay or dispute. The real issue is that the industry has not yet demonstrated visibly to clients that by establishing a project bank account the client is better able to manage their project. This work is in progress and we are confident that the very real and tangible savings realised by the use of project bank accounts will be demonstrated, showing that they result in a better value project which is on programme and on budget.

Some case studies of how poor integration can lead to problems are detailed below.

Case Study 1—Incomplete design

A main contractor took on a project at a guaranteed maximum price (GMP) with an incomplete design and proceeded to subcontract out the specialist work packages on a similar basis.

The piling contractor gave a GMP based on a fixed scope of work. The piling contractor then prepared the foundations design based on building loads provided by the Consulting Engineer but was unable to get value engineering proposals agreed through lack of time.

One week into the piling work construction drawings were issued by the Consulting Engineer which showed a 30% increase in the loading of the building. The piling contractors GMP was no longer applicable as the design had changed requiring an increase in materials and labour leading to a cost escalation of 30% in the piling package and a substantial increase in programme as the work would now take longer.

As a result of design changes across the project similar increases affected the majority of the specialist trade contractors on the job with varying implications depending upon the work to be carried out.

The piling contract was originally £7.5 million; a 30% increase is £2.5 million. Now multiply that across the project and add in the increased programme time required in all areas

Case Study 2—Misunderstanding of Specification and Prices

A steelwork/cladding contractor tendered for a contract to erect the steelwork and fix the cladding. The total package was priced at £150,000. The client looked at the two elements of work separately and compared the price to other tenders submitted. The client liked the cladding price from the original contractor but thought the steelwork package too expensive so he let the packages separately.

The steelwork was erected by another contractor who completed his work and handed it over to the main contractor. The cladding contractor arrived on site to fix the cladding and asked when the purlins for fixing the cladding to would be attached to the steelwork.

The client in his drive for lowest cost had compared the steel and cladding contractor price for the steelwork with other tenders without looking at the specification or asking some critical questions. The original £150,000 quoted was for the complete package with the purlins included in the steelwork. The other tendering contractors had quoted for stand alone steelwork with no purlins, so their prices, when compared, were lower.

The purlins had to be retro-fitted to the now erected steelwork resulting in the steelwork and cladding costing in excess of the original £150,000 quoted. In addition the work:

- exposed workers to unnecessary work at height;
- required welding on site;
- increased the programme time;
- gave a lower quality finish making the fixing of the cladding more difficult and time consuming;
- incurred storage costs of the cladding; and
- increased the impact on the environment as the cladding was transported to two different locations rather than straight to site.

Understanding the tender pricing at the beginning would have eliminated all of these extra risks; at the very least holding a meeting between the appointed steelwork and cladding contractors would have identified the missing purlins up front and the problem solved at design stage eliminating the extra risks and costs incurred.

Case Study 3—Attempting to Cut Costs

A contractor was requested to lay expensive terrazzo flooring and as part of the specification the terrazzo contractor required 150mm depth of isocrete on which to lay the terrazzo. Another contractor was appointed by the main contractor to provide the isocrete; no interface between these two contractors was facilitated.

Shortly after the terrazzo was laid it began to “fail”. Water began to seep through the terrazzo and pushing up the joints causing an uneven floor surface. The specialist terrazzo contractor was called back to site and investigated the reasons for the floor failures. They appointed an independent surveyor to take core drilling samples of the floor. The main contractor stated that 40mm core samples would be sufficient but the terrazzo contractor requested 150mm core samples. The samples showed only 40mm of isocrete and then 90mm of latex underneath and not the 150mm isocrete that was within the terrazzo contractor’s specification.

Further investigations identified that the main contractor had changed the specification to save money without understanding the implication of amending the specification and without consulting the terrazzo contractor. The expensive terrazzo had to be lifted, the 40mm isocrete and 90mm latex removed and the complete job redone.

Case Study 4—Ignoring Specialist Advice

A major infrastructure client required over 1 million m² of tiling and spent substantial sums on identifying the tiles they wished to use. The design team selected and then specified the tiles to use on the entire project. The tiles were expensive, £90/m² and made by hand using an “old fashioned” method.

A number of specialist tiling contractors were approached for the project as it was a “big job”. On learning of the tiles specified the majority of the contractors said they were unsuitable for the purpose, would not fix effectively to the curved surface as required and would not be suitable for the wear and tear likely to be experienced. The client and architect chose to ignore the advice given by the specialist tiling contractors and retained the specification of the selected tiles.

The contractors fixing the tiles raised the same problems with the main contractor and the client stating that they were not fit for purpose. The contractors were instructed to continue with the selected tiles. The tiles continued to fail and the client and architect are now reviewing their continued usage for the remainder of the project and it may be necessary to remove all the tiles already fixed.

2. RETENTIONS

Q367 to Q374 relate to the issue of retentions and a number of responses were made which are not quite correct in respect of NSCC Specialist Contractors.

In many cases NSCC Specialist Contractors do not employ sub-contractors so any withheld retention and the cost of financing that retention is actually borne by them; there is no one to pass it on to (and if there is they are likely to be even smaller SME’s that are even less able to bear the cost). This means that it is the contractors that NSCC represents that have the 2.5%–5% retention withheld from them for a period of up to one year after the project completion date.

In order to demonstrate our commitment to the removal of retentions, the JCT (Joint Contracts Tribunal) sub sub-contract (the only contract which NSCC can change without agreement of main contractors) does not contain a retentions clause.

3. IMPLEMENTATION OF CSCS

At paragraph 5c(e) the NSCC evidence states: The NSCC is working towards achieving a fully qualified workforce by 2010. Clients in the public and private sectors have committed to using contractors that hold CSCS carded workforces, yet this is still not happening in practice, which is causing consternation amongst the Specialist Contractors that have invested in qualifying their workforces.

Q367 to Q374 are questions from Mr Lindsay Hoyle MP on this statement and the following is relevant supplementary information.

- The number of CSCS cards obtained by workers is constantly increasing with over one million CSCS cards issued to date.
- Specialist contracting companies are committed to obtaining CSCS cards for their workforce and many now have a fully carded workforce.
- Members of the Major Contractors Group (MCG) have publicly committed to a fully qualified workforce and regularly carry out audits on their sites.
- The Office of Government Commerce (OGC) has published common minimum standards which state: Clients are to include a contract clause requiring that all members of their supply teams who are workers on or regular visitors to a construction site are registered on the Construction Skills Certification Scheme (CSCS) or are able to prove competence in some other appropriate way.

All of this clearly demonstrates a commitment from all parts of the industry to CSCS.

However, the commitments made by some clients and contractors are not actually being followed through. Contractors that have not committed to CSCS, or are not obtaining CSCS cards are still invited to tender for projects, and are then awarded contracts on private and public sector funded projects. Workers are allowed onto sites without a CSCS card or with inappropriate cards (ie a card that does not reflect their actual occupation) even where it is a contractual requirement for all workers to hold CSCS cards. This frustrates Specialist Contractors that have expended (often substantial) resources to achieve a qualified workforce when they see contracts awarded to 'lowest price' contractors that do not meet the stated criteria ie a CSCS carded workforce.

15 January 2008

Memorandum submitted by New Civil Engineer

THE UK CONSTRUCTION INDUSTRY

The UK construction industry is world renowned for having design and construction capabilities of the highest standard. Senior engineers interviewed in NCE's SWOT analysis identified this as being one of the country's major strengths and evidence supports this. UK firms, particularly consultants, are working all over the world where their advanced design and management skills are in high demand. In the United Arab Emirates for example, UK firms dominate the booming construction market.

The use of long-term frameworks, partnering PPP and PFI have all given the UK industry greater stability in predicting forward workloads, which has been a massive benefit to construction. It prevents the boom and bust cycle where staff are hired and fired according to the winning and losing of projects and therefore gives greater certainty to both employees and shareholders.

That the construction industry is capable of delivering the UK's forward work programme is a foregone conclusion but there are issues that are hampering growth, pushing up costs and forcing individuals to look to other sectors for work. These are areas that NCE has extensively analysed and a summary is provided here.

SKILLS

There is no doubt that the booming construction industry is impacting on the development and training of staff. There is a constant pressure for firms to balance having staff on fee earning work, and ensuring they are receiving adequate training and personal development. The simple fact is that training staff doesn't earn fees so training is suffering and will continue to do so as workloads increase. This was identified as a key industry weakness in NCE's SWOT analysis. Many engineers have told us of their frustration with spending all office hours on the job only to have to work long into the night on their individual training, particularly those seeking chartership.

On the plus side engineers are highly skilled, intelligent and technically brilliant people (mostly!) and generally go into the profession because they love construction. In NCE's reader survey of 500 civil engineers 25% said they were doing their dream job.

However, the relatively low pay for such highly skilled role is forcing these professionals to look for new jobs outside the industry. Engineers are highly attractive to other sectors due to their high numeracy coupled with advanced problem-solving skills, making them highly sought after. A major risk to construction is that firms won't recognise and reward talent and therefore staff will leave. NCE's survey found that 46% of civil engineers are looking for new jobs.

Other NCE research has found that there are not enough 28-35 year old engineers with project management expertise to run UK projects. Consultants and contractors say these are the people that they need and they are willing to pay more for them. Everyone wants to hire the same people and competition is fierce.

This is particularly a problem for the Highways Agency which has been told by Mike Nichols in the Treasury commissioned report into the Agency's delivery capabilities to hire more project managers with commercial experience. The Agency's lack of commercial know-how was identified as a major problem to them in controlling costs as I am sure you will hear from other submissions.

Unfortunately there are not enough of these project managers to go around, and engineers are typically a modest bunch so perhaps don't know their worth. Many engineers remain with the same company for the majority of their careers. NCE's research shows that it is variety of work, rather than salary that is the main driver for construction professionals. The good news is that with so much variety in the UK at the moment the country is less likely to lose staff to overseas markets. Anecdotal evidence suggests that this is a problem for UK firms looking to grow internationally, many engineers are reluctant to move, and there is plenty of work here to keep everyone busy.

PROCUREMENT

The cost of winning work is a real frustration for most firms and is putting companies off bidding for jobs. Both contractors and consultants have told NCE that they will only bid for projects they are certain to win and if competitors look stronger they will walk away because of the prohibitive bid costs. This is obviously damaging as there is then less competition and the client has less choice and may end up paying.

New procurement techniques are being introduced and in some cases used inappropriately. Competitive dialogue enables clients to tailor their contract and project specifications to fit the team that are going to win the work but it is intended for complex jobs where the scope of work is yet to be defined and there are lots of options for how it might be undertaken. Unfortunately some clients, particularly local authorities are using it inappropriately for straight forward projects like highways maintenance.

It is a problem because competitive dialogue requires a lot of investment of time from both the bidders and the clients, all of whom have to spend hours, days and even weeks, carrying out workshops, role plays, setting tests and having one-to-ones with potential project team members. It is expensive high level time and pushes up the bid costs.

In the case of a simple maintenance job contractors say that this is overkill and I would agree. The purpose of competitive dialogue is to enable the client to draw up the scope of work with the bidder and to help them establish the best solution and the best team to deliver it. For highways maintenance the solution is pretty clear, maintain the roads. But for managing the Olympics or managing decommissioning of the UK's nuclear legacy, competitive dialogue is clearly appropriate as the scope of work is enormous.

The Olympic stadium is a good example of projects where contractors refused to bid. It is a high-risk project because of the associated publicity. The Wembley Stadium debacle, where it cost several millions pounds more than planned means all eyes are on this job to make sure the same doesn't happen again here. There were no shortage of designers willing to do the job but contractors were giving it a wide berth. In the end the ODA made a quick decision and went straight for the Sir Robert McAlpine team that had demonstrated it could do the job on time and within budget on the Emirates Stadium. Consultants complained that it wasn't fair but they would have complained more had they been through an expensive design competition and then lost because the McAlpine team were always going to win because of their track record on Arsenal's ground.

SWOT ANALYSIS

This section is pretty self-explanatory and demonstrates that the biggest challenge for major project delivery is getting the right people and coming up with realistic costs estimates so that budgets are not consistently exceeded—again something the Highways Agency is battling with.

LOCAL GOVERNMENT

High profile cost escalations on local authority projects prompted NCE to investigate why and what is going wrong. Engineers were pretty much unanimous in their view that politics and construction can be a difficult combination. They told NCE that projects were defined and costs associated with them far too early to be realistic and politicians are then reluctant to admit the actual project cost until late in the day.

That is not to say the profession is blameless. In the case of the Scarborough coastal defence project, costs increased from the start because the ground investigation was inadequate. Although this was the decision of the consultant the council did not challenge this and the foundations for the scheme had to be changed. There is a consensus that local authorities, due to budgetary constraints, often do not have enough technical staff making it very difficult for them to run major civil projects. They may choose to pass this responsibility on to the consultant but unfortunately for them the risk of cost escalations remains with the local authority. And when this happens local authorities are not always able to challenge the costs, having been relatively "hands-off" during design and construction.

3 May 2007

Memorandum submitted by NG Bailey

EXECUTIVE SUMMARY

Construction is a key sector in the UK economy, providing not only significant employment and revenues but also delivering the infrastructure required for the economy as a whole to remain competitive.

This submission has three key recommendations:

1. The appointment of a dedicated Construction Industry Minister.
2. An increased focus at Government and Industry level upon recruitment and training.

3. Increased commitment to modern methods of construction and sustainability.

1. *The appointment of a dedicated Construction Industry Minister*

The Construction Industry is strategically key to the UK economy. Not only does the industry create significant wealth (8.2% of Gross Value Added; source: DTI) and employ more people than the financial services industry (source: ONS), it also develops the infrastructure (roads, rail, commercial and industrial property, hospitals and education establishments) that enables the wider economy to function and remain competitive. Yet the industry is the most fragmented of all major UK industries, with an abundance of very small firms, and a poor reputation for quality and reliability despite some world leading design.

This fragmentation is matched by a multiplicity of disjointed industry bodies and the lack of a clear industry voice. With the potential dissolution of the DTI now imminent, there is a real threat of a strategic but weak sector of the economy losing what voice it has, and being without real leadership.

Yet the customers of the industry are not fragmented, as the government sector is easily the largest, with some 40–45% share of the total market. Yet the opportunity for joined-up thinking which this should represent is almost completely unrealised in practice. UK constructors face no common method of purchasing construction, no common designs, not even universal standards of design or specification. This even applies to departments which buy large numbers of potentially similar buildings such as schools, hospital wards and surgeries despite the known benefits of repeatable building patterns. Our performance in this regard is wholly at odds with that of France, for example, where standard designs are commonplace, and consequent cost savings are substantial. A DTI study on this has been carried out.

The global focus on the environment, including the UK Government's commitments under the Kyoto Protocol and the Energy White Paper, place further emphasis on the performance of the construction industry as the construction, operation and eventual de-commissioning of buildings contribute around 35% of carbon dioxide emissions in the UK (source: IPPC).

The UK construction industry is currently facing major skills shortages. The problem of insufficient recruitment and training is longstanding and has so far proved intractable to many recent governments. It is dealt with in item 2 below, and represents a long-term threat to the size and competitiveness of the UK construction industry.

Another competitive threat arises from the increasing amounts of construction work being manufactured offsite, ie, away from the construction site in dedicated factories. This move, which has occurred before in the last century, is again in the ascendant, partly driven by the shortage of site skills, and partly by other factors such as the drive for better quality, reduced accidents, and shorter programmes. An offsite factory can as easily be in the UK and abroad—which represents a global challenge to an industry which has long considered itself immune from international competition within the UK. It could also become a global opportunity if our nascent offsite industry can establish its self as a world leader.

Given the strategic importance of the industry, the recruitment and training issues, the fragmentation of the industry and the opportunity for the UK Government as its largest client, NG Bailey recommends the creation of the post of a dedicated Minister responsible for the Construction Industry. This will provide industry stakeholders with a single point of contact in government and provide the opportunity to ensure government policy focuses on improving the quality, reputation, competitiveness and environmental performance of the UK construction industry, with significant cost reduction if the opportunity for standard designs can be grasped.

2. *An increased focus at Government and Industry level upon recruitment and training*

The 2006 Construction Demand/Capacity study, carried out for the OGC by Deloitte and Experian noted skill shortages in key areas of the industry, and particularly mechanical and electrical engineering where global pressures in the wake of demands for better environmental performance in buildings is causing pressure in all national markets which we cannot overcome by cross border recruitment. A key cause is the perceived lack of attraction to our young people in the UK of a career in engineering. The IET, amongst other bodies, is attempting to garner a coalition of private and public sector bodies to address this. These skill shortages are a primary cause of the above inflation cost rises of new buildings which are being experienced by customers and may create a risk to the on-time completion of a number of strategic infrastructure projects.

NG Bailey recommends that the growing issue of skills shortages should be addressed through:

- (a) A commitment by the Construction Industry, with Government (ie DfES) support, to working closely with the careers services in secondary schools to educate children as young as 11 and 12 about the career options available and encourage them to consider a career in construction.
- (b) Enhanced focus on practical qualifications (NVQs) to ensure that school leavers are equipped to enter a trade, or apprenticeship, within the Construction Industry.
- (c) Increasing resources available to small and medium-sized employers, through an extension of LSC support, to them enable to enhance their ability to provide apprenticeships, and develop their in-house training capabilities.

3. *Increased commitment to better building performance and sustainability*

The continuing focus on sustainability, driven by legislation, popular demand and good business practice, has introduced new requirements on the construction value chain. The forthcoming requirement, under the EU Energy Performance in Buildings Directive, to give buildings energy labels similar to those on new fridges, will accelerate this.

There is an increasing awareness amongst clients and investors that initial construction costs are a small element of the total lifetime cost—financial and environmental—of the built environment; and for the industry to meet these changing requirements requires a focus on new methods of cost evaluation.

NG Bailey believes the government needs to be faster and firmer in defining ambitious medium-term performance targets; and in implementing structured long-term procurement frameworks for its own procurement which allow the required collaborative and innovative relationships to flourish. Such a planned approach to performance improvement will result in demonstrable reduced lifetime building costs and will contribute significantly to the Government's public emissions reduction targets.

May 2007

Memorandum submitted by Olympic Delivery Authority

BACKGROUND: THE OLYMPIC DELIVERY AUTHORITY

The Olympic Delivery Authority (ODA) was established by the London Olympic Games and Paralympic Games Act 2006 (the "Act") and officially came into operation on 1 April 2006. The ODA is a statutory corporation and an executive non-departmental public body (NDPB) accountable to the Secretary of State for Culture, Media and Sport (who must consult with the Mayor of London on a number of key issues). For National Accounts purposes, the ODA is classified to the central government sector.

Section 4 of the Act sets out the functions of the ODA, which are to do anything necessary for the "purpose of:

- preparing for the London Olympics;
- making arrangements in preparation for or in connection with the use or management before, during or after the Games of premises and facilities acquired, constructed or adapted in preparation for the Games; or
- ensuring that adequate arrangements are made for the provision, management and control of facilities for transport in connection with the London Olympics".

In exercising its functions, the ODA must have regard to:

- the "desirability, wherever relevant, of maximising the benefits that may be derived after the Games from its preparation, whilst contributing to sustainable development";
- safety of individuals participating in or attending the Games; and
- security of property.

The ODA is led by the ODA Chair (John Armit has been newly appointed to this position and will commence his position on the 1 September 2007. In the interim period Sir Roy McNulty will continue as acting Chair) and 13-strong Board with members selected by the Secretary of State for their wide-ranging expertise. The Chair is responsible to the Secretary of State for ensuring the ODA fulfils its objectives, discharges its statutory duties, operates within the limits of its authority and observes high standards of corporate governance and financial control.

THE OLYMPIC CHALLENGE

The Olympic Challenge for the ODA is to deliver a multi venue site against a fixed time. The size and complexity of this construction project, the concentration of much of this development in one particular area in east London, and the fixed time for delivery has never been experienced before in this country.

The site consists of engineered land, some of it contaminated, interwoven with major infrastructure—railways, sewers, powerlines, and roads. Developing this site in a way that provides not only for a great Olympic Games and Paralympic Games in 2012, but also for the regeneration of a key growth area in London Thames Gateway, is challenging but achievable.

CRITICAL SUCCESS FACTORS ON CONSTRUCTION PROJECTS

Each construction project is by definition very different, but we believe there are common success factors which include:

- robust planning at the earliest stage;
- effective review structures;
- strong contractual and procurement frameworks;
- creating an environment of delivery with a strong focus on health and safety; and
- successful partnership working.

Robust planning at the earliest stage

Effective and robust planning within a project is a fundamental requirement, especially given any project of scale and complexity. A successful project sees planning involved in all strands of the delivery body, and should be focused on providing information that can direct and control the project. This should aim to be the basis upon which progress can be accurately reviewed.

The fundamental requirement of the ODA's programme plan is to deliver the venues and infrastructure for the London 2012 Olympic Games and Paralympic Games against the immovable end date.

Robust planning is very much in the "DNA" of the ODA, and this is epitomised by the decision to revise the Bid Masterplan in order to deliver against a programme that maximised the Games experience, and which also laid the foundation for the sustainable legacy use of the Park and venues.

The outline planning permission for the Olympic Park and Venues Masterplan was secured in 2004. This Masterplan set out the main locations for the various venues and boundaries of the Park. Since January 2006, the ODA (in interim and then fully established status) undertook a thorough process of revalidating and reviewing the Olympic Park Masterplan to ensure it could deliver the best possible Games and legacy.

A revised Masterplan was published in the summer of 2006 that provided a more compact and secure site, and one better integrated with the neighbouring Stratford City development. Achieving this within a year of the successful announcement in Singapore and six years out from the Games was a key building block for the project, and allowed the project to move to its next stage of development from site design to venue and infrastructure design, alongside securing the necessary planning permissions.

Effective review structures

It is vital that the project structures contain effective "checks and balances" that encourage audit and review of project performance throughout its duration.

At the heart of the ODA's delivery process is a system of "checks and balances" that will take the project through to completion. The combination of internal review and audit, alongside external scrutiny, provides a robust framework of examination that the project requires and benefits from.

The ODA has developed a comprehensive framework of internal control that gives assurance to the Chief Executive and key stakeholders that the necessary level of control and challenge is in place to minimise risk to the programme. This includes the following:

1. OGC Gateway Process: The rigid implementation of the OGC Gateway Review process on all key projects gives additional assurance of readiness for progression to the next phases.
2. Risk Management Framework: This framework specifies how project risks are identified, managed and reported through the ODA; how project risks are escalated to programme level, and how strategic risks are incorporated.
3. Audit Programme: This programme complements the work undertaken by the project management team and the programme assurance function, which report to the Director of Finance & Corporate Services.
4. Executive Management Board: This consists of the Chief Executive, Executive team, and leading officials from the Delivery Partner, and provides strategic governance of the day to day running of the Authority.
5. ODA Board: (including the Finance, Audit and Risk committees of the Board).

Strong contractual and procurement frameworks

The seeds of project success or failure are often rooted in the contractual framework that binds all project participants. This framework needs to be balanced, clear, and fully understood by all. The genesis of any project success can often be identified in a contractual framework that is simple and distributes risk fairly. Complementing this, the procurement process adopted by the project must be effectively managed, address all factors in the project, be accessible and encourage contractors to tender.

The ODA's procurement policy outlines its approach to contractual relations, and defines its procurement principles and processes. In relation to contracts, it documents the ODA's intention to use New Engineering Contract Version 3 (NEC3) as this incorporates the partnering approach which the ODA is seeking, and which provides the necessary protection and incentives to both the ODA and its suppliers and deliverers.

Creating an environment of delivery with a strong focus on health and safety

A visible commitment to succeed that starts with the executive leadership and permeates throughout the project is important. This can be achieved by creating a team that is "fit for purpose" and is characterised by a clear and decisive decision making structure that delegates responsibility and authority appropriately across all project levels, exhibits excellent communication channels, and encourages people to make decisions.

Furthermore, the creation of an onsite environment that respects workers welfare will contribute to a motivated and productive workforce. Due care to the occupational health of the many thousands of workers involved in major construction projects is of paramount importance to any successful project.

Day-to-day management is provided by the Chief Executive (David Higgins), supported by a team of Directors, who together undertake the strategic planning of the ODA's delivery programme comprising land, venues & infrastructure and transport. Details of the Board and senior management structure are attached as an Annex to this memorandum.

The support of the London Development Agency (LDA) has been critical to this strategic planning. In the months following the Singapore announcement, the LDA was required to place time critical contracts for the undergrounding of the powerlines, and the remediation and demolition work needed for the site. These contracts have subsequently novated to the ODA, but the LDA team working on the acquisition of the Olympic Park land is integrated within the ODA offices in Canary Wharf.

The ODA Board and executive team possess significant experience in national and international construction and regeneration projects. Furthermore, CLM, the ODA's Delivery Partner (consisting of CH2M HILL, Laing O'Rourke and Mace) possesses considerable experience and expertise in major construction projects, including five previous Olympic Games, and the next summer and winter Games in Beijing and Vancouver respectively.

Employing a Delivery Partner enables the ODA to draw on the skill base of the CLM and bring experts into the project as required. CLM has world class expertise in management, construction, engineering and procurement which is essential in the delivery of a challenging and complex project such as this.

In relation to the onsite health and safety on the Olympic Park, The ODA's Design and Construction Health and Safety Standard outlines the ODA's desire to be a leader in environmental health and safety (EHS) management. The ODA's approach is to go beyond eliminating preventable illnesses, injuries, business losses and environmental harm due to unplanned events on the construction site. It extends to enhancing the wellbeing of all those involved in the work programme and achieving best practise in EHS performance.

Successful partnership working

Projects of notable scale and complexity generate a multi-partnership and multi-stakeholder environment. The success of sustained relationships, both internally and externally, through the lifetime of the project will go a long way to determining its success or failure. Effective partnership management within the project mitigates against conflict and project delay. Stakeholder management based around openness and accessibility will help build trust in the project.

The ODA acknowledges the comprehensive stakeholder matrix in which it needs to operate. Highly beneficial has been the decision for the ODA and London Organisation Committee for the Olympic Games and Paralympic Games (LOCOG) to co-locate. Previous games have experienced breakdowns in the relationship between the Delivery Authority and the Organising Committee, and some of this has been caused by a geographical distance between their respective headquarters. Not only are ODA and LOCOG co-located in the same building, they are approaching the delivery of the Games as a team, with officers from both organisations working side by side. This has encouraged an integrated approach to project delivery.

The ODA is also fully aware that delivery success will depend on the relationships it builds with key stakeholders, and in particular the relationships it builds with the construction industry. At the heart of the ODA's interface with business is the desire to work in partnership with industry to achieve the best solutions for securing the goods and services it requires.

The ODA has hosted a series of Industry Days that have addressed its approach to contract packaging, and emphasised its commitment to listen to the business community.

Dialogue with the industry is very important as the ODA moves to the next stage of the project and the programme of Industry Days provides a significant opportunity to explain its approach and listen to Industry's views.

ODA BOARD AND SENIOR MANAGEMENT TEAM

BOARD

John Armitt (Chair)
 Sir Roy McNulty (Deputy Chair)
 Lorraine Baldry
 Tony Ball
 Sir Howard Bernstein
 Barry Camfield
 Neale Coleman
 Stephen Duckworth
 Christopher Garnett
 Sir Peter Mason
 Baroness Morgan of Huyton
 Kumar Muthalagappan
 Sir Nicholas Serota
 David Taylor

SENIOR MANAGEMENT TEAM

David Higgins	Chief Executive
Dennis Hone	Director of Finance and Corporate Services
Ralph Luck	Director of Property
Alison Nimmo	Director of Design and Regeneration
Howard Shiplee	Director of Construction
Godric Smith	Director of Communication
Hugh Sumner	Director of Transport
Simon Wright	Director of Utilities and Infrastructure

Memorandum submitted by the Prince's Trust

(a) EXECUTIVE SUMMARY

1. In 2005–06 The Prince's Trust supported 40,805 disadvantaged young people; 75% of them moved into employment, education or training. The Prince's Trust is aiming to address the lack of skills in the construction industry by creating a pool of job-ready young people through working with major construction partners.

2. "Get Into Construction" offers unemployed 16–25 year olds an intensive training programme in the construction sector so that they can develop practical skills and move into employment. The Prince's Trust's Construction Leadership Group, whose members include major contractors in construction, is committed to employing either directly or through their supply chains all the young people who complete the Get Into Construction programme.

3. Construction employers often don't have the time or resource to invest in training and development for disadvantaged young people when they already have access to a pool of skilled workers from overseas. The Prince's Trust is aiming to address this problem by training young people in the industry.

4. There is a clear lack of diversity in the construction industry, particularly for ethnic minority and female workers. The Trust is aiming to address this problem by working with these groups on construction initiatives. For example on the pilot Get Into Construction, 12 out of the 16 participants (75%) were from black and minority ethnic groups.

5. More needs to be done to train young people in construction skills to deal with capacity issues on large infrastructure projects. The Trust is seeking to address this issue by training young people in the sector.

6. Places at FE colleges to train in the main trades are over-subscribed and more accredited on-site training programmes should be developed to ensure more people can enter the industry and learn key skills. Incentives should also be considered to help construction employers.

7. Despite willingness in theory for the construction sector to work with all our young people, in practice young people with a criminal record are excluded from numerous job opportunities.

(b) THE PRINCE'S TRUST: AN INTRODUCTION

The Prince's Trust is a charity that believes in young people who often don't believe in themselves. We seek out those young people that need our help the most and work with young people who struggle at school, are in or leaving care, are long-term unemployed or have been in trouble with the law. We work with young people aged 14–30 to help them get back into work, education and training. The charity has helped over 550,000 young people since 1976 and continues to support 100 more every day. In 2005–06 The Prince's Trust supported 40,805 disadvantaged young people; 75% of them moved into employment, education or training.

The Trust launched the Construction Leadership Group (CLG) in April 2006. The CLG is seeking to have a demonstrable impact on the sector by promoting construction as a positive career choice for young people and to highlight the key themes of diversity and sustainability. It is a membership forum for organisations involved with construction and related industries with 37 partner organisations including many of the UK's largest contractors (eg AMEC, Balfour Beatty, Bovis Lend Lease, Carillion) and major clients (eg BAA).

“Get Into Construction” offers unemployed 18–25 year olds an intensive training programme in the construction sector so that they can develop practical skills and move into employment. It is the first of a portfolio of programmes relating to the sector which will deliver pre-employment training for young people supported by The Prince's Trust. As part of the CLG commitment to The Prince's Trust, each member is committed to employing either directly or through their supply chains all the young people who complete the Get Into programme.

The Business Programme offers 18–30 year olds the opportunity to set up their own business with low interest loans, grants and mentoring support. Most are unemployed and have been refused funding by other sources. Since 1983 The Prince's Trust has helped over 63,000 young people set up in business. Many of the businesses The Trust supports are in the construction industry.

(c) THE ISSUES

Employment and Payment Practices

In the construction industry, projects need to be delivered on time and to budget. The reality is that construction employers often don't have the time or resource to invest in training and development for disadvantaged young people when they already have access to a pool of skilled workers from overseas.

The Prince's Trust is aiming to address this problem by creating a pool of job-ready young people through working with major partners in the construction industry.

CASE STUDY: PRINCE'S TRUST/CARILLION TRAINING PROGRAMME

The Prince's Trust is working with Carillion who operate 17 training centres across the UK, to deliver The Get Into Construction programme.

This programme, funded by the Construction Leadership Group (CLG), will deliver 23 Get Into Construction courses throughout 2007 in 17 Carillion training centres across the UK for almost 300 young people.

Young people will learn about Health and Safety and get a taste for a variety of skills ranging from carpentry to bricklaying. They will gain a Level 1 Construction Skills Standard Learning Exercise qualification and their CSCS Card (Construction Site Certification Scheme).

Other Get Into Construction courses are run directly on construction sites, for example we are working with Robert McAlpine to train young people on the Colchester Garrison construction site in the East of England.

There is a clear lack of diversity in the construction industry. At 3% the number of ethnic minority workers in construction is way below the 8% in the general working population.⁵⁵ By the very nature of the young people we work with, black and minority ethnic groups are overrepresented across our programmes. In 2006–07 we supported almost 3,000 young people from black and minority ethnic groups. On the pilot Get Into Construction that we ran in July 2006, 12 out of the 16 participants (75%) were from black and minority ethnic groups.

In the construction industry female workers account for only 1% of the workforce on site.⁵⁶ To begin to address this, The Trust has secured funding from the London Development Agency to run a women only Get Into Construction to encourage better female participation in the construction industry. This will run later in 2007.

⁵⁵ Construction Skills' Progress & Plan, April 2007.

⁵⁶ Construction Skills' Progress & Plan, April 2007.

CASE STUDY: FEMALE PARTICIPANT SHIBHAN

Names have been changed

24 year old Shibhan was confused about what to do to sort her life out and felt that her life was in a bit of a mess. She went to various agencies but she felt they had nothing to offer that would suit her academically.

Prior to joining The Prince's Trust she was looking for a suitable course in business and property development but had to do English and Maths for a year to get on an access course. She felt it would be too much of a challenge so she didn't pursue this.

Shibhan heard about The Prince's Trust Get Into Construction through the hostel she was staying in. She felt it was the break she needed as she wanted to do a course that would give her skills within a specific industry.

Shibhan was very apprehensive coming to the recruitment day as she knew construction was a very male dominated industry. She was the only woman on the course with 15 young men. She really enjoyed the programme gaining knowledge of different construction skills and experienced painting and decorating, carpentry, plastering and bricklaying. Even though it was tough, she thought it was brilliant that apprenticeships were available which made her determined to reach her goal. She also learnt how to tolerate people more.

On completing the course, Shibhan was put forward for an apprenticeship in Painting & Decorating. Unfortunately, it did not proceed as there were concerns about wearing religious clothing with personal protective equipment. Shibhan was however grateful for the opportunity The Trust had given her and is still keen to pursue a career in property development.

What works well for disadvantaged young people in terms of payment practices within the construction industry is being paid on a weekly basis. This helps young people to manage their budgets more effectively, rather than being paid monthly. This is particularly beneficial to young people who are coming off benefits and moving into work as well as young people who are leaving home or the care system and have more financial burdens.

Long-term capacity for delivery of large infrastructure projects on time and to budget, such as the Olympics

The Trust is helping with capacity on large infrastructure projects by training young people in construction skills to help sustain the industry in the long-term.

The Trust is a partner in Active Generation, to be launched in summer 2008 by the Department for Culture, Media and Sports and the London Organising Committee of the Olympic Games. Active Generation funding will enable us to expand our delivery to young people across the UK. We will do this by encouraging progression into relevant industries such as construction, hospitality and retail, particularly through our Get Into programme.

Engaged in our Construction Leadership Group (CLG) are a number of lead and joint venture partners in major construction projects linked to the Olympics. As part of the CLG commitment they will be training and employing Prince's Trust supported young people, particularly from the five Olympic Boroughs, to help deliver on these construction projects.

The Trust is also working with CLG partners on other major construction projects, for example Balfour Beatty in Scotland on the £400 million Edinburgh Airport Rail Link due to begin construction in 2008.

Availability of, and investment in skills

The Prince's Trust helps disadvantaged young people gain the confidence, skills and qualifications they need to find work and we believe that all young people should have the opportunity to develop their skills.

The Trust is investing in developing the skills required in the construction industry for thousands of young people across the UK. All CLG partners commit, over a four year period, to a minimum of funding, training and employment in the construction industry for young people.

Places at FE colleges to train in the main trades are over-subscribed and not always appropriate or practical given the minimum literacy and numeracy standards required. Construction is an industry where learning on site is often more productive and useful to both the individual and the employer, and can lead to further accreditation. The Trust would therefore encourage the provision of more on-site training replicating the objectives of the newly launch National Skills Academy for Construction and Bovis Lend Lease's Be OnSite initiative.

There are also barriers for 16-17 year olds getting onsite jobs because of insurance costs and the need for them to be permanently supervised. Employers are often happy to take this age range on as apprentices but not as labourers. With the proposed introduction of work-based training in the DfES consultation "Raising Expectations: Staying in education and training post-16", The Trust is keen that 16 and 17 olds do have the opportunity to secure jobs onsite and learn on the job.

As the UK's largest construction client,⁵⁷ we believe the Government should provide incentives and funding for contractors to improve the training and skill opportunities offered onsite to workers, particularly those from disadvantaged backgrounds.

More support should also be given to major contractors and their supply chains to help them meet the requirements laid down in Section 106 (3.10) of the Town & Country Planning Act 1990 which requires contractors to use all reasonable endeavours to procure local labour in construction and skills. Where possible, The Prince's Trust could help source labour to help contractors comply.

The Prince's Trust is also investing in the skills of young people in the construction industry through supporting numerous young people to set up their own businesses in the sector.

CLG funding will also go towards investing in young entrepreneurs wanting to set up in the sector. As part of this, ICI Dulux (a CLG member) will provide free training in their decorator centres across the UK for young people wanting to set up their own painter and decorator businesses.

CASE STUDY: VINCENT JELINEK—CONSTRUCTION BUSINESS—INCREATION

From a family of New Age Travellers, Vincent Jelinek never had a formal education and spent much of his life living in Ireland, France, Spain and the UK. After various jobs in the woodwork business, Vincent realised his dream by setting up INCREATION, a high quality design and furniture company with support from The Prince's Trust. His predicted turnover this year is £1 million.

"I have had a more unusual life than most; my parents were New Age Travellers. I didn't attend school. My mother taught me to read when I was seven and we had a big learning environment around the home. The rest of my education was a life education.

I started working when I was 12 and always knew I had a bit of a business mind. But I realised that if I was going to succeed in life I would need to get a more formal education. So at 16 I went to college to become a furniture maker and designer. I only applied to one college not knowing any better and luckily got accepted. They had an entry requirement of three GCSEs but I managed to get in on the back of a small portfolio, desire and enthusiasm.

I completed my course at 18 and did various jobs before deciding to set up a business and sought the support of The Prince's Trust in Hackney. They gave me a £3,500 loan, which then helped me to acquire a £3,000 grant for machinery from the Hackney Business Venture. After six months INCREATION was born. We specialise in being a complete interior company, which means we design, manufacture and install high quality kitchens, bedrooms and bathrooms.

In the first year we turned over £45,000 on a predicted turnover of £25,000. Our predicted turnover this year is £1 million and we employ 24 staff full time.

Ex-offenders and the construction industry

The Prince's Trust works with four target groups, which includes young people who are ex-offenders. Despite willingness in theory for the construction sector to work with all our young people, in practice young people with a criminal record are excluded from numerous job opportunities. This makes it challenging for The Trust as we are keen that all our target groups can take part in Get Into Construction and find a job in the sector.

CASE STUDY: EX-OFFENDER JOHN *Names have been changed*

John from London successfully completed the Get Into Construction programme and was offered a job working on a social housing project. When his criminal records bureau (CRB) check came through the offer was withdrawn. This was a great disappointment as the young man had clearly demonstrated his ability to transform his life and make a positive contribution to the construction sector. It took a further six months for him to secure alternative employment with support from The Prince's Trust.

Recommendations to the Committee for inclusion in its report

- More sustainable funding needs to be made available for successful initiatives which are training young people in the construction industry, such as The Trust's "Get Into Construction".
- Successful initiatives which are helping to skill-up young people in the industry should be heralded as good practice so that they can be duplicated across the sector.
- Clear guidelines and benchmarks should be developed for improving diversity across the sector and examples of best practice communicated widely.

⁵⁷ Construction Skills' Progress & Plan, April 2007.

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- The Government needs to support the construction industry develop accredited on-site training programmes for young people so that they can learn the skills on the job that are required within the industry. In particular support needs to be given to small construction businesses, including sole traders, wanting to take on apprentices.
 - As the UK's largest construction client, the Government should provide incentives and funding for contractors to improve the training and skill opportunities offered onsite to workers, particularly those from disadvantaged backgrounds.
 - More support should be given to major contractors and their supply chains to help them meet the requirements laid down in Section 106 and where possible skilled young people could be referred from Prince's Trust programmes.
 - Clear guidelines need to be developed for employing ex offenders and capitalising on their skills.

3 May 2007

Memorandum submitted by Professor Linda Clarke, Westminster Business School

1. PRODUCTIVITY

1.1 I am a specialist in the construction sector and have conducted much comparative research comparing skill levels, productivity and employment. I attach a paper, *Divergent Divisions of Construction Labour: Britain and Germany*—(not printed) about to be published—comparing the development of construction labour in Britain and Germany. This shows the high labour intensity of the construction labour process in Britain, with at least double the numbers employed for the same output compared to Germany. This labour intensity is in large part attributable to low levels of training and low skills, the ratio of trainees in the workforce being three or even four times greater in Germany (at about 6% of total workforce) for a far superior—longer, broader and deeper—training.

1.2 This picture has been confirmed through our detailed studies of construction projects, comparing Britain, Germany the Netherlands and Denmark. I attach a paper, *Cost vs production: labour deployment and productivity in social housing construction in England, Scotland, Denmark and Germany* (not printed), written on these. This shows the far higher levels of productivity achieved in each of the other countries, measured in terms of square metres produced per day at, for example: 19.3 for England, 15.5 for Scotland, 13.9 for Germany and 12.9 for Denmark. Similar findings are reported by Bernard Williams Associates in their report to the European Commission *Benchmarking of use of Construction (Costs) Resources in the Member States (Pilot Study): Final Report 24 March 2006*.

2. PRODUCTIVITY AND EMPLOYMENT LEVELS AMONG THE YOUNG UNSKILLED

2.1 There is of course a particular problem in this respect for construction. The main problem is that without experience it is almost impossible to enter into the industry, so that the young unskilled are disproportionately affected. In most European countries, it is almost impossible now to work in the construction industry without skills and the necessary training to acquire these. Levels of unskilled have dropped dramatically in most countries, though not in the UK (see again the paper on *Divergent Divisions of Construction Labour*).

2.2 Of those training in construction (at levels at any rate lower than other leading European countries), 62% are based in further education colleges, many of whom are classified as unemployed. Very few have the possibility, once trained, to enter the industry because they do not have the necessary work experience or employer placement. This situation is outlined in the paper *Valuing labour* (not printed). Those training in FE, but unable to enter the industry, consist disproportionately of youngsters of ethnic minority background, as shown in the attached paper *Gender ethnic minority exclusion from skilled occupations in construction: a Western European comparison* (not printed).

3. LACK OF APPROPRIATE SKILLS?

3.1 Because construction is an increasingly skilled industry, it is now very difficult to enter without appropriate skills, which at a practical level can only be acquired through work experience or simulated practice in workshops. It is these latter that are particularly lacking and which the FE colleges can only provide to a limited degree. FE colleges too tend to concentrate on the traditional biblical trades (carpentry and joinery, bricklaying, painting and decorating, plumbing), with often poorly equipped training provision, and the trades themselves clearly demarcated from each other and narrowly defined compared to other European countries such as the Netherlands or Germany (see our publication *Craft versus industry: the division of labour in European housing construction* (not printed)). Other areas outside these traditional areas, in particular groundworks, machine operation, concreting and civil engineering do not receive the systematic (two to three year training) they are given in other countries, but depend instead on one-off short

schemes (eg for dumper drivers) which young people may not be able to afford and which anyway provide little in the way of a career structure in construction. Those who have undergone such short training may earn little more than the minimum wage.

3.2 The lack of a clear career structure is one important reason why young people will not be able to improve earnings. This is a much more critical problem than in the past when it was possible to progress from City and Guilds, to HND to a profession CIOB qualification, a route increasingly tortuous now as NVQs do not provide the necessary underpinning knowledge to progress to HND level, as shown in the work of Hilary Steedman at the NIESR.

3.3 For these reasons it is difficult for young people to earn a “skilled rate” in the first place. However, the low employment of young people in the construction industry is not just attributable to inappropriate skills. It is almost impossible now to work on a site if you are under 18 years of age and for young people generally because it is extremely dangerous and there are stricter health and safety controls and regulation. Without appropriate training, any employer would be reluctant to employ a young person on these grounds alone.

4. EFFECTS OF LABOUR MIGRATION

4.1 Young people have been restricted from entering construction because of inappropriate skills and no means to acquire them. As a result, employers have turned for recruitment to workers from Eastern Europe. I have recently completed a study of Heathrow Terminal 5 (T5) where this was abundantly clear. Many hundreds of youngsters were training in construction in colleges around the site (about 300 alone in one of the colleges I visited), but this was almost entirely in traditional trades and I was informed that few would have a chance to work in the industry because they could not obtain the necessary work experience and because these were not the areas of employment.

4.2 On T5 itself the ratio of apprentices to workforce of one of the leading contractors was about one in 250, though at the time of the visit this was only one in 1,000! This represents a rate of between 0.4% and 0.1%, which compares with a ratio of apprentices to operatives in a country such as Germany or Denmark of approximately 12%! In the meantime, the site relied almost entirely for new recruits on labour from Eastern Europe and countries such as Portugal and Germany, which it was presumed had some experience in the industry. Workers (in particular German) were regarded as having highly flexible, extensive (rather than narrow) and transferable skills and were also prepared to work the 60 hour week demanded, unlike many “local” workers.

4.3 Such problems, and policies which might address them, are described in the GLA report on *Diversity in Construction*, launched at City Hall on 15 February 2007.

5. LIKELY FUTURE PATTERN OF EMPLOYMENT?

5.1 Construction is predicted to be an area of very significant expansion over the next 10–20 years so should, in theory, provide an area of great employment opportunity for young people. For the construction industry, there are fairly reliable forecasts from different UK regions, including the London region, being produced by CITB through its Skills Networks and Observatories.

6. WHAT IS THE RATIONALE OF GOVERNMENT POLICY?

6.1 Unlike other European countries the rationale of UK government policy is that training should be based on employer demand and be employer led. The trade unions have to a large extent been excluded from involvement in issues of training and these are rarely part of the collective bargaining process, except in areas such as electrical contracting. Yet employer demand and employer interests are inevitably short term, whilst those of employees and unions are more long term and concerned with improving the skills and value of labour throughout the working life. Government has not recognised these different interests. Countries such as Germany, the Netherlands, the Scandinavian countries, France etc develop training policy and provision on the basis of negotiation between social partners—the trade unions and employers.

6.2 Government has also failed to recognise a general decline in the apprenticeship system, a decline apparent throughout Europe as individual employers increasingly retreat from being directly responsible for training and apprentices. In other countries measures have been put in place to overcome this, whether the group training schemes found in the Netherlands (and Australia), the well-equipped very modern training workshops providing simulated work experience in Germany, or the increasingly intensive college-based training of Denmark (with the first year entirely in college, providing theoretical and practical training).

6.3 A further peculiarity of the British system not identified in government policy is the clear divide between the vocational education of a) operatives, accountable to government and under, for instance, the FE colleges, and b) professionals, accountable to the Privy Council through the professional institutions (see my paper attached *The Institutionalisation of the Skill Division* (not printed), published in *Skills that*

Matter, Palgrave). This divide has held back the development of clear paths of progression from operative to professional and of intermediate skills, which is the area of greatest growth in most European countries. This is especially, but not only, evident in the construction industry.

7. EXISTING TRAINING PROGRAMMES

7.1 Existing training programmes for construction, by focussing on un-reconstituted traditional skills, fail to provide appropriate skills. This is not just a problem of focussing on inappropriate skills but of a need to up-date and redefine existing skills. A carpenter in, for instance, the Netherlands carries out a far wider range of activities than the British carpenter, just as the bricklayer does in Germany—so the German bricklayer and the Dutch carpenter are in British terms “multi-skilled”. It is evident from interviews with employers that these “multi-skills”, capable of being transferred from one project to another, are what is required for modern construction processes. In addition, areas such as civil engineering have been grossly neglected in training terms. Firms now seek people who can carry out most the activities associated with groundworks, including driving a range of machines, concreting work, laying out, even reading drawings. But there is no training available for young people to carry out all these activities, which require a mixture of applied practical and theoretical skills and a great deal of investment in advanced equipment. A country such as Germany overcomes this through the government itself equipping training centres and workshops, with the idea that these train for innovation whilst employers train for the market.

7.2 For construction at least, the requirements can be identified and to a large extent predicted. It is also possible for government to take a lead and not just rely on demand. For instance in Denmark a new training programme was developed in the intermediate skills area for “construction architects”—now one of the fastest growing occupations in construction. Similar initiatives have been taken successfully in the Netherlands.

8. CURRENT APPRENTICESHIP

8.1 Apprenticeship in the traditional sense is, in my view, a thing of the past. Indeed Germany stopped using the term over thirty years ago when its training scheme was revamped. Basing training on individual employer goodwill is far too vulnerable a way to build the skills of tomorrow and equip youngsters with a wide range of skills on which to build a career. For one thing, the activities covered by one single employer can be extremely narrow and even firm-specific.

8.2 There are many reasons why employers have increasingly abdicated from responsibility for apprentices, including: health and safety considerations; the decline in collective bargaining concerning training; lack of trade union pressure with the exclusion of trade unions from modern apprenticeships; lack of obligation and regulation, as evident from the limited use of statutory levies; the decline in long-term employment with firms; self-employment and extensive use subcontracting; the easier alternative of using migrant labour; and lack of links with further education colleges. My experience, however, from the construction industry is that where there are good quality training schemes—stretching over 2/3 years, with well-equipped workshops, attractive trainee rates, good theoretical underpinning, and providing practical work experience—these are vastly oversubscribed and offer those training good employment possibilities.

9. ORGANISATION OF TRAINING PROVISION

9.1 The first requirement is that all those with an interest in vocational education—the employers, the trade unions, providers/educators and government—be built into the system. Currently the lack of a clear link between employers and FE colleges is a serious impediment. For construction at least, vocational education has to have three elements and hence locations: a theoretical element, as provided by FE colleges; a simulated element, through workshops, which can be jointly run; and a practical element, which can be provided by one employer, or better still a range of employers, and also by setting up special training sites, with skilled tradesman to show young people what to do.

9.2 A second requirement is that a “comprehensive system” be established rather than the “anything goes” range of different routes at the moment. A bricklayer with an NVQ2 level can have received training from anything between one week and two years! There is no clear standard or, as a result, expectation.

9.3 A third requirement is to return to the integration of practical and theoretical training and of work experience and education. At the moment training for construction has gone back to what it was in the 1950s, when it relied on day release to college. The standard scheme of training established in the 1970s, which relied on block release to college has largely disappeared. Day-release is no way to organise training provision. From the point of view of the college, it provides insufficient time for the trainee to learn and develop; for the trainee it is frustrating and often regarded as just a nuisance and of little value; and for the employer trying to meet a deadline, it may be regarded as dispensable. In other countries, block release to college is the norm, even on a six-monthly basis, that is six months in college, and then some months with an employer.

9.4 A fourth requirement is that training provision be regarded as necessary for improving productivity and for innovation, rather than meeting short-term employer needs.

10. GENERAL LABOUR MARKET REFORMS

10.1 Most of these are incorporated in the recommendations of the GLA report on “Diversity”. They include: wide use of Section 106 conditions with respect to training and employing young people; the establishment of training levies; establishing a system of training trainers/older skilled workers; collective agreements on training/skills development, including on recognised trainee and improver rates; linking pay more closely to qualifications; implementing the Working Time Directive, as currently young people are competing with labour brought in from outside UK and willing to work 60–70 hours per week; statutory annual training leave. Reforms need to be directed at equipping young people with skills rather than accommodating the unskilled!

May 2007

Memorandum submitted by Quarry Products Association

1. The Quarry Products Association is the major trade association in the aggregates sector. The QPA represents an industry which is the largest volume supplier of materials to the construction industry. Annual sales of construction aggregates are 274 million tonnes, broken down as follows:

<i>Aggregates Source</i>	<i>Million tonnes (GB 2006)</i>
Crushed Rock	124
Sand and Gravel (land won)	67
Sand and Gravel (marine dredged)	13
Recycled and Secondary Materials	70

2. QPA represents around 90% of the UK supply of aggregates and value added products such as asphalt, ready-mixed concrete, mortar and lime. Membership comprises all the larger aggregate companies operating in the UK, and a large number of SMEs operating significant regional and local businesses.

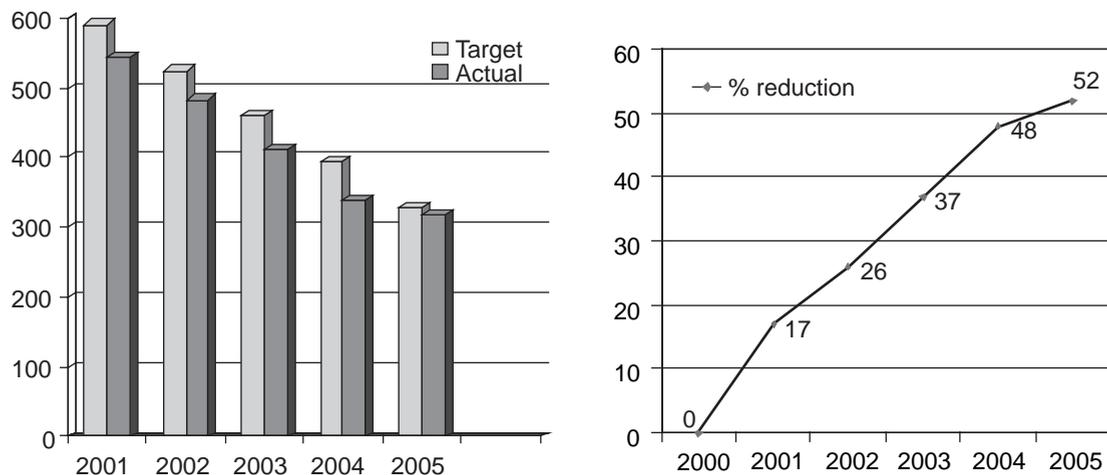
3. The QPA welcomes the Select Committee inquiry and the opportunity to contribute to the inquiry. In view of the wide remit of the inquiry, we are restricting our evidence to three areas:

- (i) Health and safety performance.
- (ii) Industry sustainability and recycling.
- (iii) Security of supply of construction materials.

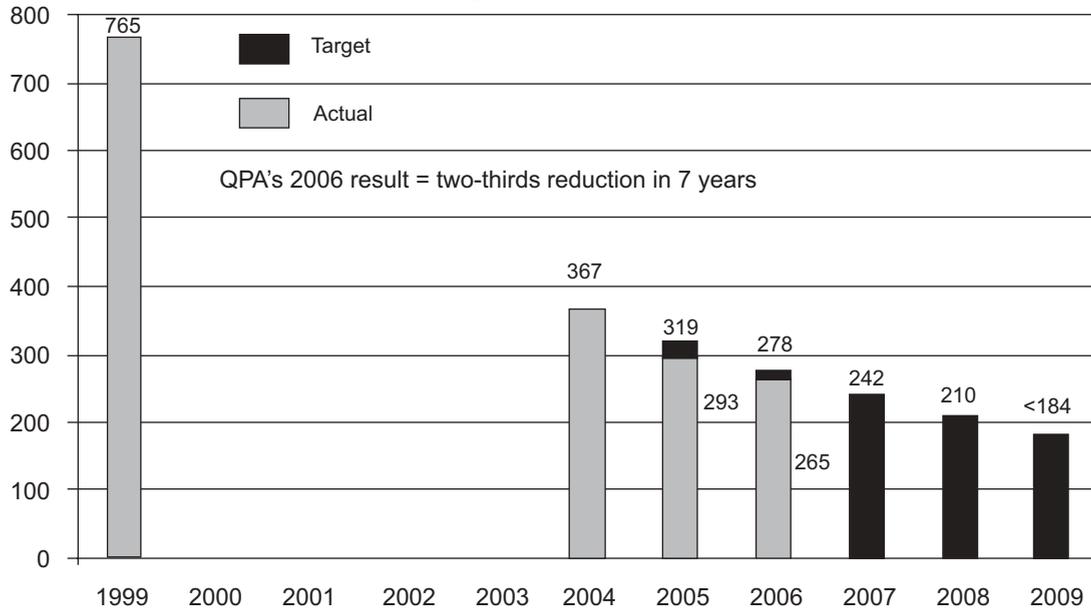
HEALTH AND SAFETY PERFORMANCE

4. The improvement of the industry’s Health & Safety performance has been a key priority for the QPA and its member companies in recent years.

Quarries Hard Target Progress



QPA Hard Target: A 10 year view
HSE Reportable injuries (Direct Employees)
Overarching expectation: Zero Incidents



5. By 1999 the industry had recognised that our Health and Safety record was poor and that significant effort and resources needed to be directed into initiatives that would prove fruitful. The quarrying industry therefore became the first sector to sign up to a Hard Target pledge with the Health and Safety Commission—this was to reduce reportable injuries by 50% over the five years to 31 March 2005. The official outcome for this period showed a decline in injuries by 52%, thus meeting the industry Hard Target. However, due to the focus of the QPA and member companies on the issue, QPA reportable inquiries declined by 73% over the same period (based on data from the largest QPA members). This positive progress has been recognised by the Health and Safety Executive who now use the Quarrying Industry as an exemplar of improved performance. As such, the steps taken to improve performance might provide lessons for use elsewhere in the sector—and possibly beyond.

6. Following the initial five year period, QPA member companies agreed a new “QPA Hard Target 2009” which combines an overarching expectation of zero injuries, with a further 50% reduction in reportable injuries by the end of 2009. To date the first two- years of the current 2005–09 QPA Hard Target period have indicated a further reduction of 28%. QPA members have thus reduced reportable injuries by two-thirds in seven years.

7. Having reached this point, QPA is continuing to consider and develop actions and initiatives to ensure that the improvement trend continues. There are a number of key reasons which have enabled the H & S improvements in the sector to date to be achieved, including:

- The clear commitment of company chief executives in taking personal leadership of company policies to improve H & S performance.
- Recognition of the need for a competent workforce, with the commitment towards National Vocational Qualifications, traceable to national occupational standards.
- The availability of QPA resources and initiatives to encourage and support improving H & S performance, including:
 - (i) A condition of membership for all QPA members to report health and safety data to QPA on a quarterly basis. QPA collates this data to produce league tables of comparative company H & S performance which are distributed to member companies, thereby exerting considerable peer pressure.
 - (ii) The production of resources by QPA to help all members to identify and deal with potential H & S problems. Resources include a vibrant annual QPA Health & Safety Awards scheme which has identified hundreds of initiatives and actions taken by member companies.
 - (iii) QPA has also sought to make these resources available to all minerals operations in the UK, whether members of the QPA or not. With partial funding support from the Aggregates Levy Sustainability Fund, QPA has developed an important new website resource www.Safequarry.com that provides a searchable repository for companies and individuals to share, freely, this H & S information originated by QPA member companies. This resource

is set to become the central resource for health & safety information, not only in the UK, but internationally as well. www.Safequarry.com is supported by the TUC, the HSE and EPIC (the national training body for the extractives and mineral processing industries).

- A productive relationship between the QPA and the Health & Safety Executive in co-ordinating and enhancing efforts aimed at the reducing reportable injuries and ill health.
- An increasing focus on occupational health issues. This aspect has been bolstered considerably by the UK involvement of QPA members in supporting and implementing the EU Social Dialogue Agreement on Respirable Crystalline Silica. The Agreement aims to eliminate silicosis as an industrial disease.

INDUSTRY SUSTAINABILITY

8. The extraction and processing of aggregates, the manufacturing of value added products, and the distribution and delivery of aggregates and quarry products can generate a range of adverse environmental impacts, such as landscape damage, noise, dust, and carbon and other emissions. Such adverse impacts can be reduced or eliminated by effective site design and preparation, effective operational management, and high quality restoration of industry sites.

9. We believe that the industry's performance in these respects has improved substantially. Significantly developments include:

- The widespread introduction of site environmental management systems. (QPA's latest Sustainable Development Report indicates that 50% of sites have certified environmental management systems).
- Increasing liaison with local communities (QPA's latest SD Report identifies 301 sites with community liaison groups).
- The increasing quality of site restoration. QPA and predecessor association have been operating an annual industry restoration scheme to reward and encourage high standards of restoration for over 30 years. It is estimated that around 700 sites of Special Scientific Interest have their origins in mineral extraction. Site restoration is now increasingly geared towards the creation of wildlife habitats and public amenity use, and the RSPB has recently stated that the restoration of quarried land can make a very significant contribution to the meeting of national biodiversity targets.
- Maximising the use of non road modes of transport for the delivery of aggregates. While it is inevitable that most aggregates deliveries from local quarries, depots, and wharves to local construction sites will be by road transport, the aggregates sector moves over 13 million tonnes pa on the rail network, around one million pa on inland waterways and 13 million tonnes of marine dredged aggregates pa are delivered by ship to wharves close to markets.
- The QPA published the first sector sustainability report in March 2006, based on 2004 data. An update report was published in January 2007 with 2005 data, and the preparation of a third report with 2006 data is now underway. The development of the report and the identification of indicators has taken place with extensive stakeholder consultation, including stakeholder engagement facilitated by the Environment Council. The latest report include data from QPA member companies accounting for 71% of UK aggregates production.

THE USE OF RECYCLED AND SECONDARY MATERIALS IN THE AGGREGATES SECTOR

10. Recycled materials comprise materials such as construction and demolition waste and road planings which can be re-used and recycled in construction aggregates markets. Secondary materials include the iron and steel slags which are co-products of iron and steel production and the by-products of other extractive industries such as china clay and slate. Of the current use of 70 million tonnes of these materials, 55–60 million tonnes are recycled materials and 10–15 million tonnes secondary materials.

11. The use of recycled and secondary materials has increased very significantly over the past 15 years. Recycled and secondary materials accounted for 10% of the aggregates market in 1990, and this proportion has now increased to 25%. Over the period the use of recycled and secondary materials has risen from 30 million tonnes pa to the current 70 million tonnes pa. The share of recycled and secondary materials in the GB aggregates market far exceeds the levels in other European markets. Industry data indicates that for Europe as a whole the market share of recycled and secondary materials is around 7%, compared with the GB figure of 25%. Reasons for the high domestic performance include:

- I. Historical awareness of the availability and use of these materials. Iron and steel slags, for example, have been used for one hundred years.
- II. The increasing cost of landfill, including the impact of the landfill tax from the mid 1990s, which has encouraged the recycling of "hard" materials into aggregates markets.
- III. Increasing awareness of, and confidence in the use of, recycled and secondary materials.
- IV. Increasingly professional production and marketing of recycled and secondary materials, supported by the widespread involvement of mainstream aggregates businesses in the sector.

12. In contrast, the impact of the aggregates levy on the supply of recycled and secondary materials into the aggregates sector has been modest. QPA estimates that the levy may have contributed to increasing the supply of recycled and secondary materials by up to one million tonnes pa above the underlying trend of increase. Recent research evidence from work commissioned by Department for Communities and Local Government supports the view. The report, covering the use of construction, demolition and excavation waste in England concluded:

“the central estimate for production of recycled aggregates has risen from 39.60 million tonnes +/- 13% in 2003 to 42.07 million tonnes +/- 15 in 2005. However, this change is not statistically significant.”

13. Given the scale of increase of use of recycled and secondary materials in aggregates markets in recent years, the potential for greater volume use is constrained by the fact that most available materials are already in the market. At current market levels the scope for further growth in the size of recycled and secondary materials market lies in the range of 25–30% of the total aggregates market, compared with the current 25% share. The recent DCLG report also concluded that most available “hard” construction, demolition, and excavation materials are already used for beneficial purposes.

“As in the previous surveys, very little evidence was found of hard C&D waste which could be recycled into aggregates being landfilled as waste.”

(Source: Survey of Arisings and Use of Alternatives to Primary Aggregates in England 2005. Construction, Demolition and Excavation Waste, Final Report)

SECURITY OF SUPPLY OF CONSTRUCTION AGGREGATES

14. The operation of the construction industry in the UK is dependent on a continuing availability of key minerals, most notably crushed rock and sand and gravel used for the production of aggregates and quarry products. The current energy debate has highlighted issues related to the strategic supply of energy minerals and other energy sources, and the QPA believes that a similar consideration should be given to the long-term supply of construction materials.

15. There is little likelihood of a general shortage of aggregates in the near future, but there are trends which could create longer-term supply constraints unless effectively managed by regulation and the industry.

16. Research data published by the British Geological Survey has identified a declining level of planning permissions for aggregates extraction relative to annual sales volume. The 2007 BGS Report “Safeguarding our Mineral Supply” highlights the issue of declining aggregates reserves as follows:

“Aggregates are the most commonly used construction materials in the UK and are essential for the sustainable development of a modern economy. However, a marked recent decline in reserves indicates that indigenous aggregates supplies are increasingly vulnerable. Reserves of land won sand and gravel in England have declined from 907 million tonnes in 1995 to 602 million tonnes in 2005. The South East region is the worst affected with reserves declining by 61% from 207 million tonnes in 1995 to 81 million tonnes in 2005. To a large extent the decline in reserves is caused by the failure to replenish sales tonnages with new planning permission.”

17. Nominal reserves and resources of construction aggregates, notably crushed rock, remain high, but nominal reserves and resource figures can be misleading because:

- Reserves may not be located near markets, and may be subject to specific output constraints.
- Reserves may not comprise of the right materials—for example a lower quality rock reserve will not satisfy demands for concrete aggregates.
- Access to resources may be constrained by the increasing number of landscape or nature conservation designations.
- Other constraints may exist, for example in relation to water abstraction or archaeology.

18. An example of a “new” constraint is the policy of the aviation authorities to seek Birdstrike Safeguarding Zones in 13 kilometres radii around airfields. This policy, which has the effect of covering a large proportion of lowland Britain, aims to prevent developments within a 13 km radius of airfields which could encourage birdlife, therefore possibly conflicting with aircraft safety concerns. Consequently quarry operation and restoration plans creating environments attractive to birdlife are potentially subject to planning objections by aviation authorities, therefore constraining access to mineral reserves.

19. The latest statement of mineral policy by Government (MPS1 Mineral Policy Statement 1: Planning and Minerals, November 2006 Dept for Communities and local Government) identifies the importance of maintaining access to minerals and aggregates reserves. It is essential for the successful operation of the construction industry that this policy is effectively supported in a joined-up manner by all regulatory authorities in the future.

Memorandum submitted by The Royal Institution of Chartered Surveyors (RICS)

The Royal Institution of Chartered Surveyors (RICS) welcomes this opportunity to comment on the Trade and Industry Committee inquiry on the UK construction industry.

RICS is the world's leading professional body dealing with land, property and construction issues. It has 120,000 members worldwide, working in both the public and private sectors and in large and small organisations. Under the terms of the Royal Charter, RICS is obliged to act in the public interest in all aspects of its work.

RICS Members operate at the cutting edge of the construction industry, contributing to the design, construction and maintenance of our built environment. With c 40,000 members in this sector RICS can offer a plethora of skills, knowledge and expertise across the industry.

We would be delighted to give oral evidence on the issues raised.

RECOMMENDATIONS

1. Adopt a joined up cross government approach to construction under a Construction Minister—Observations that the construction industry is fragmented are mirrored in the political leadership of the industry. A joined up approach to construction policy within government is required. A Construction Minister, with responsibility solely for the construction industry, would help focus strategies, resources and the image.
2. Introduce fiscal incentives to encourage sustainability—For example, VAT should be reduced from 17.5% to 5% for retrofit and refurbishment to encourage energy efficiency and meet targets for reducing carbon emissions.
3. Create a single Skills Sector Council—this would help enforce joined up working and policy across the industry and facilitate clearer engagement between government and industry.
4. Increase access to skilled labour via both education and over-seas markets—to delivery the scope and breadth of currently level of work and that anticipated for the future requires a radical review of how we can and will access labour pools.
5. Reduce regulatory bureaucracy—government should be a facilitator and scene sector in reducing regulatory bureaucracy to increase competitiveness and productivity.
6. Level playing field—Regulations and incentives should encourage the highest minimum standards of sustainability and health and safety across all sectors to remove economic barriers and ensure reliable comparisons.

GENERAL COMMENTS

Given that the construction sector is the single biggest UK employer, employing 2.1 million people, and contributor to the economy, presently 8% of GDP, we have concerns with regard to the current mechanisms Government has to influence and engage with the industry.

Responsibility for the construction sector rests across numerous government departments. This fragmentation of government responsibility for construction (sponsorship, regulation and public procurement are all in different departments) and the decentralisation of the level of public procurement has reduced the government's ability to influence, communicate and partner effectively with the industry.

1. *Employment and payment practices*

1.1 The issue—Compared to some industries eg IT the self employed sector of the construction industry is heavily regulated. This is constraining labour flexibility and having negative time, cost and control of activity implications.

1.2 Situation—The UK has a high proportion of self employed individuals but increased pressure to harmonise EU practices is reducing the flexibility of labour and impacting on the economy.

1.3 Solutions—

- A. Facilitate a flexible labour market—A flexible labour market is central to a successful construction industry. It is just as necessary for the industry to be able to attract and retain staff as it is to release them.
- B. Define self employment—a clearer definition of what it means, when self employment versus direct employment begins and ends and what is entailed by being self employed is required. Self employed contracts are squeezing resources and diminishing labour flexibility to the detriment of the industry and ultimately the economy.

The level of self employment in the industry, particularly in traditional trades is also a barrier to training.

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- C. Streamline Regulation—Government must reduce regulation bureaucracy to stop the UK construction industry’s competitiveness being undermined.

2. *Long-term capacity for the delivery of large infrastructure projects on time and to budget, such as the Olympics*

2.1 The issue—The term infrastructure implies a plethora of different forms of work and in this context is therefore seen to mean major projects.

2.2 Situation—The industry is entering a period of high volume and often complex projects predominately focused on public sector spending such as Building Schools for the Future and NHS projects.

Delivering projects on time and to budget requires proper planning and budgeting procedures that should include realistic allowances for inflation. Procedures to support this exist eg the current “Gateway” procedures but far too often the planning system or lack of pre-construction planning hinders the process. For example, the T5 project may be opening a year early but due to the pre-construction phase, particularly the planning process, the whole project has taken approximately 20 years.

To accurately forecast the cost of major projects indexes and databases are required. Since the 1960s BCIS has been capturing the costs of building projects in elemental form and established inflation indexes, robust early cost advice and cost planning tools for the construction industry.

2.3 Solutions—

- A. Planning System—The Planning System must be revised to be more effective and less time consuming, in essence a benefit rather than a burden to the construction industry.
- B. Client Leadership—Realistic original design and construction budgets require strong client decision making and leadership. They also benefit industrial relations as the Jubilee Line project highlights. Moves to re-engage procurement experts in the BSF programme rather than dispatch this role to headmasters are appropriate and should be extended across industry.
- C. Cost, availability of labour and construction inflation databases—A Government sponsored Project Cost Database to capture infrastructure costs in elemental form on an on-going basis would permit a statistical analysis of project delivery over time leading to better early cost advice, cost planning and construction duration prediction. Such databases would be of particular value in relation to the development and planning of projects such as the Olympics; railway maintenance and new development; Highways maintenance and development; Regeneration Schemes; Flood Defence Planning and monitoring water company expenditure on leakage control. To circumnavigate commercial sensitivities we would suggest projects are presented anonymously and/or present average prices rather than full elemental breakdowns.

Given the diverse range of vested interests we believe a degree of compulsion would be necessary to secure the necessary data flows and that therefore the amount of information statutorily required should be broadened in scope.

Such databases would inform the industry sector without being anti-competitive, reduce the risk of cartels operating and increase public confidence in the delivery of value for money for tax holders.

BCIS studies, based on database information, already provide insights into the availability of labour and construction inflation. A greater body of appropriately managed data would facilitate the government and industry to make better informed decisions about the necessary phasing of projects. For example it is widely believed in the construction industry that “The Olympics”, Crossrail and M25 expansion need to be phased if construction inflation is not to be adversely affected and delivery schedules maintained.

3. *Delivery of the Government’s capital investment programme*

3.1 The issue—The Government has embarked on a major period of capital investment from the Building Schools for the Future to NHS projects. Ensuring the construction industry has the resources to deliver this programme is vital.

3.2 Situation—PFI has become a popular vehicle for delivering capital projects but industry does have concerns that this may not always be the most cost-efficient method. Admittedly advantages exist eg government can borrow money to finance the investments at lower interest rates than the private sector and PFI can also be a way of avoiding reflecting expenditure on the Public Spending Borrowing Requirement figures

3.3 Solutions—

- A. Facilitate cross-industry exchange of knowledge and increase industry control—The devolution of procurement responsibilities for public spending is a barrier to the learning process and the implementation of best practice.

PFI projects are built by special purpose vehicles, each a different legal entity, so there is no continuous industry learning. Subsequently contractors may accumulate knowledge but it will tend to be on a “how best to make money out of a PFI scheme” rather than how to deliver a better hospital.

The responsibility of procuring publicly funded projects has been taken from experienced industry professionals and delegated to bodies and individuals with extremely limited procurement experience eg NHS Trusts and School Governors thus increasing the commercial risk. Large successful commercial organisations such as Tesco and McDonalds have demonstrated that by building to very tight specifications and tapping into accumulated professional knowledge they can reduce costs and risks.

The length of PFI projects also means there is a real risk that the “fitness for purpose” of the building may have changed by the end of the contract term.

- B. Accurate budgeting—All factors, not just prices, should be used as the basis for predicting future inflation in construction programmes or programmes will continue to be under funded from their inception.
- C. Performance Measurements—The devolvement of capital projects means that it is virtually impossible to effectively track the effectiveness of the Governments delivery of hospital and school programmes—key initiatives where performance should be measurable.
- D. Set realistic targets—Government and industry must work together to agree targets based on realistic demand not public or government aspiration. This is particularly relevant to the housing market where the difference between real demand ie the presence in the market of buyers willing and able to afford houses and the underlying demand of people who desire to own their own property. This is no different to any other market, many more people desire a Rolls Royce than can afford to pay for one. The real demand for Rolls Royce cars is limited to those who can afford to buy. It could be said that the supply and demand for housing has been in balance for more periods than people imagine.

4. *UK dependence on imported labour and expertise*

4.1 The issue—The UK dependence on imported labour is not new, traditionally Irish but increasingly Polish, and in the climate of expanding work is increasingly required. This can have both positive and negative effects on the industry such as mitigating construction inflation and increasing productivity.

4.2 Situation—As the impact of the 1990s recession, the baby boom generation and anticipated rise in the level of work come to fruition it is apparent that the UK is going to be increasingly dependent on migrant labour, at all levels.

4.3 Solutions—

- A. Accurate survey of demand vs supply—To better utilise and manage the UK’s dependence on imported labour it is vital to better benchmark current and anticipated demand and supply of labour needs across all professions.
- B. Routes of entry—A recent RICS survey (January 2007) revealed that there are approximately 6,500 QS vacancies in the UK. As a short-term measure RICS has been campaigning to have the profession added to the Skills Shortage list to make it easier to employ overseas Qs in the UK, additional information on this campaign is available on request. Government must recognise skills that are in short supply and ensure that entry routes to work in the UK for those professions are clear, transparent and efficient.

5. *Maintenance of standards within the sector*

5.1 The issue—Reaching and maintaining high minimum standards in areas such as Health and Safety, productivity etc.

5.2 Situation—The UK has relatively high standards but resources must be made available to ensure they continue and improve.

5.3 Solutions—

- A. Clear lines of reporting—Surveys such as the DTI KPI survey continue to provide important trend data on maintenance of standards. When reporting this data it is important that the survey findings are not diluted down to such a level as to be of little practical relevance.
- B. Compliance—A robust compliance regime for health and safety and environmental enforcement is regarded as vitally important. There is some doubt amongst industry professionals as to the

effectiveness of “fines” and “prison sanctions” as appropriate measures against the large utility and infrastructure companies in the event of compliance breaches eg rail crashes. Increased transparency in cost control and performance through mandatory databases, as proposed above, would enable alternative sanctions such as the requirement to replace track, spend certain proportions on reducing water leakage etc to be monitored and enforced. These sanctions would impact on profits and have the advantage of being enforceable and measurable.

6. *Construction R&D*

6.1 The issue—Given that the construction sector is the single biggest employer and contributor to the UK economy the monies available for R&D are at disproportionately low levels. However it is important to stress the difference between R&D and innovation within the industry. A substantial level of innovation by product manufacturers is taking place but a lack of R&D persists, and therefore innovation from constructor and clients.

6.2 Situation—R&D has increasingly moved into the domain of academia as the traditional powerhouses of R&D eg large construction firms and government bodies eg the BRE “of old” have cut back and reassigned their focus and funding. Bodies such as Constructing Excellence have filled this void in many respects but tend to deliver advice on how to do/improve processes rather than instigating new ones.

Government should focus on engendering a research and development culture in the industry and rewarding innovation. Recent DTI research calls under the Technology Programme have not been conducive to smaller scale projects focusing on delivering incremental improvements and the type of research and guidance that construction firms are likely to implement.

6.3 Solutions—

- A. Restore construction leadership budget—preferably under a designated Construction Minister. Periodic calls for a “Minister for Construction” reflect ongoing industry dissatisfaction at government fragmentation. The Construction Industry Council (CIC) was established as the construction voice into government. Yet, it must deal with numerous government departments, including DTI and CLG. There appears to be no coordination in research objectives for the industry across government, funding has been cut back and is prescriptive.
- B. Improved access to research funds—Clearer routes to funding must be established. Currently where funding does exist it is often difficult to find or access. For example, the Research Contract programmes available are not well sign-posted and the expression of interest process is time consuming. The research programme briefs themselves typically have unclear wording and poorly defined objectives resulting in highly speculative offers of interest.
- C. Integrated R&D—The EU is increasingly influencing the nature and scope of R&D. It is therefore necessary to examine and compare the level of support targeted at promoting firms involvement in EU Framework Programmes by the UK government and other EU member states.

The true level of industry interest and involvement in the past activities of CRISP, and more recent activities of nCRISP and the European/UK Technology Platform consortia, also needs to be investigated.

7. *Availability of, and investment in skills*

7.1 The issue—The majority of RICS Members are construction professionals therefore our response will generally relate to this group not trades or crafts.

7.2 Situation—We recognise two considerations in relation to the availability of, and investment in skills within the construction industry.

Firstly, the volume of skilled individuals versus requirements. The recession of the 1990s saw training budgets cut; low intake numbers and many people left the industry. The repercussions of this are that the industry is experiencing a shortage of qualified and skilled personnel at a time of increasing demand.

During the recent RICS campaign to have the QS profession added to the UK Skills Shortage List it emerged that the average age of a QS is 52 and approximately 6,000 QSs are expected to retire in the next decade.

Secondly, new technologies and practises are expanding the range and style of work being carried out and subsequently the range of skills required by the industry. This is particularly true in the areas of sustainability.

7.3 Solutions—

- A. Education and Image—There must be a joint drive industry, government and academia to encourage more people into the construction professions. “Earn while you learn” schemes, firm sponsorship and part time courses are helping to attract some but not enough. The fact remains that students, their parents and the media continue to see construction as a less appealing career option than law or medicine. Subsequently industry must ensure appropriate rewards are

available; academia that the relevant training is on offer and government that it recognises the importance of the industry by appointing a Construction Minister to oversee policy, strategy and resources, for example.

- B. Attract women into industry—The construction industry is male dominated. Of the approximately 40,000 RICS Members who work in the Built Environment Group, the largest group of construction professionals in the UK, only 2,105 are women. Government, with academia and industry, must do more to encourage women to enter construction professions, retain those that do and attract back those that take career breaks. Schemes similar to those set up to encourage nurses back into the profession may be appropriate.
- C. Ease access to overseas labour markets—The government must ease access to non UK sources of labour by revising the visa application process. The industry is already experiencing a shortage of skilled professionals and will simply not be able to meet the projected demand if radical action is not taken to open up alternative labour resources.

Links between education and employment must also be revised to ensure that overseas students who are trained in the UK benefit the industry if not for the long term at least in the short term. For example, applications for visas to work in the country following periods of study must be straight forward and clear.
- D. Training—Investment in training must be increased so that the industry can effectively adapt to and use new, innovative products and methods entering the market. This is especially true in the area of sustainability.

8. *Regulatory matters, such as health and safety, and the Building Regulations*

8.1 The issue—In a global setting the UK has strong and effective regulations that ensure high minimum standards both during and after the construction process. Maintaining and improving on these is the challenge.

8.2 Situation—Following consecutive falls in the number of deaths on construction sites the HSE has recently announced that there has been a 15% increase in this figure. At the same time the range of requirements set out in the Building Regulations are expanding and in cases without the necessary technology to support it eg in the case of Part L of the Building Regulations.

8.3 Solutions—

- A. Building Regulation System—A revision of the Building Control system itself and how it interacts with other systems, namely the Planning System, must be undertaken to increase efficiency. RICS, as a member of the Building Control Alliance (BCA), is proactively working with government on ways to deal with the issues raised in “The Future of Building Control” paper.
- B. Funding—To ensure regulations are effectively enforced adequately funding must be made available. The industry has seen major cutbacks in support of UK representation on ISO standards committees and the money BRE received to support international standards works has been severely cut back. The renewal of BSI interest in construction, albeit limited support from government, is not enough.
- C. Uniformity of standards—Uniform standards that benefit the construction industry by increasing capacity, growth and competitiveness must be implemented not just in a national but also in an international capacity, especially as 70% of UK regulation is currently derived from EU Directives.

At a national level a level playing field is required to ensure that the current practice of differing standards for public sector and private housing does not persist. All should be required to meet the same high minimum standards.

9. *Encouraging sustainability*

9.1 The issue—Sustainability has been taken to refer to the environmental efficiency of buildings rather than reference to economic inflation although we stress that economics will play a key role in determining how readily “green” measures are accommodated.

Regardless of the meteoric rise up the political and industrial agendas in the last two to three years and the attempts to make it the norm it must be recognised that in some circles the argument for the need to be sustainable has yet to be won.

9.2 Situation—Despite setting a challenging low carbon built environment agenda the mechanisms to achieve this have been piecemeal, mainly driven by regulation, and generally concentrated on new build, which represents between 1–2% of the total UK stock per annum, rather than the main culprits of inefficiency, the existing stock.

Mechanisms for change often lack relevant information eg how is a zero carbon home defined and the necessary technology eg the delayed introduction of the Part L toolkit. The reality is the market only reacts to regulation and demand and currently there is an imbalance in favour of regulation. A significant shift is required to make incentives the key driver.

9.3 Solutions—

- A. Strategic Planning—Government must establish a clear and practical strategy for the implementation of targets so that the industry and education system can react to make available tried and tested technology and skilled individuals. Currently too many options are creating confusion.
- B. Procurement methods—Government as a client generates approximately 40% of UK construction work therefore they should be setting a sustainable example by ensuring Whole Life Performance, Whole Life Costing and supply chain involvement are integral to any work they commission.
Serious consideration should be given to the OPEX as well as CAPEX costs and a reassessment should be made of the low levels of some VFM boxes requirements which can be as little as 10%.
- C. Clearer Regulation—Regulations must be made clearer, be co-ordinated, and have clarity to eliminate duplication and omission. For example, Planners and Building Control Surveyors are interpreting Building Regulations grades differently resulting in duplication in some areas and voids in others.
- D. Incentives—Meaningful fiscal incentives are the key levers to generating wide spread change particularly in the existing stock. It must be economically advantageous to be sustainable. Evidence from America has shown that where a 50% reduction in business rates is applicable for firms occupying “green” buildings demand for “green” buildings soared. Suggestions that green buildings in the UK are able to generate higher rents for landlords are minimal and it is a sign that further incentives are required.

In addition the UK grant system is time consuming and subsequently offers little real incentive for change. Likewise the abolishment of Stamp Duty on new properties that are carbon neutral and under £500,000 offers little incentive as the term carbon neutral has many interpretations and the incentive is only ever felt by the first owner regardless of whether or not they sell the property in 1 or 20 years.

We would suggest a series of measures including; a reduction of VAT from 17.5% to 5% for all retrofit and refurbishment work; a 5% discount in council tax for that financial year when energy saving measures are undertaken. Any incentives must have quick payback periods. It is for this reason that wind turbines and solar panels with very long payback periods they offer few incentives for homeowners and developers.

- F. Tools—Easy to use tools must be developed to get people to think and build in a sustainable manner. They must be straightforward such as the WRAP technology. Due to the fragmented nature of industry any research pump priming should be public sector led and benchmarks should be set.

10. *Best practice on contract management*

No comment.

11. *The UK industry’s performance against other countries*

11.1 The issue—Reports such as “EU Construction: Towards a Better Use of valuable Resources” consider the UK’s performance against other countries to be less competitive. We feel that there is adequate evidence to question/dispel this view.

11.2 Situation—It is important to stress that when comparing the UK industry’s performance against other countries an uneven playing field is in operation. For example the UK construction industry engages in a far higher level of bespoke design, uses more sub-contractors and is currently operating in a stronger economic market than other European countries.

Indeed the competitiveness of UK contractors and consultants both in the UK and abroad suggests that the studies indicating that UK construction is expensive reflects the regulatory and cultural circumstances in which UK construction is procured rather than the efficiency of the firms.

It is clear that the UK construction companies are highly successful outside of the UK. This strongly suggests that any performance variances against other countries are influenced heavily by the environment within which they are operating.

11.3 Solutions—

- A. Implement benchmarked systems of comparison—Often comparisons with other countries are not made on a like for like basis eg regulatory frameworks such as those for health and safety, planning and building control are different and the standards and quality of the building are different. We

would suggest, and be willing to assist, government devises fairer and more accurate methods of measurement/comparison. If the requisite adjustments were made it might then be possible to realistically compare such issues as the numbers of people employed vs. productivity.

- B. Clearer lines of government and industry interface—In comparison with other countries and past UK government practice, the current interface between the Government and the construction industry is badly fragmented.

At present there is limited sponsorship by the DTI with responsibility for other construction matters split across many government departments. Successive Governments have criticised the industry for being too fragmented: arguably, it is Government's interface with the industry that is now too fragmented. Also, the overall situation might improve if civil servants that gain an understanding of construction are not rapidly moved on to new posts where that knowledge is dissipated.

4 May 2007

Memorandum submitted by the Specialist Engineering Contractors' (SEC) Group

Thank you very much for the opportunity to give written evidence to the inquiry into the UK construction industry.

This industry makes a substantial contribution to the nation's economy. The industry's annual output is in the region of 9% of GDP and total employment in the construction and construction-related activities is 3 million. The UK construction industry delivers the hospitals, schools, homes, workplaces and transport infrastructure for the people of this country.

The Specialist Engineering Contractors' (SEC) Group represents all engineering in construction (other than civil engineering). As such it accounts for over 30% of the construction industry's output. This figure reflects the involvement of engineering contractors in all the processes of construction delivery—design, construction or installation, maintenance and facilities management.

SEC Group brings together the construction industry's premier trade associations:

The Association of Plumbing and Heating Contractors (APHC), British Constructional Steelwork Association (BCSA), Electrical Contractors' Association (ECA), Heating and Ventilating Contractors' Association (HVCA), Lift and Escalator Industry Association (LEIA); and SELECT (Electrical Contractors' Association of Scotland).

These organisations represent a sector comprising over 60,000 companies and a workforce of more than 300,000. SEC Group seeks to raise awareness—amongst clients, professional advisers, government and the industry at large—of the critical importance of specialist engineering expertise within construction industry. Its overall aim is to promote productivity, profitability and best practice throughout the construction process.

PRIORITIES FOR THE INDUSTRY

The industry needs to be consistent in the delivery of best value which is the only way to bring improved profitability for businesses, especially SMEs—which constitute over 85% of the firms in the industry.

We now need firm and concerted action to eradicate adversarial and age-old practices, particularly with regard to payment. This will enable the industry to focus on achieving delivery through established, integrated project teams brought together by a genuine teamworking culture and appointed at the earliest opportunity in the procurement process. This is guaranteed to provide the necessary motivation for firms in the industry to invest in training and new technologies which, in turn, will deliver consistent best value for the customer, improved risk management (especially in relation to health and safety), sustainable outcomes and, consequently, greater profitability for the industry.

Our submission is concerned with the steps that need to be taken to address these issues. Achieving best value is undermined by wasteful and inefficient practices arising from a fragmented delivery process. Numerous reports have highlighted the way forward but now is the time for implementation (see Background Note at Annex 1). This is now essential with the 2012 Olympics on the horizon.

We invite the Trade and Industry Committee to make a number of recommendations which will drive the necessary change. Most of the recommendations relate to public sector procurement authorities as they are now responsible for 40% of the spend on UK construction and, therefore, are in a strong position to drive change in industry practices. However, we would emphasise that change can only come about through partnership between procurers and progressive elements within the industry.

The measures we propose are:

- specific drivers to bring about greater integration in the delivery process (especially making funding of projects conditional upon evidence of integration);
- actions to both facilitate and remove barriers to integration (eg. project bank accounts, project insurance);
- amendments to the Construction Act to improve payment security—especially for SMEs;
- steps to improve corporate competence; and
- a specific proposal for engaging SMEs in the public sector procurement process.

We wish to play a full and active role in the inquiry and would be happy to provide oral evidence.

1. DRIVING CHANGE IN THE PROCUREMENT PROCESS TO BRING ABOUT INTEGRATED DELIVERY

Recommendation 1

- 1.A The next Comprehensive Spending Review to **progressively** make funding of government projects **conditional** upon evidence of compliance with the OGC's *Common Minimum Standards*.¹
- 1.B The Government to appoint a high profile “*Champion*” to drive the integration agenda.
- 1.C The Audit Commission (and Audit Scotland, the Wales Audit Office, Audit Office Northern Ireland) to insist that evidence of integration and collaborative working be a major part of the best value review process.
- 1.D Working through the Regional Development Agencies, the DTI should establish a network of independent construction advisors to guide and assist customers on assembling or appointing integrated project teams.

1.1 There are approximately 180 government departments, agencies and non-departmental public bodies. They have subscribed to the *Achieving Excellence* programme aimed at bringing about better value through shorter construction times, reduced construction costs through waste reduction, and fewer defects. Whilst the NAO has accepted that significant progress has been made, government procurers have not, as yet, “harvested” the added value to be obtained from the early engagement of the supply chain. **Such early engagement is a fundamental feature of integrated delivery.**

1.2 In 2005 the SEC Group carried out a survey of firms within the specialist engineering sector to establish levels of satisfaction on central government construction projects.² Only 7% of firms reported that they had been appointed early on the majority of government projects. In view of the fact that specialist engineering firms can, together, contribute as much as 70% of the value of the project, this figure is unacceptably low. Furthermore, 44% of firms reported that they had not been appointed at an early stage on any project whilst a further 36% indicated that they had been appointed early on less than half of their projects. Our view is that this evidence is a stark reminder of **the lack of progress in achieving integrated delivery on government projects.**

1.3 In the same survey 61% of firms stated that they were not invited to enter into partnering arrangements on any project. A further 29% of firms stated that invitations to enter into partnering arrangements were received on less than half of the projects they were involved in. Again, these figures are unacceptably low and reinforce the fact that government procurers have much work to do to engage with the supply chain.

1.4 The NAO has identified savings of £2.6 billion on public sector projects that can be achieved through good practice including partnering and the early deployment of an integrated project team:³

“Where suppliers are involved at an early stage the quality of designs is better, leading to efficient and higher quality construction that delivers lower whole life costs and the required service delivery outcomes. *Departments should involve construction suppliers early on in the design process, where appropriate paying for their time on a fee basis*”.⁴(emphasis added)

There are, however, other significant benefits to be obtained from an integrated delivery process that involves consultants, project managers and key specialist contractors and manufacturers as part of the design team. It is at the design stage where the delivery team can have the greatest impact in arriving at best value solutions, managing health and safety risks and determining sustainable outcomes for the project.⁵ **If consultants, specialist contractors and manufacturers have had an opportunity to come together to pre-plan and design the project, they are more likely to own the solutions that will secure the necessary outcomes.**

1.5 There is evidence that failure to bring the parties together in this way has had an adverse impact on the management of health and safety risks.

“Of all fatal accidents on construction sites, as many as 60% can probably be attributed to choices made *before* the work on site began. Key factors relating to health and safety include design-led safety considerations (or the lack of them) . . .”⁶

An integrated design team of consultants, specialist suppliers and project managers is better placed to manage out health and safety risks in the design process such as those associated with unsafe construction methodologies and poor sequencing of work.

1.6 The NAO has recently reported that the government is not meeting sustainability targets for the construction and refurbishment of buildings on the government estate. The NAO recommends that:

“Departments and agencies should employ integrated teams to deliver construction and major refurbishment projects. Integrated teams should:

- Comprise department or agency clients, designers, building contractors and specialist suppliers and consultants, all of which should be signed up to the need to deliver sustainability in the project”.⁷

1.7 With all the evidence now pointing to the need for integrated and collaborative delivery, we invite the Trade & Industry Committee to recommend to HM Treasury that, as part of the next Comprehensive Spending Review, it progressively makes funding of government projects conditional upon evidence of compliance with the OGC’s Common Minimum Standards (see footnote 3). In his foreword to “*Transforming government procurement*” the Financial Secretary of the Treasury stated:

“The next Comprehensive Spending Review will put further priority on departments and procurers to exploit the opportunities that are available through innovative procurement methods . . . to ensure that procurement is built on the principles of value for money and sustainability”.⁸

We suggest that this linkage of funding to compliance with CMS should also be extended to those projects that receive government funding and also projects that are funded from lottery monies.

1.8 It has already been agreed, in principle, by both government and industry that funding should be dependent upon there being evidence of integrated delivery.

“Representing 40% of construction orders, the public sector can make a substantial difference to the widespread adoption of Rethinking Construction principles . . . The public sector can be helped to achieve this by:

- linking government funding of construction projects to the application of Rethinking Construction principles . . .”⁹

1.9 This linking of funding to best practice procurement is not a new concept. The Housing Corporation, which has responsibility for investing public monies in housing associations and other registered social landlords, has made funding of projects conditional upon evidence of best practice, especially partnering.¹⁰

1.10 The NAO has already expressed concern at the absence of such linkage in the case of government projects:

“ . . . despite all departments’ formal commitment to embedding the principles of Achieving Excellence as a matter of Government policy, public funding for construction is not always conditional or does not contain the right incentives to embed the principles of Achieving Excellence. Funding organisations such as the Housing Corporation, however, in response to escalating demand and the need for increased efficiency, are refining their investment strategies to introduce incentives and conditionality to drive through more efficient and effective construction approaches such as partnering”.¹¹

1.11 In addition we are of the firm belief that the Treasury should appoint a “*Champion*” to bring about the implementation of integrated procurement and delivery. SEC Group has already made this proposal to Ed Balls, Economic Secretary to the Treasury. Such a Champion should be a high profile and authoritative figure with a strong business background and experience of best practice procurement. He/she should be supported by a small team and have responsibility for monitoring progress and overcoming barriers to integration across the public sector.

1.12 Local authorities present a greater challenge. Whilst many authorities have already embraced partnering and collaborative working, others have made very little progress in this regard. We suggest that the Trade & Industry Committee invite the Audit Commission (and its counterparts in Scotland, Wales and Northern Ireland) to issue advice to District Auditors that evidence of integration and collaborative working should be a major factor in the *best value* review process.

1.13 A vast majority of the construction industry’s customers are one-off or occasional customers. Such customers should also have the benefit of integrated and collaborative delivery. The *Accelerating Change* report recommended that such customers should have access to independent advisors having a similar role to that of independent financial advisors. An advisor could offer help on how construction could address the customer’s business needs and also, if necessary, help the customer with bringing together or selecting an integrated project team. This proposal has not been widely implemented and we suggest, therefore, that the Trade & Industry Committee recommends that the DTI take steps to progress it. The DTI has responsibility for the Regional Development Agencies which could be used to establish and support a network of independent construction advisors.

2. ACTIONS TO FACILITATE INTEGRATION

Recommendation 2

- 2.A All government procurers to introduce project bank accounts where practical and cost effective for all projects commencing in 2008. All local authorities should do the same by 2009.
- 2.B DTI to contact all government procurers to encourage them to offer at least one project (value between £20–30 million) for piloting project insurance.
- 2.C All government procurers to insist upon the use of collaborative contracts for the whole delivery team and that lead contractors' bespoke contracts are outlawed.
- 2.D The end of 2008 to be the target for outlawing the practice of retentions on all government projects following a recommendation of the Trade & Industry Committee, in 2003 that "*Government departments . . . eliminate the practice of retentions as soon as possible*".

2.1 If projects are to be delivered by integrated project teams working collaboratively, the barriers to achieving this must be removed. The major barriers are:

- (i) Traditional payment processes that enable parties to generate positive cash flow at the expense of others along the supply chain, thus undermining trust;
- (ii) Policies of insurance that offer protection for the individual party rather than for the team as a whole.
- (iii) Project participants having different contracts that are primarily aimed at risk transfer rather than cooperation and teamworking.
- (iv) The continuation of the practice of retentions that helps reinforce a lack of trust which is anathema to collaboration.

Moreover integrated teams require an "integrated infrastructure" for delivering their projects; insurance policies, payment systems and contracts must be aligned to underpin the team.

Project Bank Accounts

2.2 The *Accelerating Change* report recommended that, "payment practices should be reformed to facilitate and enhance collaborative working".¹² This theme was taken up by the NAO:

*"Departments need to provide specialist small and medium sized suppliers with greater certainty that they will be paid on time to reinforce the trust that should exist between all parties for collaborative working to operate effectively. If this trust does not exist in the supply chain then specialist suppliers, who can significantly influence the value for money obtained on a project, will have little incentive to innovate. Considerable losses can also be incurred over payment disputes which will ultimately feed their way back into the costs for the client. The use of a single project account is one way to provide greater certainty of payment to specialist contractors and suppliers further down the supply chain from the main contractor"*¹³ (emphasis added)

2.3 Last year the Secretary of State for the Department of Culture, Media and Sport launched the *2012 Construction Commitments*.¹⁴ Although originally aimed at Olympic construction projects, they have been adopted by the government as the agenda for improving procurement on public sector works. The Commitments recommend that, where practicable and cost effective, project bank accounts should be introduced on public sector (and Olympic) projects. The Public Sector Construction Clients' Forum (PSCCF) fully endorses this.

2.4 A working group of the PSCCF has already produced guidance and documentation for establishing project bank accounts. **Research carried out by consultants advising the working group revealed that project bank accounts could save up to 2½% on project costs.** Our own research last year revealed that individual firms could save as much as 5% of their costs where a project bank account is in place. The results of this research were audited by Davis Langdon.¹⁵

2.5 We invite the Trade & Industry Committee to recommend that all government procurers introduce project bank accounts (where practicable and cost effective) on all their projects commencing in 2008. Furthermore, all local authorities should do the same by the beginning of 2009.

Project Insurance

2.6 In order to bring about integration a radical change to insurance arrangements in the industry is needed. Project participants are required to have in place a range of insurance policies including professional indemnity policies, contractors "*All Risks*" policies and product liability policies. As a result the risks on each project are insured by countless different policies which either overlap or leave vacuums between them. A few years ago research carried out by Reading Construction Forum indicated that £1 billion per annum was wasted on having these myriad policies in place providing cover for the same type of risks.

2.7 All these policies are activated on proof of liability and, therefore, lead to defensive behaviour to avoid liability attaching to the insured party. Insurers become uncomfortable when their insured oversteps their scope of responsibility to cooperate with or support other parties. The process of establishing liability inevitably means that resources are concentrated on determining who is to blame. Griffiths and Armour, one of the largest UK insurance brokers in the UK construction insurance market, have estimated that for every £5 paid out on a policy, £4 is expended on legal fees leaving £1 to address the original problem. The NAO has proposed that departments take action in this area.

*“[Departments should] . . . seek opportunities to pursue the case for project-wide insurance, not only to reduce costs through bulk buying, but also to align behaviours with the principles of integrated team working”.*¹⁶

There is, therefore, a need to have a policy that underwrites the delivery team; the policy would be activated on proof of financial loss rather than on proof of liability.

2.8 On 19 June 2006 the PSCCF agreed that its members should identify suitable projects for piloting “single project financial loss insurance”. To date the OGC and the Specialist Engineering Contractors’ Group has been funding work on developing a project insurance policy suitable for piloting. However, it is now vital that more government departments nominate projects for piloting project insurance.

The Trade & Industry Committee is invited to recommend that the DTI contacts all government procurers to treat this as a priority and nominate appropriate projects (valued between £20 million and £30 million).

Collaborative Contracts

2.9 The evidence available to the SEC Group suggests that bespoke sub-contracts (or amended standard forms of sub-contract) continue to be used on the majority of government projects. Such contractual arrangements are primarily aimed at passing risk along the supply chain and, therefore, run counter to the Government’s aim of achieving a fair allocation of risk on contracts for government works. In our survey in 2005 of engineering contractors working on government projects (as sub-contractors) only 38% of firms indicated that they were content with the contractual terms on offer on the majority of projects.

2.10 All public sector procurers should outlaw the use of lead contractors’ bespoke conditions of sub-contract; the suite of contracts adopted by the public sector procurer should be used by the whole supply chain provided that they represent a fair and proportionate allocation of risk and, most importantly, promote collaborative working. The NAO has recommended that public sector procurers use collaborative contracts in order to reinforce teamworking.

*“Some contracts are still written in the traditional, more adversarial approach and are not suitable for modern collaborative ways of working”.*¹⁷

2.11 The Treasury has now proposed that there should be a single coherent framework for contractual arrangements.¹⁸ *We agree.* Contractual arrangements should be transparent throughout the project and should facilitate dialogue between all parties to determine how project risk should be fairly allocated. It is vital that consultants, specialist contractors and key manufacturers are brought into the same contractual arrangements.

We invite the Trade & Industry Committee to recommend to the OGC that all government procurers are advised to insist upon the use of collaborative contracts throughout the supply chain and that lead contractors’ bespoke sub-contracts (or their amendments to standard contracts) are outlawed.

Retentions

2.12 The practice of deducting retentions continues on the majority of public sector projects. Delays and abuse associated with this practice also continues. The Trade and Industry Committee has already conducted an extensive inquiry into the practice of retentions in the construction industry and has described it as “inefficient” and “frequently harmful”, especially to SMEs.¹⁹ Some customers of the industry—both in the public and private sectors—have already abandoned the practice (a list is attached at **Annex 2**). Despite this retentions are often deducted along the supply chain.

2.13 In its second report on retentions the Committee concluded:

“It remains our view that government departments should set an example to other public sector construction procurers and the private sector and work to eliminate the practice of retentions as soon as possible . . .” (emphasis added)

We strongly urge the Committee to make the end of 2008 the target for all government procurers to phase out the practice of retentions given that they are fully committed to collaborative delivery. It is also necessary that they ensure that the practice is outlawed along the supply chain.

3. REVIEW OF THE CONSTRUCTION ACT

Recommendation 3

In advance of the second consultation on amending Part II of the Housing Grants, Construction & Regeneration Act 1996 (the “Construction Act”), the DTI should include within this consultation amendments to effect the following changes to the payment and adjudication provisions in the Act.

- (i) A statutory definition of a payment mechanism that defines **what** is to be paid and **when**.
- (ii) All conditional payment provisions to be outlawed.
- (iii) Cross-contract set-off clauses to be made ineffective.
- (iv) The Act to specify that the statutory right to receive interim payments comes into being at the commencement of the contract.
- (v) There should be statutory protection available to the payee in the event of a payer’s insolvency.
- (vi) A single statutory procedure for all adjudications.
- (vii) The jurisdiction of the adjudicator should be widened.
- (viii) The Act should make clear that the adjudicator should not have power to award “party and party” costs under any circumstances.

3.1 We have already referred to the lack of payment security as a major barrier to greater collaboration. The Construction Act has a vital role to play in curbing payment abuse and protecting smaller firms. The aim of the Act was made clear by Lord Lucas in the House of Lords debate on Part II of the Housing Grants, Construction & Regeneration Bill on 26 February 1996:

*“The legislation requires that payment should be **defined** in terms of **amount and date**”.* (emphasis added)

3.2 At the outset there was strong commitment from Nick Raynsford, the (then) Construction Minister, that the operation of the Act would be monitored and, if necessary, it would be amended.

*“If there is clear evidence of abuse we shall stop it . . . there is widespread agreement that there must be monitoring.”*²⁰

3.3 In his March 2004 Budget Statement the Chancellor of the Exchequer announced a review of the Act in the wake of continuing concerns over “*unreasonable delays in payment*”. The aim of the review was to “*identify what improvements can be made*”. Sir Michael Latham was appointed to carry out the review by the DTI. He reported in September 2004. An initial consultation aimed at obtaining consensus on the issues to be addressed was carried out by the DTI between March and June 2005. A second consultation on draft amendments to the legislation is awaited.

3.4 Many of Sir Michael’s recommendations have been diluted with the DTI’s preference being for “*light-touch*” amendments and “*shoe-horning*” any changes into a Legislative Reform Order. This has tended to override consideration of those necessary changes required to cure weaknesses in the legislation in order to curb abuse.

3.5 Evidence given during the review indicated that payment periods in UK construction have increased from 76 to 88 days since the Act was introduced. Our own 2005 survey of firms involved on government projects indicated that almost 60% of firms (as sub-contractors) experienced payment delays or abuse on the majority of projects.

3.6 The operation of the provisions in the Act concerning the issue of notices of withholding and the exercise of the right of suspension of the work for non-payment are dependent upon the payee knowing how much he is to be paid. Unfortunately the Act leaves it to the contract to determine the amount due at the date for payment. Most contracts (and sub-contracts) enable the payer to delay payment either by spurious challenges to the payee’s claim for payment or by simply ignoring the claim. This means that the payee has to refer the matter to an adjudicator which involves further delay and costs on his part. In the meantime, work has been completed without any reimbursement.²¹

3.7 This is the major weakness in the Act. **We believe that the Act would benefit greatly from having a statutory payment mechanism that defines what is to be paid and when.** The Act, therefore, should include the following:

- (i) The payee to have a statutory right to apply for payment.
- (ii) The payer to have the right to respond to the application (within, say, 15 days of receipt of the application).
- (iii) If the response has a different amount, the payer must identify in detail the reasons for the different amount.
- (iv) In the absence of a response (or a properly detailed response), the Act should state that the payee’s application for payment becomes the debt. Alternatively, the amount stated in a compliant response should constitute the debt.
- (v) The date for payment should be no later than 30 days after receipt of the application.

3.8 The ban on pay-when-paid clauses has been undermined by the use of pay-when-certified clauses so that, for example, a sub-contractor will not get paid until the architect or engineer has issued a certificate under the main contract. A payer can still rely upon a pay-when-paid provision to justify non-payment in the event of the insolvency of a third party payer. Therefore, a main contractor can refuse to pay a sub-contractor in the event that his client has gone into insolvency.

We believe that all provisions making entitlement to payment (or the obligation to discharge payment) conditional upon events or upon the operation of provisions under another contract should be outlawed.

3.9 Sir Michael Latham's review made other recommendations in relation to payment which the DTI appears reluctant to take forward. Cross-contract set-off applies where a payer under Contract A refuses to pay all or part of that due to the payee on the basis that the payee owes him money under Contract B (which is wholly unrelated to Contract A). This practice of cross-contract set-off undermines the need for certainty of payment and invariably leads to disputes. **It is our view that the DTI should amend the Act to outlaw such provisions.**

3.10 In many instances a substantial percentage of the contract price is expended before commencement of work on site. For example, lift and steelwork contractors expend more than 80% of the value of their contracts prior to starting work on site. Moreover, the initial interim payment does not "kick in" until they have been on site for between 60 and 90 days. The Construction Act provides a statutory right to interim payments but does not indicate *when* this right arises; it should take effect from **commencement of the contract** which is usually prior to the start of work on site. Again, this issue was highlighted in Sir Michael Latham's review as worthy of consideration for inclusion in the Act.

The DTI should amend the Act so that the statutory right to receive interim payments arises on the commencement of the contract.

3.11 The DTI has refused to act on a recommendation in Sir Michael's review that the Act should give clients the right to pay sub-contractors directly in the event of the insolvency of the main contractor. The vast majority of firms in the industry are more exposed to the risk of insolvencies up the supply chain than firms in other industries. The main reasons are as follows:

- (i) there is widespread sub-letting by firms with a meagre asset base;
- (ii) SMEs—constituting the largest number of firms in the industry—are not in a position to insist upon payment guarantees; and
- (iii) retention of title provisions (the title in goods does not pass until payment has been made) are generally prohibited by standard form contracts (including government contracts).

3.12 Many other jurisdictions provide insolvency protection for construction supply chains. The DTI's objection is that direct payments to sub-contractors are in conflict with the *pari passu* principle of distribution (all parties to be treated equally in an insolvency). **But such principle can be overridden by legislation. For example in section 159 Companies Act 1989 there is an exception to this principle for certain schemes operated by investment clearing houses. These relate to the settlement of debts arising under market contracts in the financial services sector.**

3.13 The DTI should amend the Act to allow clients the option of making direct payments to sub-contractors. Alternatively, there could be a statutory right for the payee to insist upon bank guarantees (or similar security) to apply in the event of the payee's insolvency.

3.14 Adjudication was introduced by the Construction Act to provide a quick and inexpensive means of resolving disputes on a temporary basis. It has made a significant difference to the position of SMEs but there is now widespread concern within the industry that adjudication is becoming too costly and, therefore, inaccessible to SMEs. Adjudicators' fees have significantly increased as has the cost of enforcing adjudicators' decisions in the courts. There are many instances of contractual provisions that require parties referring disputes to adjudication to pay all the legal costs of the other side (irrespective of the outcome of the adjudication). There are, also, examples of referring parties being asked to place large sums of monies in an account as "*security for costs*".

3.15 Much of the increase in costs has been due to habitual challenges to the jurisdiction of the adjudicator. Furthermore, there is widespread uncertainty caused by the proliferation of bespoke adjudication procedures. It is not always clear whether a bespoke procedure is compliant with the Act and this, in turn, provides further opportunity to frustrate the process of adjudication (ie, should the adjudication be governed by the bespoke procedure or by the fall-back procedure in the Scheme for Construction Contracts?).

3.16 It was recommended in Sir Michael's report that there should be a single adjudication procedure. The New Zealand Construction Contracts Act 2002, for example, imposes a mandatory procedure for all adjudications. The DTI should be invited to amend the Act to provide this. In order to reduce the challenges to the adjudicator's jurisdiction (and, therefore, the costs) the DTI should also be invited to extend the adjudicator's power to rule on certain aspects of his own jurisdiction. In particular, the adjudicator should have the power to decide whether there is a "*dispute*" and the "*scope*" of the dispute. To further reduce opportunities for challenging the adjudicators' jurisdiction, the DTI should also be asked to remove the exclusion in the Act relating to process plant.

3.17 A remaining issue relates to the power of the adjudicator to award “party and party” costs allowing the “winning party” to be reimbursed his legal costs by the “losing party”. Although the DTI has decided that the adjudicator should not have such power, it has agreed to allow an exception. Following referral of the dispute, the parties should have the right to agree on the adjudicator having this power. We believe that this exception will undermine adjudication. **The adjudication process is not a forensic process to decide whether a party is right or wrong.** The adjudicator’s decision is a holding decision that facilitates the flow of cash. Moreover, the risk of exposure to meeting the other side’s legal costs will increase the cost of adjudication overall and, therefore, reduce access by SMEs. In practice SMEs will often be under pressure to agree to give the adjudicator power to award “party and party” costs. **The DTI should be requested to abandon this proposal.**

4. ESTABLISHING CORPORATE COMPETENCE

Recommendation 4

- 4.A OGC (in collaboration with industry) to develop *core criteria* in relation to **technical competence and financial standing** for recognising as competent individual firms or firms in registration/licensing/qualification schemes.
- 4.B Once the *core criteria* have been established and following a suitable lead-in time for the industry to become compliant with the criteria, **all** procurers of public sector works should only select firms that—individually or as members of registration/licensing/qualification schemes—are “badged” as *compliant*.
- 4.C For all new works commencing in 2009 **all** procurers of public sector works should only select firms that—individually or as members of a registration/licensing/qualification scheme—are *compliant with the core criteria* in the Approved Code of Practice issued under the 2007 CDM Regulations.
- 4.D DCLG to harmonise and rationalise requirements in the Building Regulations (and related regulations) relating to *competence*.
- 4.E DCLG to develop a single identifiable “badge” for “*competent persons*” schemes so that membership of one scheme could suffice for other schemes.
- 4.1 In “*Rethinking Construction*” in 1998, Sir John Egan made the following highly critical observation:
“The City regards construction as a business that is unpredictable, competitive only on price not quality, with too few barriers for entry for poor performers. With few exceptions, investors cannot identify brands among companies to which they can attach future value”.
- 4.2 Sir John’s own discussions with City analysts concluded that there was a need for “*effective barriers to entry in the construction industry*”. This would result in stable and predictable margins which would, in turn, attract greater investment. Over the longer term this should result in a healthier industry that invests more in training, skills and R&D.
- 4.3 In “*Constructing the Team*” in 1994, Sir Michael Latham proposed that public sector procurers should only select firms from one national database and that members of the supply chain should also be selected from such database. This was to be developed from existing government databases which listed consultants and contractors. As a result *Constructionline* was introduced—as a joint venture between DTI and Capita—but it was not adopted by the government and local authorities as the **only** database. Furthermore, *Constructionline* has a major disadvantage in that it does not verify technical proficiency.
- 4.4 “*Competence*” involves objective proof that an organisation is technically proficient to deliver the services it provides, is sufficiently resourced to provide such services, is of sound financial standing and has procedures in place for promoting health and safety. The proof is usually provided by objective demonstration of compliance with relevant standards.
- 4.5 **There is now an overriding need to be able to readily identify organisations that are competent.** Government procurers are committed to “*employing those who offer the best overall quality service*”.²² Successful teamworking is predicated upon the notion of competence.
*“All firms and their workforce within integrated teams should be fully qualified and competent”.*²³
- 4.6 In addition, if we are to have a sustainable industry—from a social and economic perspective—it is essential that public sector procurers engage firms that have demonstrated their competence through investing in the future by training and up-skilling their workforces. Corporate competence should also embrace evidence of investment in sustainable technologies and processes (eg. renewable energy technologies) and of practices that have led to waste reduction.
- 4.7 There has been a lack of decisive action in developing a widely-accepted means of qualifying firms in construction as “*competent*”. This had led to a plethora of vetting processes, approval procedures and pre-qualification schemes operated by myriad private sector providers.
- 4.8 Regulatory requirements have also subscribed to this state of affairs. Over the years a large number of statutory schemes and procedures (as well as non-statutory schemes) have been introduced with the aim of improving standards. But their effect has been to significantly increase the industry’s overheads without

any discernible rise in standards. For example, a firm may have to qualify under one or more “*competent persons*” schemes (Building Regulations), be a registered installer with CORGI (Gas Regulations), qualify as an “*approved*” plumber (Water Regulations) and be a “competent contractor” (Construction, Design and Management Regulations) CDM Regulations.

4.9 This could be in addition to obtaining the TrustMark badge (a government scheme for licensing firms as competent for domestic works), being approved by *Constructionline* and satisfying a variety of other licensing and qualification requirements. SMEs report that they have to pre-qualify under 30 (or more) different schemes in order to obtain work. There is often little to show for this overhead; firms are not assured of greater market share despite being able to demonstrate that they are technically competent, well-resourced and have a good health and safety record. Moreover, there is no evidence that all this activity has helped in the delivery of value for money.

4.10 The industry has made substantial strides in putting its own house in order. SEC Group’s member associations have introduced registration and qualification schemes for their member firms. These often involve independent auditing and inspection to ensure compliance with the required standards.

What is the way forward?

4.11 The solution is to be found in developing a means of recognising membership of a registration or licensing scheme as a reliable indicator of competence. The first stage should be the development of a **core set of criteria** for recognising such schemes. Once a scheme is “badged” as “*compliant*” with the core criteria, this would obviate the need for a firm to qualify under another scheme that is similarly “badged”. In other words the criteria would provide a means of mutual recognition of schemes aimed at establishing the competence of member firms.

4.12 Insofar as health and safety is concerned a model set of *core criteria* now exists within the Approved Code of Practice published in April 2007 to accompany the 2007 CDM Regulations. If a registration or qualification scheme (or an individual firm) complies with the core criteria—which assesses basic health and safety capabilities—this will provide evidence that a firm in membership of the relevant scheme (*prima facie*) satisfies the general requirement of competence under the CDM Regulations.

4.13 **Our proposal, therefore, is that—in collaboration with the industry—the OGC should develop *core criteria* in relation to technical proficiency and financial standing for recognising membership of registration/licensing/qualification schemes (and also for recognising firms not in membership of such schemes) as a reliable indicator of *competence*. The Department for Communities and Local Government may wish to be involved because of their responsibilities for local government.**

4.14 Once the *core criteria* have been developed, it is suggested that the Trade & Industry Committee recommends that the OGC and DCLG (following a suitable lead-in time for the industry to become compliant with the criteria) advise **all procurers of public sector works—including supply chain members—only to select firms in membership of schemes of qualification that are badged as complying with the *core criteria* (or, alternatively, individual firms that have demonstrated compliance with the core criteria).**

4.15 It is also suggested that the Trade & Industry Committee recommend that, **all procurers (including supply chain members) of all new public sector works commencing in 2009 will only select firms that have (either individually or as a member of a qualification scheme) complied with the *core criteria* in the Approved Code of Practice issued under the 2007 CDM Regulations. It is necessary that the Government makes an announcement to this effect as soon as possible to enable the industry to have sufficient time to become *compliant*.**

4.16 A remaining problem exists with the Building Regulations and, indeed, related regulations. Throughout the Building Regulations and other related regulations (eg Fire Regs, Water Regs) there are various requirements relating to *competence*. These are often inconsistent and illogical; some requirements are discretionary whilst others are mandatory. Furthermore, the Building Regulations have introduced “*competent persons*” schemes as a means of encouraging greater self-regulation. Whilst these schemes (rightly) acknowledge that the industry possesses the necessary expertise and experience to determine whether standards are being adhered to, they have been developed piecemeal. Consequently they constitute yet more “pathways” for demonstrating *competence*.

4.17 **Although the Building Regulations are currently under review by the DCLG, we suggest that the Trade & Industry Committee invites the DCLG (and other interested parties) to work with the industry in:**

- (i) **harmonising and rationalising, where possible, the requirements relating to “*competence*” within the Building Regulations and related regulations; and in**
- (ii) **developing a single identifiable badge for “*competent persons*” schemes (so that membership of one scheme may suffice for membership of other schemes).**

4.18 At some point in the future it may become possible for firms that have satisfied the *core criteria* referred to in paragraphs 4.13 of this submission to comply (to some degree) with the requirements in the *competent persons* schemes and other requirements relating to *competence* in the Building Regulations and other regulations. This is certainly the vision and, if realised, it will help erect barriers to entry to the industry which will, in turn, allow firms to compete on a level playing field. It will enable firms to be more efficient

through investing in training and new technologies that will help deliver best value for the public sector. But, at present the plethora of vetting processes in the industry is imposing a substantial burden on all firms. The immediate priority is rationalisation.

5. ENGAGING SMES ON PUBLIC SECTOR WORKS

Recommendation 5

The OGC and DCLG (and their counterparts in Scotland, Wales and Northern Ireland) should be asked to endorse the draft SME Good Practice Charter (at **Annex 3**) and agree that it should be made mandatory for all public sector works.

5.1 The vast majority of firms in the industry are SMEs. They are often responsible for delivering the bulk of design, construction and maintenance works whilst, at the same time, they are having to bear a disproportionate amount of risk and low profit margins. Their problems are exacerbated by poor payment practices such as retentions and the risk of insolvencies along the supply chain.

5.2 In *Improving Public Services through better construction* the NAO acknowledged that these problems constituted major barriers to SMEs becoming fully engaged on public sector projects and to the delivery of their full potential. Over four years ago the *Better Regulation Task Force* and the *Small Business Council* carried out a joint review of access by SMEs to public sector contracts.²⁴ The overall conclusion of the review was that the public sector must take a more active role in ensuring that good practice in relation to the commercial treatment of SMEs becomes common practice.

5.3 This review made clear that SMEs were in an advantageous position to help public sector procurers achieve best value since they often provided innovative solutions and products, better customer care and were capable of greater flexibility in responding to the changing needs of their customers. Public sector procurers should be monitoring the treatment of SMEs so that barriers are removed to enable them to become fully engaged in the procurement process.

5.4 To that end and, as a first step, we invite the Trade & Industry Committee to recommend that the OGC (and its counterparts in Scotland, Wales, Northern Ireland) endorse the draft *Best Practice SME Charter* attached at Annex 3. Following such endorsement they should be invited to take the necessary steps to ensure that the Charter is adopted and implemented by all procurers of public sector works. Further, its use should be monitored and it should be understood that non-compliance with the Charter could result in a failure to obtain public sector works contracts in the future.

Annex 1

BACKGROUND NOTE

A.1.1 Most commentators would accept that the industry of 2007 is much improved compared with the industry of 1994 when Sir Michael Latham's report, "*Constructing the Team*" was published. The context for the report was, however, a recession-hit industry in which commercial conflict—largely involving the abuse of firms in the supply chain by large contracting organisations—had reached its nadir.

A.1.2 In responding to the question: "*What has been the most significant change over the last 13 years since Sir Michael's report?*", the majority of contracting firms would refer to Part 2 Housing Grants, Construction and Regeneration Act 1996 (generally referred to as the "Construction Act"). The Act was, of course, the progeny of the Latham Report. The (limited) abolition of pay when paid clauses, the statutory right of suspension of work for non-payment and adjudication have helped curb the worst excesses of contractual and payment abuse. The Act has weaknesses and these have been exploited. As a result, and against a background of continuing payment delays, the Chancellor of the Exchequer announced a review of the Act in his March 2004 Budget Statement. We discuss the review in this submission.

A.1.3 Whilst the Act applied a break to internecine strife, the delivery process in the industry continues to be fragmented with hierarchical and sequential appointments of firms with three or four layers of sub-contracting not being uncommon. **Over 85% of the value of the industry's output is delivered by a supply chain comprising specialist contractors, suppliers and manufacturers. But the supply chain has little influence over procurement decisions, design solutions and cost plans and it is these that will determine whether or not the finished product represents value for money. This, alone, represents the major fault line in the UK construction industry.**

A.1.4 Not surprisingly, this was the fundamental issue addressed in Sir John Egan's report, "*Rethinking Construction*" in 1998:

"The most successful enterprises do not fragment their operations—they work back from the customers' needs and focus on the product and the value it delivers to the customer. The process and production team are then integrated to deliver value to the customer efficiently and eliminate waste in all its forms".¹ (emphasis added)

The key word in this quotation is “*integrated*”. According to the concise Oxford Dictionary “*integration*” means, “*combine, or be combined, to form a whole*”, “*bring, or come, into equal participation in an institution or body*”.

A.1.5 The implications for the construction industry of Sir John’s report would be far-reaching:

“To summarise, . . . we are not inviting UK construction to look at what it does already and to do it better; we are asking the industry and government to join with the major clients to do it entirely differently. What we are proposing is a radical change in the way we build. We wish to see, within five years, a construction industry deliver its products to its customers in the same way as the best consumer-led manufacturing and services industries. To achieve the dramatic increases in efficiency and quality that are both possible and necessary we must all rethink construction”. (emphasis added)

A.1.6 The future is, therefore, a more collaborative approach to delivery that would transcend traditional demarcation lines and myriad interfaces in order to provide holistic solutions to the customer. *Rethinking Construction* was fully endorsed by the government and reflected in “*Achieving Excellence*” launched by Alan Milburn, the (then) Chief Secretary to the Treasury, in March 1999. *Achieving Excellence* was a three year programme (subsequently extended to five years) with targets for securing substantial improvements in quality, cost and time in reducing the average period taken between the start of the procurement process and the award of contract. These were to be achieved through teamworking arrangements between procurers and suppliers to maximise integration of the delivery process. Millburn’s message was:

“If you like, the Government is deliberately putting itself under the spotlight and what is more we are determined to drive through change . . .” (emphasis added)

A.1.7 Whilst public sector procurers, private sector customers and many firms in the industry were committed to the “Egan agenda”, achieving long-lasting change has been slow and patchy. Partnering and teamworking arrangements have often appeared to be “skin deep” or have excluded the supply chain.

*“Partnering is where a group of contractors get in to bed together—the trouble is the main contractor usually has all the bed clothes!”*²

It appears to be very difficult to get out of the habit of using the supply chain as a repository for all the risks associated with construction—especially design risks arising from deficiencies in the original designs.

A.1.8 This lack of progress was acknowledged by the Government in 2001 when it established the Strategic Forum for Construction under the chairmanship of Sir John Egan. Its remit was to consider specific measures to **implement** a more integrated delivery process. The outcome was the *Accelerating Change* report:³

*“It is generally accepted that, at present, the number of projects delivered by integrated teams is less than 10%. This report looks forward to the time when the industry can offer a full integrated service to their clients, which will deliver predicted results in all areas”.*⁴

The Accelerating Change report was endorsed by the government and all sections of the industry.

The report set a target of 50% of construction projects (by value) to be undertaken by integrated teams and supply chains by the end of 2007.

A.1.9 In May 2006 the DTI funded an Integration Workshop attended by 80 leading practitioners from all sectors of the industry. The Workshop was invited to consider whether the industry would achieve this target. The Workshop report stated:

“The industry is nowhere near meeting the 50% target by end 2007”.

A.1.10 This conclusion had already been anticipated by the NAO in 2005:

*“While good progress has been made towards collaborative working, departments and agencies have yet to establish fully integrated supply chain teams and to realise all the benefits of improved investment in capacity and innovation”.*⁵

The NAO added:

“There are, however, practical barriers to full integration. In particular, the failure on the part of many clients and main contractors to operate fair payment practices for their specialist suppliers. Where specialist suppliers do not have certainty that they will be paid fairly and in a timely manner they have little incentive to invest in capacity or to innovate”.⁶

A.1.11 All too often there are the costly reminders of the results of fragmented delivery and lack of teamworking—the British Library, Scottish Parliament and Wembley—to name a few. But, with the construction industry responsible for almost 9% of GDP, there are macro implications. Traditional procurement and delivery, exemplified by myriad interfaces, a lack of communication and engagement with the supply chain, inappropriate risk allocation and contractual conflict, all this is wasteful and inefficient.

A.1.12 There is much duplication. For example, each member of the project delivery team will have its own insurance policies that cover the same type of risks as those taken out by other members of the delivery team. Transactional costs are substantial with several levels of tendering, numerous contracts and a variety of payment verification/authorisation procedures. All this substantially increases the overheads of each firm involved and, thus, depresses profitability. High overheads mean fewer resources are available for training, investment in new technology, innovation and R&D.

A.1.13 In a report to the Office of Government Commerce last year, Deloitte concluded that poor procurement practices depress capacity in the industry. This is of particular concern at a time when the industry is entering a period of activity that, in relative terms, is unparalleled since Victorian times.

*“Risk/reward dynamics in procurement are of major importance to the industry’s capacity. Any actions that override the principles of best practice or attempts to shift unacceptable risks onto suppliers could be counter productive and reduce the ability of the public sector to procure in the construction market”.*⁷

A.1.14 Deloitte concludes that productivity and efficiency in UK construction are below average when compared to foreign construction industries or other UK industries. In particular, the productivity of SMEs is substantially reduced because they bear the burden of unfair commercial practices especially inappropriate risk allocation:

*“Evidence suggests that small firm productivity is a key contributor to the overall productivity gap. This is especially important to the UK given the long and often inefficient supply-chains in construction: many small firms contribute to key elements of major projects”.*⁸

Poor productivity is often the result of low investment. A DTI/Experian report in 2004 suggests that UK construction productivity falls short of equivalent US levels.⁹

A.1.15 A recent pilot study carried out for the European Commission compared construction costs in a number of EU Member States.¹⁰ The highest ranking countries included Belgium, Germany and the Scandinavian countries. The UK was one of the lowest ranking countries. The highest ranking countries benefited from most or all of the following factors:

- Extensive industrialisation of the process.
- Limited scale of sub-contacting.
- A well-developed, lean construction management.
- Single point of responsibility for design and construction.
- A well paid, well trained and industrious workforce.

The evidence obtained from this Pilot Study tends to point towards a more integrated delivery process in the highest ranking countries which, as a consequence, are more efficient which, then, enables greater investment in training and innovation.

Annex 2

LIST OF ORGANISATIONS NOT USING RETENTIONS

[As of March 2007]

ALDI	DeVere Hotels	Sainsburys
Allerdale Borough Council	Derwentside District Council	Sandwell Homes
ARENA	Eli Lily	Sapporo Teppanyaki
Argos	Environment Agency	Slough Estates
Astra Zeneca UK Ltd	Evesham & Pershore Housing Association	Stanhope
Aylesbury Vale District Council	Frist Hydro	Taunton District Council
Birmingham Airport	General Motors (Vauxhall)	Tesco
Birmingham City Council (as part of the Birmingham Construction Partnership)	Hewlett Packard	Tewkesbury Borough Council (where contracts are under seal)
Bloor Homes	Highways Agency	Thames Valley Police (never deduct retentions on direct contracts)
BMS Pharmaceuticals	Homebase	Toyota UK
Boots the Chemists	John Lewis Partnerships	Tyne & Wear Fire Authority (also operates project bank accounts)
Borough Council of Kings Lynn & West Norfolk (for long-term contracts)	Laing O’Rourke (on ProCure21 projects)	Unilever (but they may require retentions when using a PQS)
British Airways	Lemon Zest	University of Leeds
British Gypsum	Lloyds TSB	University of Manchester
British Nuclear Fuels (on their de-commissioning programmes.)	Lovell Partnerships	US Army (when procuring construction work in UK)
British Sugar	Lubrizol	Vodafone
Bromsgrove District Housing Trust	National Grid Transco (on framework contracts)	West Mercia Housing Group
Bromford Housing Group	National Westminster Bank	Winkworth
BT	Norfolk County Council (Framework Agreement)	Wyre Forest Community Housing
Cardiff WwTW	North Tyneside District Council	Yorkshire Water
Carillion (provided that the client does not require retentions)	North Wales Police	Welsh Water (Framework Agreement)
Circle33	Northumberland County Council	
Cisco Systems	Northumbria Water	
	Oxford University	
	O ₂	
	Peterborough City Council	NOTES

City of Sunderland
Colt Telecomms
Coventry University
Defence Estates Organisation
Delta Healthcare

Portsmouth WwTW
Prison Service
(Framework Agreement)
Reading University
Rushcliffe Borough Council

1. SEC Group regularly updates this list
2. There is substantial evidence that along the supply chain retentions will still be deducted even though the client has abandoned the practice

Annex 3

A BEST PRACTICE SME CHARTER FOR PUBLIC SECTOR CONSTRUCTION PROCUREMENT

THE AIMS OF THE CHARTER

A.3.1 This Charter sets out best practice principles on procurement and contracts to encourage the involvement of SMEs on public sector works. It is intended to be applied along the supply chain from the public sector client to sub-contractors (unless the Charter indicates that a certain requirement(s) applies to a particular party).

A.3.2 Lead contractors and their supply chains will be expected to endorse the Charter as a pre-qualification requirement prior to undertaking public sector works contracts. It is intended that compliance with the Charter will:

- help deliver best value in construction procurement to the public sector;
- improve the capacity of SMEs in the construction industry; and
- improve profit margins for SMEs engaged on public sector works.

PRE-QUALIFICATION

A.3.3 Wherever possible and subject to the Public Sector Contracts Regulations 2006 procurers will seek to use local contractors.

A.3.4 Procurers will seek to use contractors registered with reputable schemes of qualification that verify technical competence, health and safety performance and financial standing.

A.3.5 Contractors who are registered with reputable schemes of qualification would automatically qualify for all public sector works contracts unless there are requirements that are highly specific to the nature or type of work involved.

A.3.6 Procurers will use standard pre-qualification documentation developed by the Office of Government Commerce (OGC).

SELECTION AND APPOINTMENT

A.3.7 Partnering or collaborative working arrangements will be inclusive of the supply chain.

A.3.8 Contractors should be appointed as early as possible in the procurement process, preferably as part of the design team (in which case they should be paid a fee for their design input).

A.3.9 Bids should always be assessed on best value (embracing whole life performance and sustainable solutions) rather than on lowest price; the best value criteria together with the respective weightings should be available to all tenderers.

A.3.10 Lead contractors and sub-contractors should list members of their supply chains when tendering and such lists should be adhered to.

A.3.11 When bidding all contractors should provide evidence of their payment performance in respect of their supply chains.

MONITORING QUALITY & PERFORMANCE

A.3.12 Public sector clients will seek to institute mid-project and post-project reviews of performance to provide feedback to the whole supply chain that will include progress against Key Performance Indicators thereby promoting continuous improvement.

A.3.13 Suppliers will work together as a team to manage out defects as work progresses.

CONTRACTS

A.3.14 The suites of contracts used by the public sector client will be adopted (unamended) by the supply chain provided they achieve a fair and proportionate allocation of risk.

PAYMENT

A.3.15 All payments will be discharged within a period not exceeding 30 days from the date on which payment becomes due.

A.3.16 Public sector clients will announce targets for phasing out the practice of retentions and, where they do not use retentions, this policy will be followed through the supply chain.

A.3.17 Where retentions are deducted they shall be ring-fenced for the whole supply chain in a trust account.

A.3.18 Where a contractor deducts retentions from members of his supply chain he must offer mutuality of security such as a payment bond.

A.3.19 Public sector clients to put in place project bank accounts unless it is demonstrated that they would not be cost effective to set up.

A.3.20 All final accounts will be agreed within a period of 30 days commencing from completion of the contract.

NON-COMPLIANCE WITH THIS CHARTER

A.3.21 Complaints concerning non-compliance with this Charter may be made by clients or by individual firms or by a trade association acting on a firm's behalf.

A.3.22 In the event that a complaint is not resolved between the relevant parties it may be submitted to the OGC to be considered in accordance with the suppliers' complaints procedure.

A.3.23 The OGC will report to the relevant parties (and the public sector client if the client is not a relevant party) on whether there has been a failure to comply with the Charter.

A.3.24 The OGC will produce an annual report on the extent of compliance with the Charter.

A.3.25 Repeated non-compliance with this Charter by a client could affect future funding of projects instigated by that client.

A.3.26 Repeated non-compliance by a contracting firm could affect its future selection for public sector works.

NOTE: References to the OGC include its counterparts in the rest of the UK; the Scottish Executive, Welsh Assembly Government and the Northern Ireland Procurement Directorate.

Annex 4

FOOTNOTE REFERENCES IN THE SUBMISSION

1. The Common Minimum Standards (CMS) are a list of key minimum procurement standards that are mandatory across central government (including departments, executive agencies and the non-departmental public bodies for which they are responsible). The first and "General Standard" refers to adherence to the OGC's "*Achieving Excellence in Construction*" initiative. This has as its overall theme the procurement of integrated project teams involving all the key suppliers at the outset.
2. The report (based upon the survey) is available on SEC Group's website at www.secgroup.org.uk
3. Box 2, pages 6–7, NAO Report "*Improving Public Services through better construction*", 15 March 2005.
4. Page 13, NAO Report "*Improving Public Services through better construction*", 15 March 2005
5. An example of the potential savings is given in case example 17 on page 22 of the NAO Report, "*Improving Public Services through better construction*". "*The [Environment] Agency considers it obtained a better engineering solution [through early involvement of specialist engineering contractors] that will last up to 20 years longer than the initial design, which also has significant environmental benefits at a saving of £1,120,000 (12%) on the construction cost of the original solution. The contractors and consultants considered that without the early joint working approach the solution and savings would otherwise not have been identified*".
6. From a consultation document issued by the Built Environment and Transport Foresight Panel, published by DTI in 2000. This has been reinforced by recent research in 2003. Loughborough University and the University of Manchester Institute of Science and Technology produced a report for HSE

entitled “Causal Factors in Construction Accidents”. The report evaluates research that was based upon an analysis of 100 construction accidents. The report concluded: “It was judged that up to half of the 100 accidents could have been mitigated through a design change . . .”

7. Page 29, *Building for the future: Sustainable construction and refurbishment on the government estate*. 20 April 2007.
8. “*Transforming government procurement*” was a white paper published by HM Treasury in January 2007.
9. Para 4.10, *Accelerating Change* launched by Sir John Egan, September 2002 (see **Annex 1**).
10. The Housing Corporation is a non-departmental public body that comes within the remit of the Department for Communities and Local Government.
11. Para 2.29 “*Improving Public Services through better construction*”, 15 March 2005.
12. Para 5.23.
13. Para 3.33 “*Improving Public Services through better construction*”, 15 March 2005. Case example 19 on page 23 of the NAO’s Report is an illustration of the operation of a project bank account. Payments for each member of the delivery team are retained in a safe receptacle and paid out **directly** to each team member. Payments do not have to “travel” through many hands thus removing the incentive to hold onto the cash. A project bank account helps to reinforce the team ethic.
14. Available at www.strategicforum.org.uk
15. The results are available at www.secgroup.org.uk
16. Para. 3.23 “*Improving Public Services through better construction*”, 15 March 2005.
17. Para 3.25 “*Improving Public Services through better construction*”, 15 March 2005.
18. Box 2.2, *Transforming government procurement*, January 2007.
19. Trade & Industry Committee Second Report of Session 2002–03 “*The use of retentions in the UK construction industry*”. A second report, “*Retaining retentions?*” was published on 17 September 2003—Fifteenth Report of Session 2002–03.
20. Speaking in the House of Commons Standing Committee debate on the Scheme for Construction Contracts in February 1998.
21. Further uncertainty has been caused by the first House of Lords case on the Act—*Melville Dundas (in receivership) v Wimpey*. The judgments were handed down on 25 April 2007. A 3-2 majority of the House has cast doubt on the status of withholding notices issued under s 111. It appears that there could now be circumstances in which failure to issue a withholding notice does not prevent the payer from denying payment.
22. *Constructing the Best Government Client*, The Government Construction Clients’ Panel, 1998.
23. Para 5.17, *Accelerating Change*, September 2002.
24. The review published in May 2003 was titled: “Government: Supporter and Customer” and is available at www.brtf.gov.uk/taskforce/reports/smeprocurement.pdf

FOOTNOTE REFERENCES IN THE BACKGROUND NOTE

1. Para 17, *Rethinking Construction*.
2. A specialist contractor quoted in “Unlocking Specialist Potential” published by Reading University in 1998.
3. Launched by Sir John Egan in September 2002. Available at www.strategicforum.org.uk
4. Para 5.1.
5. Para 2.40, *Improving Public Services through better construction*, 15 March 2005.
6. *Supra* at para 2.41.
7. Para 5.12, 2005–15: *Construction Demand/Capacity Study*, June 2006.
8. *Supra* at para. 5.9.
9. DTI/Experian, (2004) *Measuring the Competitiveness of the UK Construction Industry*, Volume II.
10. *EU Pilot Study benchmarking construction costs (use of resources) in the Member States (March 2006)* by Bernard Williams Associates—Access to the full report is available at www.bwa.uk.net/eucon or on request to Bernard Williams on 0208 460 1111.

Supplementary memorandum submitted by Specialist Engineering Contractors' Group

INTRODUCTION

The Specialist Engineering Contractors' (SEC) Group forwarded its submission to the Trade & Industry Committee's inquiry into the UK construction industry on 16 May 2007. This paper provides additional explanation for the issues raised in that submission and is updated to include matters which have arisen since.

At the end of each section we have distilled the issues to provide some focus for the Committee's deliberations and, to help the evidence-gathering process, we have also listed questions that could be asked of witnesses. Against the suggested questions we have identified the government departments to whom the questions could be put.

As in our submission the overriding theme of this paper is that the industry remains bedevilled by poor and outdated practices that hold it back from becoming a modern and efficient industry, having more in common with the 20th century than the 21st century. As a consequence many investors still give the industry a wide berth. It continues to struggle to attract high calibre professionals within the fields of engineering and project management. Above all else traditional procurement and delivery processes are wasteful and inefficient. This, in turn, has an adverse impact upon capacity and productivity.

The key issues which need to be addressed are:

1. We should now put in place "drivers" to achieve greater integration of the delivery process especially the early involvement of the supply chain as part of the design team.
2. Action is now needed in the areas of payment, insurance and contracts to remove barriers to integrated teamworking as well as to facilitate it.
3. The Construction Act requires amendment to strengthen its payment and adjudication provisions to reflect the intention of Parliament when passing the Act. Such amendment, therefore, should enhance payment certainty and ensure that adjudication continues to be inexpensive and accessible.
4. In order to promote a sustainable industry that delivers value for money, public sector procurers should insist that only competent firms are engaged on public sector works (whether as contractors or sub-contractors). However, we need to have in place a means for recognising competence (which are acceptable to procurers) whilst, at the same time, rationalising competence schemes and reducing the burden on SMEs of myriad third party vetting processes.
5. Public sector procurers should be more proactive in improving the treatment of SMEs engaged on public sector works contracts.

In each section we have listed recommendations which we believe, if taken up by the Select Committee, will help create a sustainable industry in which the potential of all firms in the industry—especially SMEs—is exclusively engaged in delivering improved value to customers. As a result the industry will be better placed to improve upon its current low levels of profitability.

We wish to commend the (now re-named) Business, Enterprise & Regulatory Reform (BERR) Committee for its decision to launch this inquiry and look forward to assisting the Committee in its work.

1. CREATING A MODERN AND EFFICIENT INDUSTRY

Background

1.1 Construction works are traditionally procured by engaging architects and engineers to carry out the design which is then put out to competitive tender to main contractors. Tendering main contractors will, in turn, invite bids from sub-contractors who may also invite bids from sub-sub-contractors and suppliers. Main contractors will, then, submit lump sum bids.

1.2 Sub-contractors and suppliers will be specialist contractors such as foundations specialists, cladding and structural steelwork contractors, engineering services contractors and fit-out specialists. Over 85% of the value of the industry's output is delivered by such specialists together with their suppliers and manufacturers. This includes a significant amount of design work as well as construction or installation works. They are also responsible for the repair and maintenance of the delivered product.

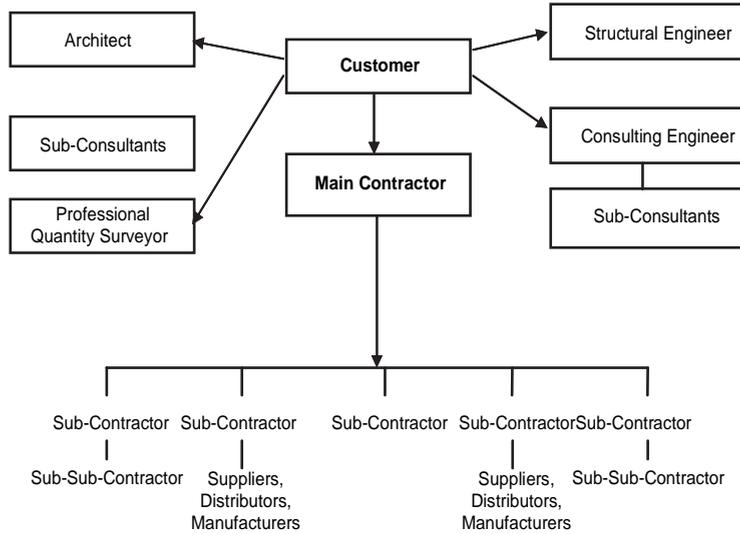
1.3 But, as the supply chain, they have little or no influence over the procurement process especially the initial decisions affecting the planning of the project, the design, the management of the risks involved and the costs. It is these decisions which will determine whether the completed building or structure will represent value for money. This factor alone represents the major fault line in the delivery of construction works in the UK.

1.4 The traditional delivery process is fragmented and disintegrated. There is very little (if any) dialogue on design solutions between architects, consulting engineers and key specialist contractors such as engineering contractors, the latter often carrying out a substantial amount of design work.

1.5 Specialist contractors and suppliers are frequently having to convert design concepts into practical and coordinated design solutions whilst at the same time absorbing most of the risks associated with the delivery process (including any shortcomings in the design they have inherited). As a result out-turn costs are usually much higher than the initial lump sum bid.

1.6 The diagram below shows the traditional procurement process:

1.6 The diagram below shows the traditional procurement process



Customer: with help of consultants/lawyers develops project/design brief for tendering on lump sum – but design usually incomplete.

Main Contractor: Manages construction delivery; usually under-capitalised and needs cash from customer to pay sub-contractors

Sub-Contractors: Specialist contractors that deliver the bulk of the detailed design and construction and absorb most risk (eg. original design not working)

Traditional Procurement: Key Features

- Poor communication
- All risk transferred along supply chain
- Adversarial relationships and disputes
- Lowest price
- Retentions
- No integrated working—everybody operates within “silos”
- Hierarchical & sequential appointments
- Many interfaces
- Inefficient delivery (eg re-design and re-work)
- Out-turn cost exceeds original budget (sometimes many times over)

TRADITIONAL PROCUREMENT - THE COST OF FRAGMENTED DELIVERY

The bulk of Wembley (in terms of value) was designed and built by specialist contractors; eg. foundations, steel structured, engineering services and fitting out. They had no say in the early design decisions and cost plan



* Not including the cost of myriad disputes, adjudications and court cases!

1.7 There are other consequences of having a fragmented delivery process:

- (a) Planning and design decisions often overlook health and safety issues arising in the construction (or production) process.

“Of all fatal accidents on construction sites, as many as 60% can probably be attributed to choices made before the work on site began.”

Foresight Consultation Document
Published by DTI, August 2000

- (b) Sustainable construction becomes impossible; there is much waste:
- a delivery process based upon hierarchical and sequential appointments generates needless transaction costs.
 - a focus on lump sum, lowest price tendering ignores whole-life costs, eg. maintenance and energy consumption over the lifetime of the building or structure.
 - there is a large amount of waste arising from duplication at all the different levels of delivery.
 - waste also arises through much re-design and re-work.
- (c) Above all else quality suffers. This is largely due to:
- i. the initial design solutions not being “bought into” or “owned” by those delivering the product;
 - ii. a combination of the lowest price culture and ease of entry into the industry which deter reputable and established firms from investing in training and technology;
 - iii. too many interfaces;
 - iv. firms (particularly SMEs) absorbing a disproportionate amount of risk.

“Many construction problems are caused by poor design because designers often have insufficient information about the performance of the product in use. Design-based defects are a major cause of customer dissatisfaction . . . because of the complexity of modern buildings, rising expectations of building performance are exposing the inadequacy of traditional design approaches.”

Consultation document published by DTI in 2000
on behalf of The Built Environment & Transport Foresight Panel.

1.8 In 1998 the [then] Deputy Prime Minister appointed Sir John Egan to chair a Construction Task Force to consider the scope for improving construction efficiency. Sir John’s key recommendation was that the industry must integrate its delivery processes to remove waste and, thus, provide added value to customers. Sir John further recommended that the public sector should take a lead in bringing about the necessary change.

Traditional procurement—the cost of fragmented delivery

Construction Defects and their Causes

1. Unclear / missing project information—poor communication
2. Design not working
3. Low quality design
4. No co-ordination of design
5. Difficult to build
6. Designer not understanding materials

“Quality Control on Building Sites”: 1981 Building Research Establishment Study of
27 building sites involving public sector projects valued between £100k and £12m

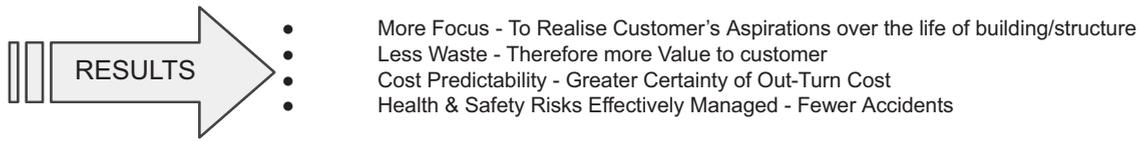
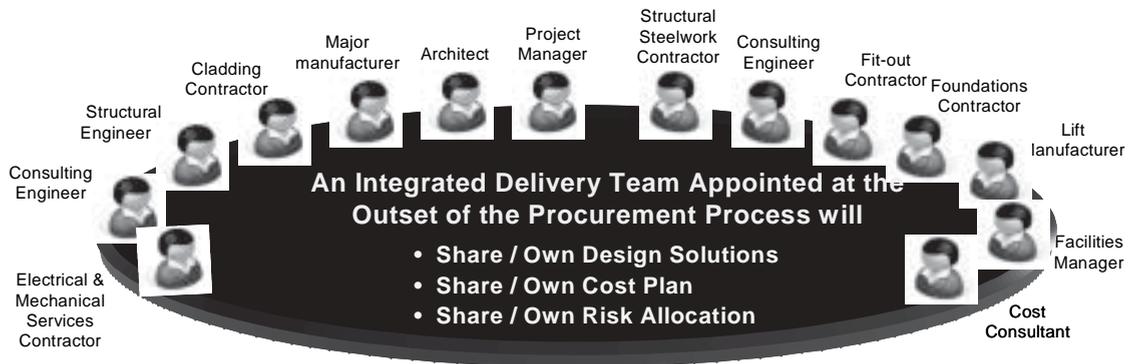
Integrated Delivery

1.9 What is integration? It is the bringing together of all the processes involved in construction delivery—especially design and construction—into a seamless whole. This involves a flatter delivery structure with greater collaboration between the delivery team—consultants, project managers, specialist contractors, facilities managers and suppliers. The focus is on identifying the customer’s requirements or value criteria (relating to matters such as functionality and usage) and the appointment of the team best suited to deliver against such criteria. Needless to say, the team should be appointed and actively involved at the outset of the procurement process to agree the design solutions, cost plan and risk allocation before construction begins.

“The most successful enterprises do not fragment their operations—they work back from the customers’ needs and focus on the product and the value it delivers to the customer.”

Rethinking Construction: Sir John Egan, 1998

1.10 The public sector responded to Egan's challenge with the launch of the Achieving Excellence programme in March 1999. This became a five year programme to overhaul construction procurement by government clients. The Office of Government Commerce (OGC) was given responsibility for implementing the programme. In it's Procurement Guide 6, the OGC stated: "An integrated project team should be appointed to carry out the project."



Overall Result..... A Sustainable Outcome!

1.11 Government clients responded enthusiastically to Achieving Excellence. Procuring staff were trained to become better informed about construction; new procurement strategies were introduced in an effort to engage the supply chain in key decisions affecting planning and design. There was a clear commitment to move from the lowest price syndrome to best value comprising whole life cost.

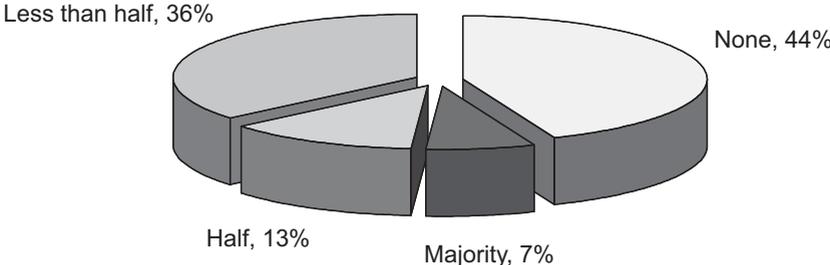
£2.6bn:	NAO's figure for annual savings that could be achieved by the public sector applying best practice procurement including early involvement of key suppliers.
or	
5	<u>more</u> district general hospitals
or	
8	<u>more</u> secondary schools
or	
£82.67 per second – wasted!	

1.12 But, unfortunately, bad practice has become difficult to dislodge. In its 2005 report, Improving Public Services through better construction, the NAO concluded that government clients still had much more to do to involve the supply chain (ie. the delivery team) in the key decisions affecting project outcomes. Alongside other best practice measures such involvement would help contribute towards overall annual savings of £2.6 billion.

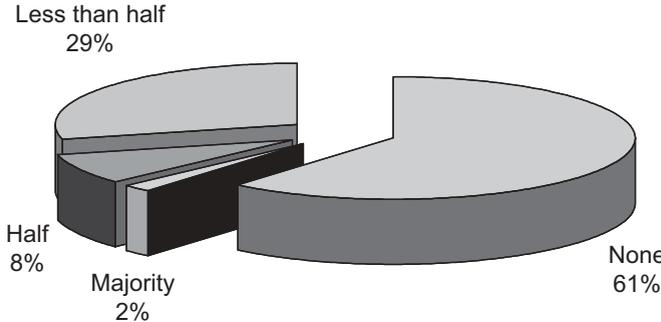
1.13 The NAO's view was echoed in our own survey in 2005. This was a survey of specialist engineering contractors—often delivering up to 50% of the value of the project—which had worked on government projects. The results were very disappointing. Very few firms had been involved on a regular basis in the

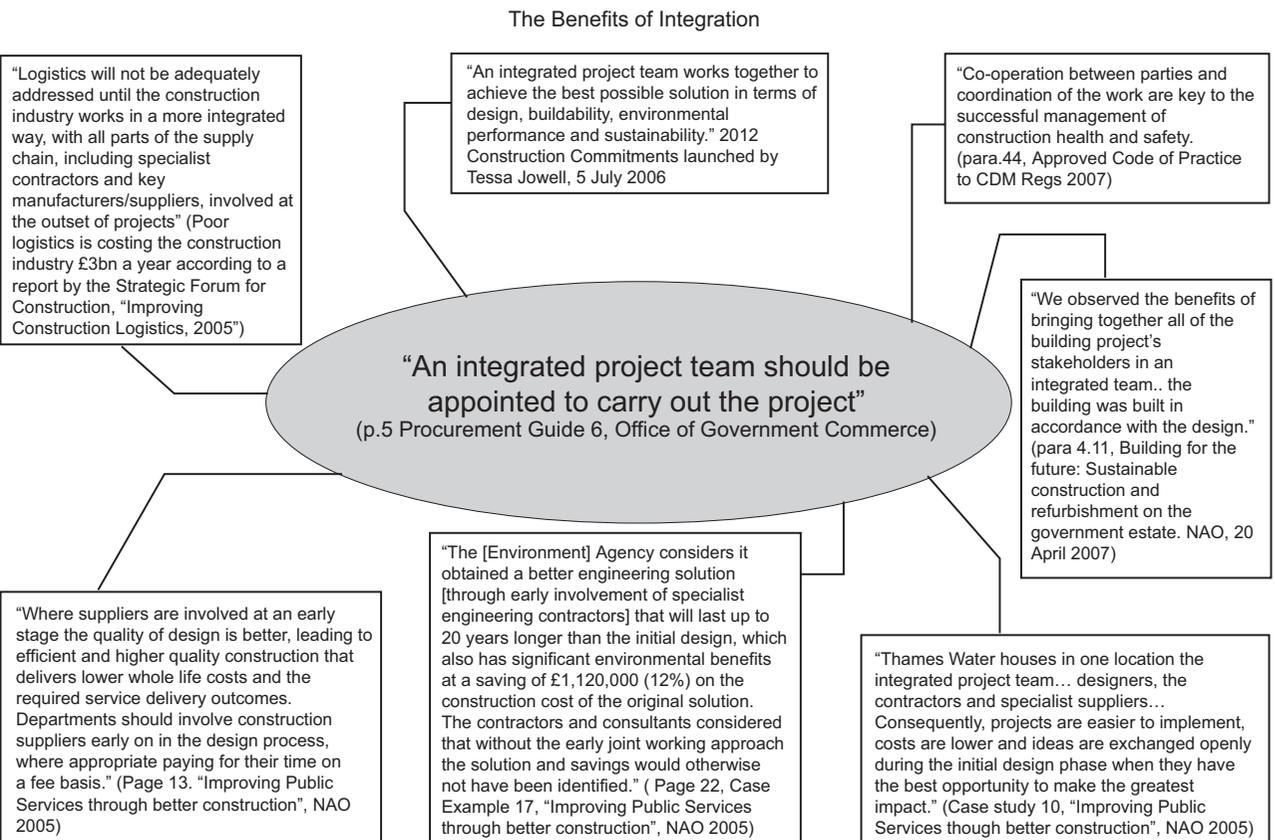
early design decisions or had been part of partnering or collaborative working arrangements. Consequently, progress in achieving integrated delivery has been slow and patchy despite a growing accumulation of evidence of the benefits of integration.

Percentage of government projects in which specialist engineering contractors were appointed at an early stage to engage in the design process



Percentage of government projects where specialist engineering contractors were invited to enter into partnering arrangements





1.14 In 2002 Sir John Egan launched Accelerating Change which identified measures to drive and facilitate integrated delivery. This report set a target of 50% of construction projects (by value) to be undertaken by integrated project teams by the end of 2007. We are nowhere near meeting this target!

The issue

We should now put in place “Drivers” to achieve greater integration of the delivery process especially the early involvement of the supply chain as part of the design team.

Our Recommendations

1.15 A very effective driver would be to make funding conditional on delivery by integrated project teams. This can be introduced progressively. This was supported in Accelerating Change (referred to at paragraph 1.14) which was endorsed by the [then] Department of Trade & Industry.

Conditionality of funding

“It is important that the public sector demonstrates that it is a best practice client which consistently secures the best whole life performance that the construction industry can offer. The public sector can be helped to achieve this by . . . linking government funding of construction projects to the application of ‘Rethinking Construction’ principles.”

(Para.4.10 Accelerating Change: Sept 2002)

Further support for such conditionality of funding was implicit in the 2005 NAO report “Improving Public Services through better construction”.

Conditionality of funding

“... despite all departments’ formal commitment to embedding the principles of Achieving Excellence as a matter of Government Policy, public funding for construction is not always conditional nor does it contain the right incentives to embed the principles of the Achieving Excellence methodology.”

(para.2.29 Improving Public Service through better construction: NAO 2005)

1.16 The Housing Corporation is now making funding of housing association construction works conditional upon compliance with the 2012 Construction Commitments. The Commitments—launched last year by the Secretary of State for Culture, Media & Sport—are best practice requirements for Olympic construction but they are now regarded by the OGC as generally applicable to public sector works.

1.17 An alternative approach is to make funding conditional upon evidence of compliance with the OGC’s Common Minimum Standards. They are a list of key minimum procurement standards that are mandatory across central government departments and executive agencies (including the non-departmental public bodies for which they are responsible). The first and “General Standard” refers to adherence to the OGC’s “Achieving Excellence in Construction” initiative. This has as its overall theme the procurement of integrated project teams involving all the key suppliers at the outset.

1.18 Three further measures are suggested:

- (a) A “champion” to promote integrated project teams on public sector construction

It is suggested that Treasury appoint a high profile individual from the private sector to champion project team integration. Such person could compliment the work of OGC in creating an understanding of the benefits of integration amongst public sector clients. The appointed person could also monitor progress, identify barriers to progress and help in providing solutions to overcome them.

- (b) The best value review process for local authorities should assess their progress in procuring construction through the use of integrated project teams.

This should not be used as a “stick to beat” local authorities but rather as a means of encouraging local authorities to recognise that procuring construction works in this way is far more likely to achieve best value. This will also help to identify local authorities which are in need of support in making the necessary progress.

- (c) In conjunction with the Regional Development Agencies (RDAs) and Constructing Excellence BERR should establish a network of independent construction advisers (or “integration facilitators”) to assist customers on sourcing, assembling or appointing integrated project teams.

About 95% of the construction industry’s customers are one-off or occasional clients. The RDAs (working with Constructing Excellence, a best practice body) are best placed to identify construction professionals who can help customers develop their strategic briefs (listing their user requirements) and put together the appropriate team. The adviser or facilitator would not have a direct participation in the delivery process and, in this sense, would be akin to an independent financial adviser.

Questions

1.19 (a) At the heart of the Achieving Excellence programme launched in March 1999 was a commitment to procuring construction projects through integrated project teams. What progress has been made? [Treasury/OGC]

(b) In view of the fact that Accelerating Change in 2002 and, more recently, the NAO have favoured making funding conditional on the use of integrated project teams, what steps have the Government taken (as the leading public sector client) to bring this about or what steps (if any) does it intend to take? [Treasury/OGC]

(c) Would the Government have any difficulties linking funding to compliance with the 2012 Commitments or the Common Minimum Standards? [Treasury/OGC]

(d) What, if any, lead-in time would be required before conditionality of funding can be put in place? [Treasury/OGC]

(e) What options are there for driving integrated procurement and delivery across government construction bearing in mind that progress, to date, has been very slow? [Treasury/OGC]

(f) Will the Treasury appoint a high profile “Champion” to drive integrated procurement and delivery in the public sector? [Treasury/OGC]

(g) As part of the best value review process, would you support district auditors progressively insisting on the use of integrated project teams to deliver local government construction? [BERR/DCLG]

(h) Would you agree to the Regional Development Agencies (working with Constructing Excellence) establishing a network of independent construction advisers to assist customers on sourcing or assembling and appointing integrated project teams? [BERR]

SUMMARY OF SEC GROUP'S RECOMMENDATIONS

- 1.A The Treasury to progressively make funding of government projects conditional upon evidence of compliance with the OGC's Common Minimum Standards or with the 2012 Construction Commitments.
- 1.B The Government to appoint a high profile "Champion" to drive the integration agenda.
- 1.C The Audit Commission (and Audit Scotland, the Wales Audit Office, Audit Office Northern Ireland) to insist that evidence of integration and collaborative working be a major part of the best value review process.
- 1.D BERR should invite the Regional Development Agencies (working with Constructing Excellence) to establish a network of independent construction advisers (or "integration facilitators") to guide and assist customers on sourcing, assembling and appointing integrated project teams.

2. PUTTING IN PLACE MEASURES TO FACILITATE TEAMWORKING ON PROJECTS

2.1 Since close collaboration within the delivery team is vital if we are to achieve value for money delivery, measures should be in place to facilitate such collaboration. We consider that the following measures are necessary for successful teamworking:

- (a) project bank accounts;
- (b) collaborative contracts;
- (c) project insurance
- (d) phasing out the practice of retentions on public sector projects.

Together these measures, if implemented, would provide the necessary degree of trust and align the behaviours of team members which are crucial for genuine and, therefore, successful collaboration.

Project Bank Accounts

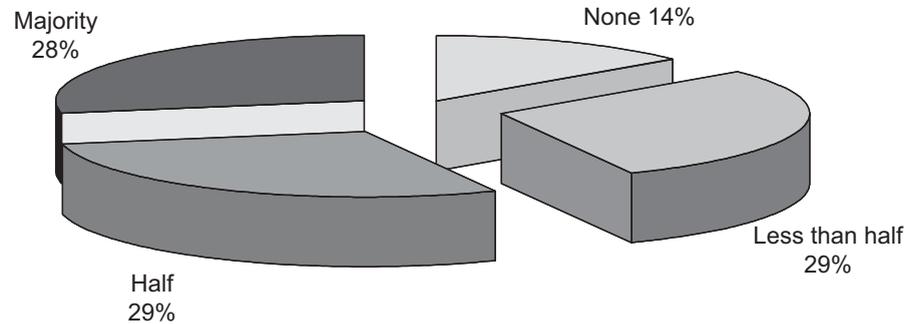
2.2 Generally payment for the supply chain has to pass through many "pockets". Along the way its passage is often impeded; those that have the cash have an immediate incentive to produce excuses for holding on to it before releasing payments to the supply chain.

2.3 The majority of the major UK contractors are under-capitalised but, nonetheless, "farmout" most of their work to sub-contractors and suppliers. They do not have the means to pay their supply chains until they have been put in funds by the customer. In the meantime they depend upon their supply chains to finance the works. Moreover, many developer clients are "shell" companies without assets and, therefore, are simply conduits for transferring onwards the cash received from their funders or investors. Special Purpose Vehicles specifically set up for procuring construction works as part of PFI/PPP projects are in a similar position.

2.4 The UK construction industry, therefore, continues to be funded "bottom-upwards" which is inefficient. Furthermore the supply chain is at constant risk of insolvencies further along the chain without an effective means of accommodating this risk. Consequently, the costs of UK construction are substantially enhanced by poor payment practices which include:

- (a) multi-layered payment systems;
- (b) payment abuse and disputes;
- (c) making payments conditional on factors arising under other contracts; and
- (d) lengthy payment periods.

Percentage of government projects on which payment delays and abuse were experienced by sub-contractors



Overall 57% of firms indicated that they had experienced payment delays and abuse either on a majority or, at least, on half of their projects.

(Survey of specialist engineering firms carried out by SEC Groupin 2005)

Poor payment practices are a major barrier to teamworking. [The subject of payment is also raised in the next section on the review of the Construction Act.]

2.5 The NAO recommended that public sector procurers should consider project bank accounts. This was supported in the 2012 Construction Commitments and recently endorsed by the Public Sector Construction Clients' Forum which (through the OGC) has published guidance and documentation for operating project bank accounts. The guidance advises that project bank accounts (together with a new Fair Payment Charter) will produce significant savings for the public sector purse. It recommends that public sector clients progressively introduce project bank accounts as from 2008.

Project bank accounts: NAO's view

“Departments need to provide specialist small and medium sized suppliers with greater certainty that they will be paid on time to reinforce the trust that should exist between all parties for collaborative working to operate effectively. If this trust does not exist in the supply chain then specialist suppliers, who can significantly influence the value for money obtained on a project, will have little incentive to innovate. Considerable losses can also be incurred over payment disputes which will ultimately feed their way back into the costs for the client. The use of a single project account is one way to provide greater certainty of payment to specialist contractors and suppliers further down the supply chain from the main contractor.”

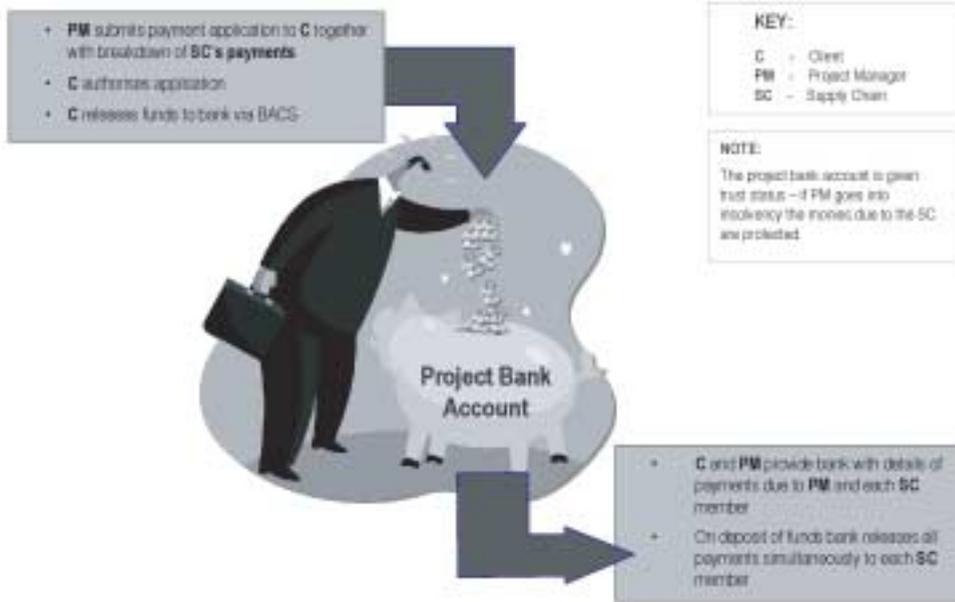
(Para 3.33 NAO Report, “Improving Public Services though better construction”, 2005)

“Over time, as confidence in the system increases, the use of ‘Fair Payment’ Charters and Project Bank Accounts will become more widespread and further overhead and risk savings could be realised, increasing savings to over £750m.” (emphasis added)

Extracted from Guidance on ‘Fair Payment’ launched by the Office of Government Commerce on 19 September 2007

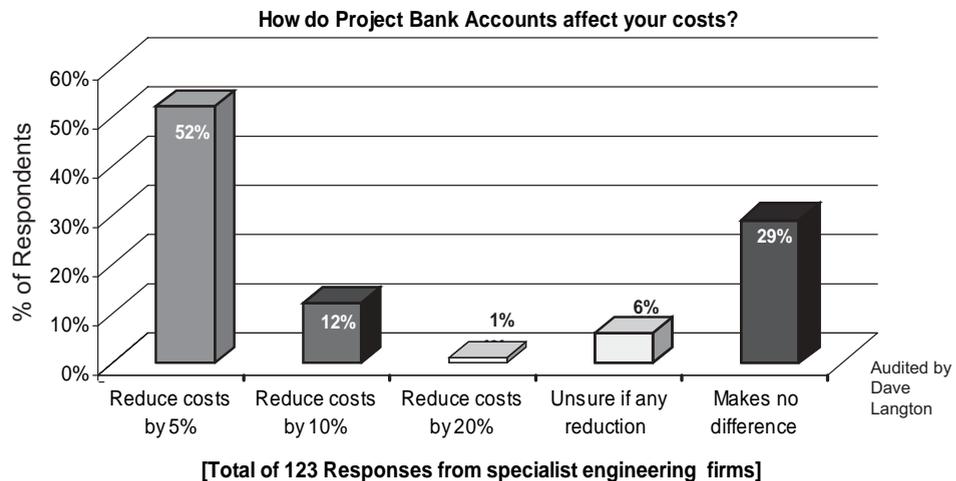
2.6 Rider Levett Bucknall, a leading firm of construction consultants, has developed a training package to support client organisations and supply chains intending to use project bank accounts; it has experience of using such accounts. The Bank of Scotland and Barclays Bank have developed specific banking documentation to facilitate the setting up of the account. Contract producing bodies are also developing project bank account provisions for their contracts. The OGC has set up a monitoring process to gauge progress. Therefore, everything is in place to enable procuring organisations to set up and use project bank accounts from January 2008.

How a Project Bank Account works



2.7 Last year SEC Group carried out a survey of firms in its member associations to inquire into the extent to which their costs would be reduced by having project bank accounts. 65% of respondents thought that their costs would be reduced; the majority of respondents believed their costs would reduce by up to 5%. A significant number stated that their costs would be reduced by up to 10%. The survey results were audited by David Langdon.

RESPONSE ANALYSIS FOR PROJECT BANK ACCOUNTS SURVEY CARRIED OUT BY SEC GROUP - JULY 2006



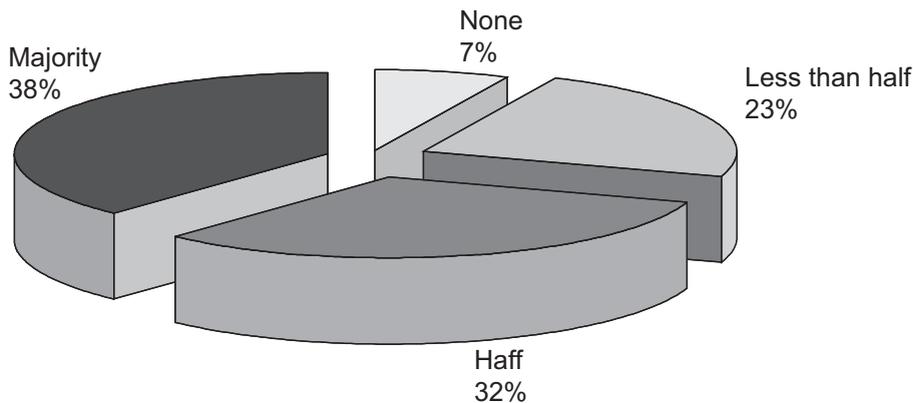
“There is very good alignment between the mechanism of Project Bank Accounts and the principles of fair payment, and it is recommended that public sector clients should progressively specify use of Project Bank Accounts where practicable and cost effective. Where they are used, clients should give a written commitment to a payment period linked to a PBA. Their use generates the confidence in both the supply chain and the lead contractor, reducing their risks and prices by providing real surety of cash flow for all parties.”

(Para.18. Guide to Best ‘Fair Payment’ Practices, OGC Report: August 2007)

Collaborative Contracts

2.8 Contractual arrangements should be transparent throughout if we are to achieve genuine teamworking. Government procurers should insist on the use of collaborative contracts throughout the supply chain; furthermore, lead contractors’ bespoke sub-contracts should be outlawed on public sector works.

Percentage of government projects where specialist engineering contractors were content with the contractual terms



(Survey of specialist engineering firms carried out by SEC Groupin 2005)

2.9 Our 2005 survey of engineering contractors working on Government projects (as sub-contractors) indicated that only 38% of firms were content with the contractual terms on offer on the majority of projects. The supply chain construction contracts for government projects are generally bespoke contracts generated by lead contractors. Our attention has often been drawn to the fact that at government client-lead contractor level the contracts are even-handed but, below the lead contractor, there is a disproportionate allocation of risk to the supply chain. This undermines the efforts of government procurers to encourage greater teamworking within the delivery team.

“Forms of contract should aim to improve the quality and cost-effective delivery of clients’ projects through . . . [allocating] each risk to the party who is best able to manage it.”

(Procurement Guide 6, Procurement and Contract Strategies, OGC)

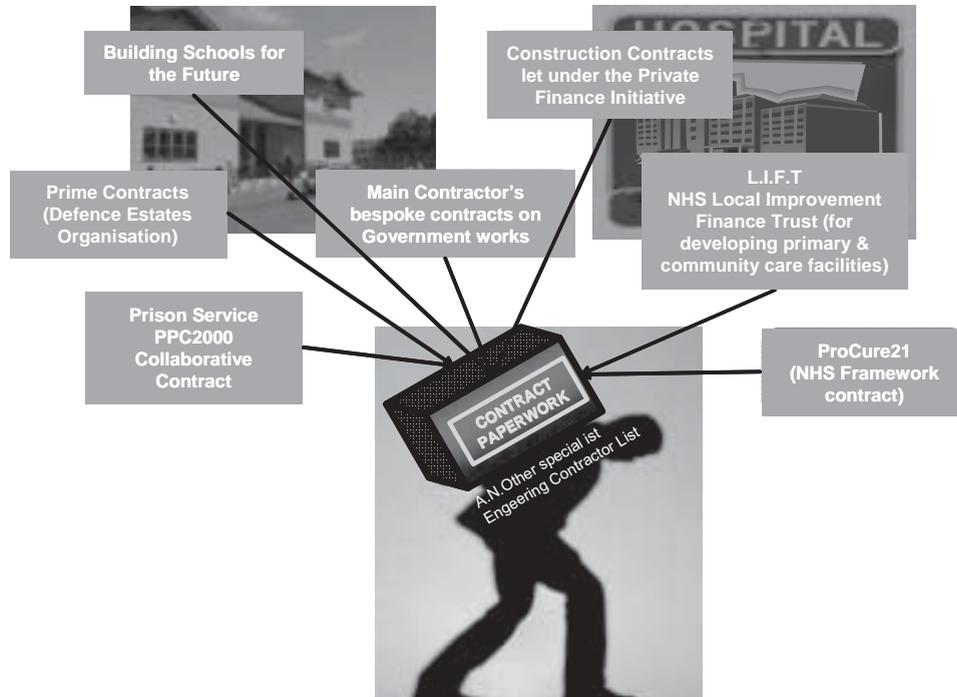
2.10 This provides an opportunity to raise another issue relating to contracts on government construction projects. There are a vast array of construction contracts used by Government procurers for various procurement methods and building types. Often the contracts are unnecessarily complicated and lengthy. Whilst there has been progress in developing longer-term relationships with the industry through framework agreements, standardisation of contracts has not been achieved. Instead there is now a proliferation of contracts with a variety of payment and risk/reward mechanisms.

2.11 This, of course, adds substantially to the costs of bidding for government construction works and of administering the contracts. In principle, all contracts and sub-contracts for government works should be standardised or, at least, their core provisions should be standardised. The only attempt at standardisation has been the Treasury’s standard project agreement for PFI arrangements (SPOC4). But the construction contracts and sub-contracts let under PFI arrangements are not standard. The easiest solution would be for Treasury/OGC to insist upon the use of the available collaborative contracts as recommended by the NAO in its 2005 report *Improving Public Services through better construction*.

“The use of standard forms of contract helps to reduce both tendering and contract administration costs. Bespoke or amended standard forms require clients and tenderers to seek additional and frequently costly legal advice and this increases the risk of disputes arising from unfamiliar terms.”

(Procurement Guide 6, Procurement and Contract Strategies, OGC)

A Standard Suite of Contractual Documentation for Government Works is Needed



Use of collaborative contracts: view of NAO

“Modern forms of contract can support clients in developing closer, more collaborative, longer-term working relationships with suppliers. The Engineering and Construction Contract . . . is one example of a contract written in plain English that embeds the principles of good project management in its procedures and promotes role clarity. It encourages early issue resolution, and contains options onto the choice of procurement route. It is non-adversarial in its tone and spirit, and as such, many clients have adopted it for use in long-term collaborative working arrangements . . . More recently Collaborating for the Build Environment (Be) has developed a collaborative form of contract. This has widespread support from the industry and is now starting to be used on projects in the UK . . . Some contracts are still written in the traditional more adversarial approach and are not suitable for modern collaborative ways of working. The Office of Government Commerce is currently working to reduce the number of standard forms of contract being used in the public sector..”

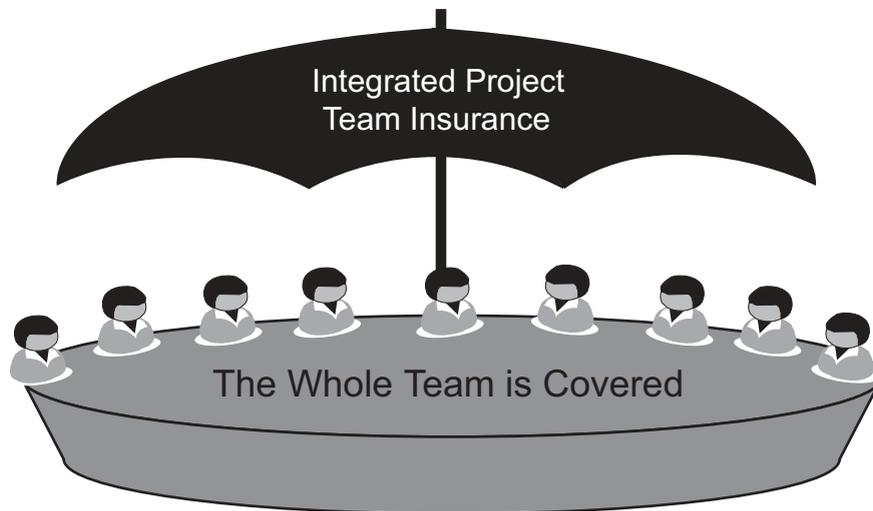
(Para. 3.23, Improving Public Services through better construction, NAO Report: 15 March 2005)

Project Insurance

2.12 Traditional insurance arrangements in the industry are aimed at protecting the individual rather than the team. This is a major barrier blocking the way to greater teamworking. There is an acute need to develop a policy of insurance that underwrites the whole team.

2.13 The Public Sector Construction Clients' Forum has agreed that government procurers should identify suitable projects for piloting “single project financial loss insurance”. A number of brokers and insurance companies are interested in supporting pilot projects. It is now urgent that Government procurers come forward with projects for piloting. In the meantime, both SEC Group and the OGC have been funding work on developing a suitable policy. It is expected that the first projects for piloting project insurance will be underway in 2008.

How An Integrated Project Team Insurance Policy works



“[Departments should] . . . seek opportunities to pursue the case for project-wide insurance, not only to reduce costs through bulk buying, but also to align behaviours with the principles of integrated team working.”

(Para.3.5, “Improving Public Services through better construction”,
NAO Report, 15 March 2005)

Phasing Out the Practice of Retentions

Retentions: do they make a difference?

“Holding retention is intended to incentivise contractors to repair defects in the defects liability period on traditional contracts. In reality there is little evidence to show it actually encourages contractors to produce defect-free properties. If anything holding retentions encourages contractors and sub-contractors to increase their prices accordingly because they will not necessarily receive their retention.”

The Housing Forum Demonstration Projects Report,
February 2002: The Challenges Ahead

2.14 The Trade & Industry Committee has already carried out an inquiry into the practice of retentions: *The Use of Retentions in the UK Construction Industry* (Second Report of Session 2002–03). This was followed by a further report, *Retaining Retentions?* (Fifteenth Report of Session 2002–03) which was the Trade & Industry Committee’s commentary on the government’s response to the initial report.

2.15 The Committee concluded that the practice of retentions was out-dated in a modern, professional industry. The evidence presented to the Committee indicated that the practice had more to do with the provision of interest-free cash than providing security against defects. The deduction of cash retentions (usually 5% of due payments up to practical or substantial completion of the works) was “part and parcel” of the lowest price culture.

Some local authorities regard retentions as convenient interest-free loans

“Reduces borrowing and aids cash flow” (Aberdeenshire Council)

“Retentions are not put to any ‘use’ as such. Budgets are allocated on the basis that retentions will be deducted so, indirectly, retentions are used to finance capital schemes”. (Salford Council)

“Held in capital project accounts” (Strabane District Council, Northern Ireland)

“Invested” (Poole Borough Council)

“Held in capital programme.” (Barrow Borough Council)

The above quotations are extracted from a SEC Group report,
The Use of Retentions in Local Authority Construction Procurement published in 2004
(available at www.secgroup.org.uk)

2.16 Moreover retentions are the antithesis of teamworking and collaboration:

- (a) they indicate a lack of trust: if a firm is considered incapable of carrying out defect-free work it should not be selected in the first place;
- (b) the practice is divisive: retentions are not deducted from other members of the team such as consultants and manufacturers;
- (c) there is never any mutuality in the practice: those deducting retentions do not offer concomitant security for performance such as payment bonds.

“The retention system developed as a means of ensuring that contractors delivered work to the standard expected by the client, and its continuation is an indication of the degree of distrust between clients and the industry. It is also a very considerable burden upon the industry, especially small and medium sized companies that make up the bulk of contractors in the construction sector. The Specialist Engineering Contractors’ Group (SECG) has estimated that SMEs are funding £3.25 billion of cash retentions every year. Furthermore, it is a burden on the taxpayer . . . the cost to the public purse of such a practice could be as much as £750 million a year”.

(Para 2, *Retaining Retentions?* Trade & Industry Committee: Fifteenth Report of Session 2002–03)

2.17 The results of a recent survey published by the Building Services Research & Information Association (BSRIA), a private sector research body, demonstrate the adverse impact that retentions have on the industry. Outstanding retentions account for 3% of the turnover of the mechanical and electrical contracting sector. If this figure is projected across the industry’s turnover, a total of £3 billion of retention monies is outstanding! It is difficult to conceive of any other industry in the UK that would be prepared to tolerate such a burden of outstanding debt; such burden weighs most heavily on small businesses.

2.18 In its survey BSRIA invited firms to indicate the uses to which they would put retention monies in the event that the retentions system ceased to exist. 160 firms responded to this question as follows (some gave more than one use):

Better cash flow/stability	37%
More investment in training	20%
Employ more operatives	14%
More IT investment	13%
More investment in new equipment and tools	10%
Fewer people in credit control	1%
Status quo would remain	5%

BSRIA 2007 Survey: impact of retentions on capacity

An interesting result in the BSRIA survey is that 14% of firms would employ more operatives. There are over 50,000 firms in the M&E sector. If each of these firms employed an additional operative, there would be available work for almost 7,500 people. If these statistics were projected across the industry (which comprises approximately 180,000 firms) there would be employment for an extra 27,000 people! This, in turn, would enable the industry to significantly increase its capacity.

2.19 We believe that significant progress still has to be made on the complete abolition of retentions on government works. Even where government procurers have outlawed retentions, the evidence is that they are still being deducted by lead contractors from their supply chains. We invite the Business, Enterprise & Regulatory Reform Committee to insist on compliance with its recommendation that retentions on government works should be phased out “as soon as possible”. Since this recommendation was made four years ago it should by now be implemented without further delay—given that government procurers are committed to collaborative working.

Retentions: the trade & industry committee’s recommendation

“Given the annual cost of retentions to the construction sector and to their public sector clients, it is obviously in the interest of all parties that they are phased out as soon as possible. The Government has insisted that this be done by the successful introduction of best procurement practice so that the retentions system is rendered obsolete, rather than by direct action to remove retentions provisions from government contracts. We do not accept that these actions are mutually exclusive, as the Government appears to believe, especially as some departments, such as the Highways Agency, have already indicated that removing retentions provisions would be feasible by 2007, as we had suggested”.

(Para 18, *Retaining Retentions?* Trade & Industry Committee: Fifteenth Report of Session 2002–03)

The issue

Action is now needed in the areas of payment, insurance and contracts to remove barriers to integrated teamworking as well as to facilitate it.

Our Recommendations

2.20 (a) Given the support and guidance that is now available for setting up project bank accounts, we invite the Committee to recommend that all government procurers introduce such accounts on new projects commencing in 2008, where practical and cost effective. Local authorities should be encouraged to consider them for new projects starting in 2009. Initially, we would suggest that they should be applied to projects over £3 million (although this should not prevent public sector clients applying them to lesser—value projects if they so wish).

(b) Given the support for integrated project insurance from the NAO and Public Sector Construction Clients' Forum, further encouragement should be given to government procurers to identify projects suitable for piloting this type of policy. The project value should be between £20 million and £30 million. We suggest that the Committee invites the OGC to contact all government procurers to establish whether they can offer at least one pilot project.

(c) We suggest the Committee invites the OGC to set targets for government procurers to standardise construction contracts for all procurement routes by insisting on the use of standard collaborative contracts for the whole delivery team. This should involve the outlawing of bespoke contracts throughout the supply chain.

(d) The Committee has already proposed the elimination of retentions on government projects to take effect "as soon as possible". It originally recommended 2007 as the target. We suggest that the end of 2008 should now be considered as the target for phasing out this practice.

Questions

12.21 (a) Given that project bank accounts are recommended by the Public Sector Construction Clients' Forum, the OGC and the National Audit Office (and are also recommended in the 2012 Construction Commitments), will the Treasury/OGC now insist that they are introduced on all government projects commencing in 2008 where practicable and cost effective? [Treasury/OGC]

(b) What would be the most effective way of encouraging local authorities to establish project bank accounts on local authority construction works? [DCLG]

(c) Can we work together to set an achievable target (say 2009) for local authorities to introduce project bank accounts for all new projects commencing in that year? [DCLG]

(d) What measures will be taken to ensure that there is standardisation of contracts across all government procurement routes? [Treasury/OGC]

(e) The easiest solution, presumably, would be to insist on the use of standard collaborative contracts for all government procurement routes allowing for a fair allocation of risk within the supply chain? [Treasury/OGC/Individual Government procurers]

(f) If Treasury/OGC and individual procurers were to insist on the use of standard collaborative contracts will bespoke contracts and sub-contracts be outlawed? [Treasury/OGC/ individual government procurers]

(g) Will OGC take responsibility for drawing up a list of future government project(s) valued between £20 million to 30 million that could be adopted as pilots to trial policies of project insurance? [OGC]

(h) To what extent has the practice of retentions on government works been outlawed:

- i. between clients and lead contractors; and
- ii. between lead contractor and sub-contractors? [Treasury/OGC/ individual government procurers]

(i) In the case of those government departments and agencies which still require retentions, what are their reasons for doing so and when will they cease the practice? [Treasury/OGC/ individual Government procurers]

SUMMARY OF SEC GROUP RECOMMENDATIONS

- 2.A All government procurers to introduce project bank accounts where practical and cost effective for all projects commencing in 2008. All local authorities should be encouraged to consider them for new projects commencing in 2009.
- 2.B OGC to contact all government procurers to encourage them to offer at least one project (value between £20–30 million) for piloting project insurance.
- 2.C Government procurers should insist upon the use of collaborative contracts for the whole delivery team and that bespoke contracts and sub-contracts are outlawed. OGC should set targets by which these actions should be completed.
- 2.D The end of 2008 to be the target for outlawing the practice of retentions on all government projects (including retentions applied along the supply chain) following a recommendation of the Trade & Industry Committee in 2003 that "Government departments . . . eliminate the practice of retentions as soon as possible".

3. REMEDYING THE WEAKNESSES IN THE CONSTRUCTION ACT

Background to Review of the Act

3.1 The priority for the overwhelming majority of contracting firms in the UK construction industry—mainly SMEs—is payment security. Over the years studies have consistently shown that payment delays and abuse are far more widespread in construction than in other UK industries. Payment abuse embraces a variety of behaviours from failing to pay without providing reasons to delaying payments for spurious reasons connected with, for example, the value of works carried out or alleged payee defaults. Following a recommendation in Sir Michael Latham’s report in 1994 “Constructing the Team”, Part II of the Housing Grants, Construction & Regeneration Act (generally known as the “Construction Act” and called the “Act” in this document) was introduced. It came into force on 1 May 1998.

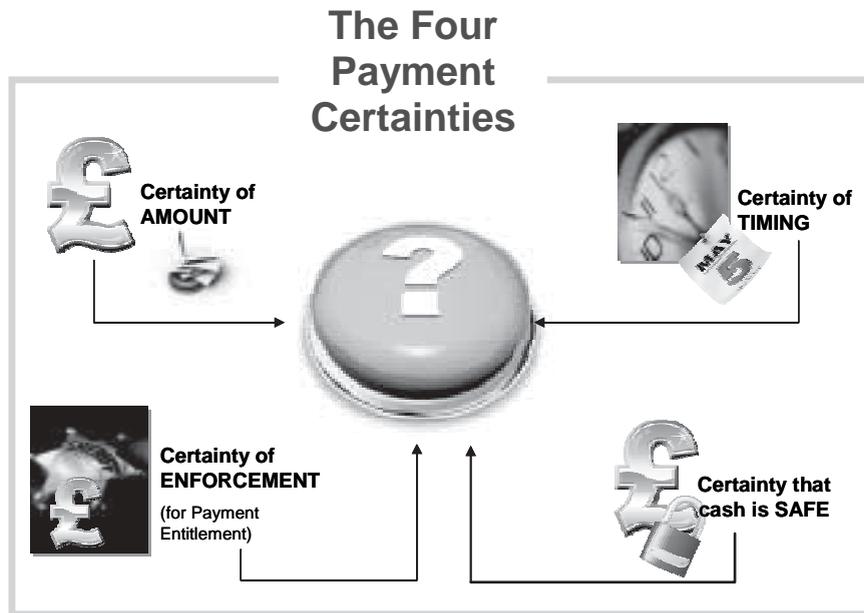
“Two words . . . the gatekeepers to any real progress . . . These words are ‘trust’ and ‘money’. They are totally interlocked.

Too little trust—and not enough money. A mighty machine which requires oil in its engine to drive it, has grit instead.”

(para. 17, “Trust and Money”
Sir Michael Latham’s interim report in 1993)

3.2 Most firms in the industry would acknowledge that the Act has helped to improve payment certainty. In particular, the provisions relating to the right of suspension for non-payment, the limited ban on pay when paid clauses and adjudication (for dealing quickly with payment disputes) have been of great assistance in helping to eradicate poor payment practices along the supply chain. But experience over the past nine years shows that:

- (a) Weaknesses in the Act have become apparent and exploitation of these is rife;
- (b) Most firms have difficulties in establishing whether their contracts are Act compliant;
- (c) Payment abuse and delays remain a significant problem; and
- (d) Adjudication has now become an expensive process which deters SMEs from using it. (An explanatory note in Schedule I at the end of this document summarises the Act’s provisions and its major weaknesses.)



3.3 Consequently the (then) Chancellor announced a review of the Act in his 2004 Budget Statement. The DTI (now BERR) was given the task of carrying out the review. Sir Michael Latham was appointed Chairman of the Review Panel. Working groups on payment and adjudication were established to identify the issues on which the industry should be consulted. Sir Michael reported to the [then] Construction Minister on 17 September 2004.

Announcement of review of act

“Following concerns expressed by the construction industry on unreasonable delays in payment, the Government will review the operation of the adjudication and payment provisions in the Housing Grants, Construction and Regeneration Act 1996 to identify what improvements can be made.”

(March 2004, Budget Statement)

3.4 In March 2005 the DTI initiated a three month consultation on issues arising from Sir Michael Latham's review. However, some issues had either been diluted or excluded from the consultation. (The issues raised in Sir Michael's review and progress to date are set out in Schedule 2.) A second three month consultation (Improving Payment Practices in the construction industry) was launched in June 2007 with proposals that bore little resemblance to the issues in Sir Michael Latham's 2004 report.

“Is there a need for improvement in payment practices? This was the million dollar question last March. The short answer from the consultation is ‘yes’ we do need to improve payment practices.”

(Alun Michael MP, speaking on 14 February 2006
—in his capacity as Construction Minister)

Amending the Payment Provisions

3.5 In summary BERR's proposals for amending the payment provisions were:

- (a) The payer must issue a notice to the payee informing him of the payment which is due;
- (b) The payer can revise that amount in a subsequent notice to the payee;
- (c) If the payee wishes to challenge the original (or subsequent) notice he can do so by referring the matter to adjudication;
- (d) If the payer does not issue a payment notice the payee can make a claim: the claim will, instead, be the amount due but it will be subject to a payer's notice withholding monies (the statutory fall-back provision);
- (e) The statutory right of suspension of work for non-payment will be bolstered;
- (f) Pay-when-certified clauses will be outlawed.

3.6 The fundamental issue in amending this legislation is to ensure that the payee is certain as to the date of payment and the amount to be received on that date; this, after all, was Parliament's intention in passing the Act. Furthermore, the statutory provisions for achieving this must be clear, simple and reflect commercial logic and practice. BERR's proposals [at 3.5 (a) to (d)] for amending the payment provisions do not achieve these aims:

“The legislation requires that payment should be defined in terms of amount and date”
(emphasis added)

Lord Lucas in House of Lords debate
on 26 February 1996

- (a) It is illogical for the payer to commence the payment process by, in effect, issuing the payee with his version of the payee's bill;
- (b) The proposals are complicated and inhibit early communication to resolve differences since the payer can issue another notice—perhaps, some weeks later—making deductions from the amount in the first notice;
- (c) The proposals prevent definition of what is to be paid at the payment date because any challenge to the amount in the payer's payment notice may have to be referred to an adjudicator; in the meantime nothing is paid and the payee cannot exercise his statutory right of suspension of his contract for non-payment (this position often forces firms into insolvency);
- (d) It is not commercially practicable for the payee to go to adjudication every time he disagrees with the amount the payer states he intends to pay; adjudication has now become an expensive process.

3.7 The proposal to ban pay-when-certified clauses in contracts (enabling a main contractor to delay payments to sub-contractors until he has received an architect's or engineer's certificate) does not go far enough to prevent abuse:

- (a) Clauses will be drafted to avoid the ban (for example, payments will not be made until the work has been valued—rather than certified—by an architect/engineer);
- (b) The ban does not extend to the outlawing of those pay-when-paid provisions (currently sanctioned by the Act) which enable a main contractor to avoid paying subcontractors when a third party payer—such as the client—goes into insolvency.

An analysis of 100 sub-contracts revealed that 96% made payment conditional—as to time/entitlement—on the issue of a main contract certificate or some other event.

(Analysis carried out by SEC Group in 2000)

3.8 Furthermore, BERR has not addressed a number of issues raised in Sir Michael Latham's 2004 report:

- (a) Outlawing cross-contract set-off (the practice whereby a payer will hold back monies because of alleged shortcomings by the payee on other—unrelated—contracts);
- (b) Ensuring that payments commence from date of contract rather than from the date of work on site which could be many weeks later (after which a substantial amount of assembly or manufacturing may have taken place);
- (c) Protection for SMEs against insolvencies up the supply chain (EU countries, the US and Australasia have statutory insolvency protection for SMEs engaged on construction works).

Early day motion 1941

“That this House believes that security of payment in the construction industry especially for small and medium sized businesses is a prerequisite to achieving trust and collaboration in the industry; therefore, urges the Secretary of State for Trade and Industry to use the opportunity presented by the current review of Part II of the Housing Grants, Construction and Regeneration Act 1996, initiated by the Chancellor of the Exchequer, to amend the Act to ensure that there is a statutory mechanism for defining the amount to be paid at the date for payment, that all conditional payment provisions and cross contract set-off are outlawed, that progress payments start from commencement of contract and that the Act provides effective protection for firms in the supply chain from ‘upstream’ insolvencies. That this House believes that payment security will be a major factor in the successful delivery of the construction projects for the 2012 London Olympics.”

(Signed by 185 MPs in 2005–06 Parliamentary Session)

Amending the Adjudication Provisions

3.9 Statutory adjudication was introduced as a “stop-gap” process to enable payment disputes to be dealt with quickly and cheaply. Disputes could be referred to an impartial third party who would have four weeks in which to reach a decision. In the House of Lords debate on the Act in 1996 the late Lord Ackner explained that it came under the rubric of “pay now argue later”.

3.10 When the Act came into force SMEs could use adjudication to unlock their cash without having to go to arbitration or the courts. The dispute could be re-heard later in arbitration or litigation. This immediacy of adjudication coupled with the speed and relative cheapness of the process meant that—initially—it was highly successful. Small firms were given greater equality of bargaining power by not being at risk for the other side's costs if the decision went against them.

3.11 Unfortunately this picture has significantly changed. In its June 2007 consultation document BERR indicated that the average cost of an adjudication (including the adjudicator's fee and costs) was £20,000 per adjudication. It also revealed (in the same document) that almost half of all adjudications involve claims of £50,000 or less. Therefore 40% of the value of an adjudicated dispute is absorbed in its costs. On the basis that adjudication is only intended to provide a “stop-gap” decision, this hardly represents value for money.

3.12 A number of factors have contributed to the increasing costs of adjudication:

- (a) There are a plethora of bespoke adjudication procedures which are primarily aimed at undermining the statutory adjudication provisions; this, in turn, provokes arguments about whether the procedures are compliant with the Act;
- (b) There is a common bespoke arrangement that requires the weaker party to pay all the other side's legal costs in an adjudication irrespective of the outcome (such provision has been upheld by the courts);
- (c) The jurisdiction of adjudicators is—invariably—challenged which increases legal costs because there are usually technical legal arguments involved.

Consequently there is a real risk that the use of adjudication will decline unless these issues are addressed.

3.13 BERR's proposals are summarised as follows:

- (a) Two types of bespoke contract clauses will be outlawed:
 - (i) clauses making decisions on amounts of interim payments “final and conclusive” (such agreements could prevent parties disputing interim payments in adjudication), and
 - (ii) clauses requiring a party to re-imburse all the other party's costs irrespective of the outcome of the adjudication.
- (b) the restriction in the Act that it only applies to contracts in writing will be removed (this requirement provided a fertile source of challenges to the adjudicator's jurisdiction).

3.14 BERR's proposals will not reduce the costs of adjudicating; on the contrary there is a likelihood that they will increase such costs:

- (a) BERR is only outlawing two types of adjudication clauses but there remain myriad onerous provisions aimed at frustrating access to adjudication;
- (b) The outlawing of final and conclusive decisions relating to interim payments will give rise to definitional arguments (and therefore, more costs) regarding the meaning of "interim". Moreover the Act makes clear that all disputes arising under the contract are referable to adjudication—these should, therefore, include disputes relating to the amount of the final payment. There are many more disputes relating to final payments than interim payments.
- (c) The proposal for outlawing onerous cost provisions are undermined by the fact that the parties can agree—following referral of the dispute to adjudication—that one side pays all the other side's legal costs (or that the adjudicator can have power to require a party to pay the other's costs). Contractual provisions will be routinely drafted to secure such agreements.

3.15 There is a more fundamental objection to the proposal concerning costs. It shows a lack of understanding of the concept of adjudication. The process, unlike arbitration or litigation, is not concerned to establish which party is right. Parliament intended that it should be a "rough and ready" process for facilitating the flow of cash. Therefore the rule that "costs follow the event" (that the "losing" party pays the "winners" costs) is wholly inappropriate to adjudication.

The Melville Dundas v. Wimpey Case

3.16 *Melville Dundas v. Wimpey* is the first legal case on the Act to be considered by the House of Lords. In April 2007 the House of Lords held (by a majority of 3 to 2) that a contractual provision enabling a payer to withhold payment from an insolvent payee overrode the statutory requirement that a withholding notice be issued before the payment is withheld. BERR appears to support an amendment to the Act that a withholding notice need not be issued where the payee is insolvent. But, very often, the withholding of monies is the cause of insolvency! The statutory requirement that a withholding notice is required wherever monies are retained should be left intact. More importantly, the Act should be amended to make clear that its provisions cannot be overridden or modified by contrary contractual provisions.

The issue

The Construction Act requires amendment to strengthen its payment and adjudication provisions to reflect the intention of parliament when passing the Act. Such amendment, therefore, should enhance payment certainty and ensure that adjudication continues to be inexpensive and accessible.

Our Recommendations

3.17 (a) To ensure certainty of amount and timing of payment, the payee should be enabled to make a claim which, in the absence of a withholding notice (or fraud), must be paid on the payment date;

(b) All conditional payment provisions should be outlawed;

(c) BERR should re-consider its decision not to amend the Act to outlaw the practice of cross-contract set-off; to provide for the right to interim payments to start from commencement of the contract and to require adequate security for firms in the event of insolvencies upstream of the supply chain (eg direct payments from clients to sub-contractors or the provision of payment bonds or bank guarantees by the payer as security for payment);

(d) With the exception of the proposal to abolish the requirement for written contracts, BERR should replace its proposals on adjudication with the following amendments (which will obviate the need to continually outlaw specific onerous provisions):

- (i) provide a single adjudication procedure to apply to all adjudications and,
- (ii) increase the powers of the adjudicator so that he/she can decide whether there is a dispute (and, if so, its scope); whether there is a construction contract under the Act and whether he/she was validly appointed.

(e) The Act should be amended to ensure that its provisions cannot be overridden or modified by contrary contractual requirements.

3.18 Questions

- (a) Would BERR accept that the lack of payment certainty continues to be a major concern for the majority of firms in the industry?
- (b) Does BERR agree that there should be a statutory mechanism (excluding adjudication) that clearly defines the amount that is due on the date for payment?

- (c) Why doesn't BERR, therefore, amend the Act to enable the payer to make a payment application which will become the due sum unless, in the meantime the payer has validity withheld monies (in which case the difference becomes due)?
- (d) BERR wants to ban pay-when-certified clauses but won't this encourage pay-when-valued clauses as an avoidance mechanism?
- (e) Why doesn't BERR simply outlaw all clauses making payment conditional upon an event under another contract?
- (f) Why doesn't BERR amend the Act to make clear that the statutory right to interim payments takes effect on the making of the contract (rather than—as usually happens—from the date of work starting on site)?
- (g) Does BERR accept that construction SMEs have little or no protection against the risk of insolvencies upstream of the supply chain?
- (h) Why doesn't BERR address this issue in the Act, especially when other countries in Europe, USA and Australasia have already introduced construction specific legislation to provide insolvency protection?
- (i) Why can't BERR, for example, require (as French legislation requires) that the payer provides a bank guarantee to the payee as security for payment in the event of insolvency?
- (j) Does BERR agree that for most SMEs adjudication is becoming an inaccessible and expensive process?
- (k) Wouldn't it be easier and cheaper for everybody to have one adjudication procedure (as they have in similar legislation in Australia and New Zealand)?
- (l) Does BERR accept that a major component of costs in adjudication relates to challenges to the jurisdiction of the adjudicator?
- (m) Why doesn't BERR increase the jurisdiction of the adjudicator to reduce these challenges?
- (n) Why can't the adjudicator give a binding decision on whether there is a dispute or on whether he was validly appointed?

SUMMARY OF SEC GROUP RECOMMENDATIONS

- 3.A There should be a simple statutory procedure to enable the payee to claim payment and such claim should be the due amount unless, before the payment date, a withholding notice has been issued (in which case the difference between the amount claimed and the amount withheld should be the due amount).
- 3.B All conditional payment provisions should be outlawed.
- 3.C It should be clarified that the statutory right to interim payments starts from commencement of the contract.
- 3.D The Act should now include a measure of insolvency protection so that a payee can require a payer to provide adequate security for payment such as bank guarantees or payment bonds or, alternatively, the client may pay sub-contractors directly.
- 3.E The statutory adjudication provisions require amendment to restore the original statutory intent which was to provide SMEs with a cheap and speedy process for dealing with payment disputes. Therefore:
 - (i) the Act should have a mandatory adjudication procedure to apply to all adjudications, and
 - (ii) the jurisdiction of the adjudicator should be increased so that he can decide whether a dispute exists and (if so) its scope, whether there is a construction contract under the Act and whether he was validly appointed.
- 3.F Other than the proposal to abolish the requirement for written contracts (as a condition precedent to using the Act) BERR should abandon its other adjudication proposals.
- 3.G The Act should make clear that the statutory provisions cannot be modified or overridden by contrary contractual provisions.

4. ACHIEVING A SUSTAINABLE CONSTRUCTION INDUSTRY

4.1 A sustainable construction industry is one that invests in training, regularly upgrades its skills, invests in new technologies and places health and safety at the top of its priorities. All these factors are crucial in delivering consistent quality and service.

“Effective procurement and contracting strategies require . . . clients to use their considerable leverage and influence to only select suppliers who have a proven track record in, and commitment to, developing the skills of their workforce, collaborative working, health and safety and sustainable development.”

4.2 Public sector procurers have a critical role to play in promoting a sustainable industry by only selecting competent firms as contractors or sub-contractors on public sector works. At a minimum competence involves objective proof that a business:

- (a) is technically proficient and sufficiently resourced to deliver the services it provides;
- (b) is of sound financial standing; and
- (c) has procedures in place for ensuring health and safety.

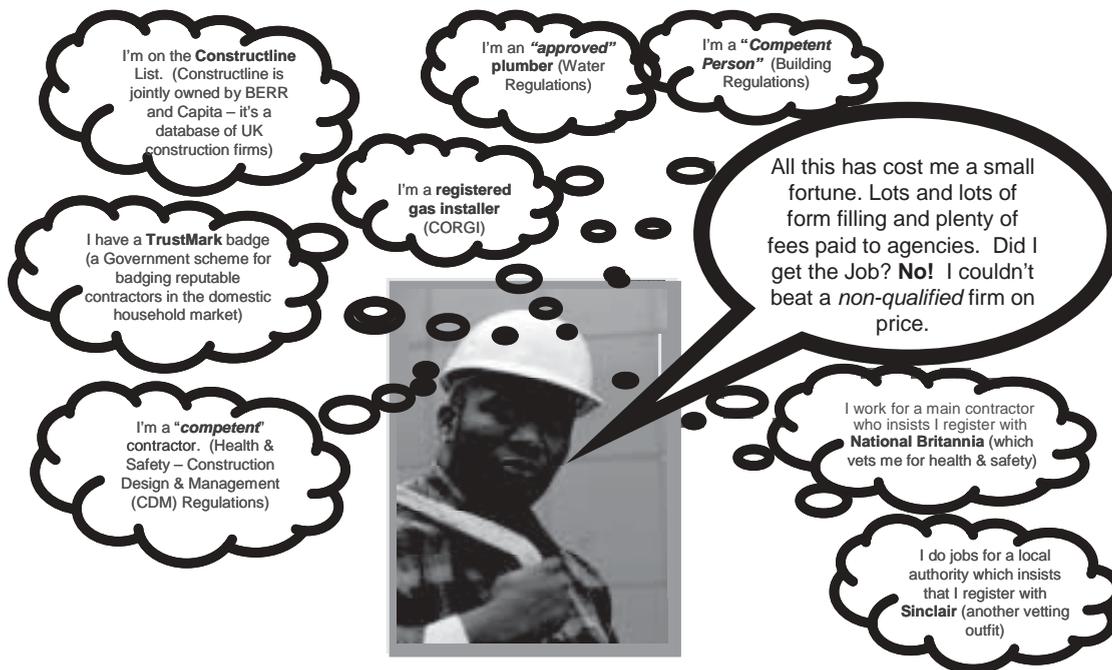
4.3 Confining selection to competent firms on public sector works would have the following consequences:

- (a) It would create a “level playing field” since all firms would have been identified as competent prior to any competitive bidding process;
- (b) Competent firms would be more likely to achieve stable and predictable margins which would enable them to invest in those resources necessary to improve quality;
- (c) Teamworking arrangements are likely to be successful where members of the team have demonstrated their competence.

Proliferation of Schemes

4.4 The absence of a widely-accepted means of identifying firms as competent has led to a plethora of vetting processes, pre-qualification requirements (relating to an assessment of fitness to tender) and approval processes—especially in the public sector. In addition, main contractors have their own vetting processes for sub-contractors. Public sector clients and main contractors (in respect of their sub-contractors) often rely upon third parties—usually private sector firms—to carry out the vetting or approval process. There is no evidence that such third party accreditation has helped bring about improved value for money for the public sector. Instead it has imposed a substantial burden upon the industry, especially SMEs.

4.5 This state of affairs was investigated by the OGC and Small Business Service (SBS) following a statement in the 2005 Budget Statement. The investigation was carried out by Merlin Consultancy which reported to OGC and SBS at the end of 2005.



Case study

An SME who provided services to a District Council and was an approved supplier received a letter from the Council to inform him that the Council was compiling a new directory of suppliers that would be managed by a third party. In order to be included in this directory there would be an annual charge. Failure to join the system would mean that a company would not be considered for any future Council contracts.

The SME in question was being asked to pay £225 per year when the Council had only spent £3,057 with them over an eighteen month period. Calculated over a year the sum charged was over 10% of the money he had received in payment for services, which significantly ate into profits thereby making it uneconomical for him to continue to trade with the Council.

Extracted from the Third Party Supplier Accreditation Study, Merlin Consultancy; Report presented to OGC and the Small Business Service, December 2005

The Merlin report made a number of points:

- (a) The plethora of third party accreditation schemes is a major barrier to SME participation in public sector works;
- (b) Such third party assessment is usually a desk-based process that checks availability of certain policies and procedures such as insurance and health and safety, and, also, references—the quality of the product or service is not assessed or inspected;
- (c) On the other hand trade bodies have “quality mark” assessment involving the auditing of members’ work through site visits and inspections.

Unfortunately there has been no follow-up work to this report and (to our knowledge), no further action has been taken.

Case study

An SME with up to 100 employees which provides mechanical and electrical services to local government, housing associations, utilities and police/fire services paid £3,190 in direct fees to be accredited on five separate lists. The SME declined to join two further lists, one for the local authority sector where the fee was £520 pa plus £100 for each additional council, and one for the utility sector where the annual fee was £605. The SME had over a period of time been on over one hundred council/housing association approved lists. There was no mutual recognition between lists and the SME considered that, “this has got completely out of hand”, because in addition to the direct fees there was an associated overhead burden in terms of responding to the differing questionnaires and in particular where some of the questions “have no bearing on our line of business”.

Extracted from the Third Party Supplier Accreditation Study, Merlin Consultancy;
Report presented to OGC and the Small Business Service, December 2005

4.6 In addition to the plethora of accreditation schemes there are also various statutory requirements relating to competence. Many of these are to be found in the Building Regulations and other related regulations (such as the Gas Regulations, Fire Regulations and Water Regulations) which are often illogical and contradictory. There is a need to harmonise and rationalise these requirements.

4.7 In recent years SEC Group’s member associations have made a substantial investment in developing qualification and registration schemes comprising stringent requirements relating to firms’ technical proficiency and financial standing (as well as health and safety performance). Compliance with these requirements is regularly audited and monitored. Nonetheless, firms belonging to these schemes are frequently required to belong to other schemes or be accredited by other organisations. There should be a means of recognising membership of a registration or qualification scheme as a reliable indicator of a firm’s competence. This should also allow for mutual recognition of schemes so that membership of one scheme would also satisfy the requirements of others.

4.8 As far as health and safety is concerned there are now core criteria in the Approved Code of Practice issued alongside the 2007 Construction, Design & Management (CDM) Regulations for determining the competence of a firm (either individually or through membership of a registration or licensing scheme). Where a firm is compliant with the core criteria it should not have to be accredited under any other scheme that is similarly compliant.

4.9 In recent years there has been the introduction of competent persons schemes. These schemes—quite rightly—acknowledge the fact that the industry possesses the necessary expertise and experience to determine whether standards are being adhered to. They allow for greater self-regulation by allowing firms to self-certify compliance with the Regulations. The industry has developed schemes to provide firms with the facility to self-certify but, again, there is a need to rationalise or harmonise these schemes to reduce the burden on industry. Furthermore, it should be considered whether these schemes could embrace other competence requirements in the Building Regulations and related regulations.

The issue

In order to promote a sustainable industry that delivers value for money, public sector procurers should insist that only competent firms are engaged on public sector works (whether as contractors or subcontractors). However, we need to have in place a means for recognising competence (which are acceptable to procurers) whilst, at the same time, rationalising competence schemes and reducing the burden on SMEs of myriad third party vetting processes.

Questions

4.10 (a) Is there any objection to the principle that only firms—whether contractors or subcontractors—which have demonstrated their competence (perhaps, through membership of reputable qualification/registration schemes) should be engaged on public sector works? [Treasury/OGC/DCLG]

(b) Is it accepted that there are too many vetting procedures on public sector works contracts which are time consuming, repetitive and exceptionally costly for SMEs? [Treasury/OGC/BERR/DCLG]

(c) Do you accept that the majority of vetting procedures simply involve a “desk-top” assessment of whether a firm has the relevant paperwork in place rather than an assessment of technical proficiency and resourcing involving visits to the firm and inspection of standards of work? [Treasury/OGC/BERR/DCLG]

(d) How should we assess whether a firm is competent? [Treasury/OGC/BERR/DCLG]

(e) Is it accepted that only firms that have complied with the core criteria in the Approved Code of Practice issued under the 2007 CDM Regulations—indicating that they are competent in relation to health and safety—should be engaged on public sector works? [Treasury/OGC/DCLG]

(f) Is it accepted that core criteria for technical proficiency and financial standing could be developed as a means of “badging” competent firms (either individually or as members of a registration scheme) and also to facilitate mutual recognition of schemes that comply with the criteria? [Treasury/OGC/DCLG]

(g) Would you accept a single badge for “competent person” schemes under the Building Regulations so that membership of one scheme may suffice without the need to join other schemes or similar schemes under other regulations? [DCLG]

(h) Could membership of a “competent person” scheme also help in demonstrating compliance with other requirements relating to competence in the Building Regulations and related regulations? [DCLG]

Our Recommendations

4.11 Public sector clients should take a lead in ensuring that only firms complying with the core criteria in the Approved Code of Practice to the Construction, Design & Management Regulations are appointed on public sector works. This requirement should extend to all members of the supply chain. It is suggested that a lead-in time is provided to enable firms to become compliant with the core criteria. Ideally such lead-in time should be, at least, one year.

4.12 In collaboration with the industry the OGC should be invited to develop core criteria relating to technical proficiency and financial standing for recognising—as competent—firms in membership of registration or qualification schemes (and also for similarly recognising firms not in membership of such schemes). The DCLG may wish to be involved because of its responsibilities for local authorities. Once the core criteria are in place all procurers of public sector works—including supply chain members—should only select firms in membership of schemes that have been badged as compliant with the core criteria (or, alternatively, individual firms that have demonstrated compliance with the core criteria). Again, a suitable lead-in time for the industry to become compliant would be required.

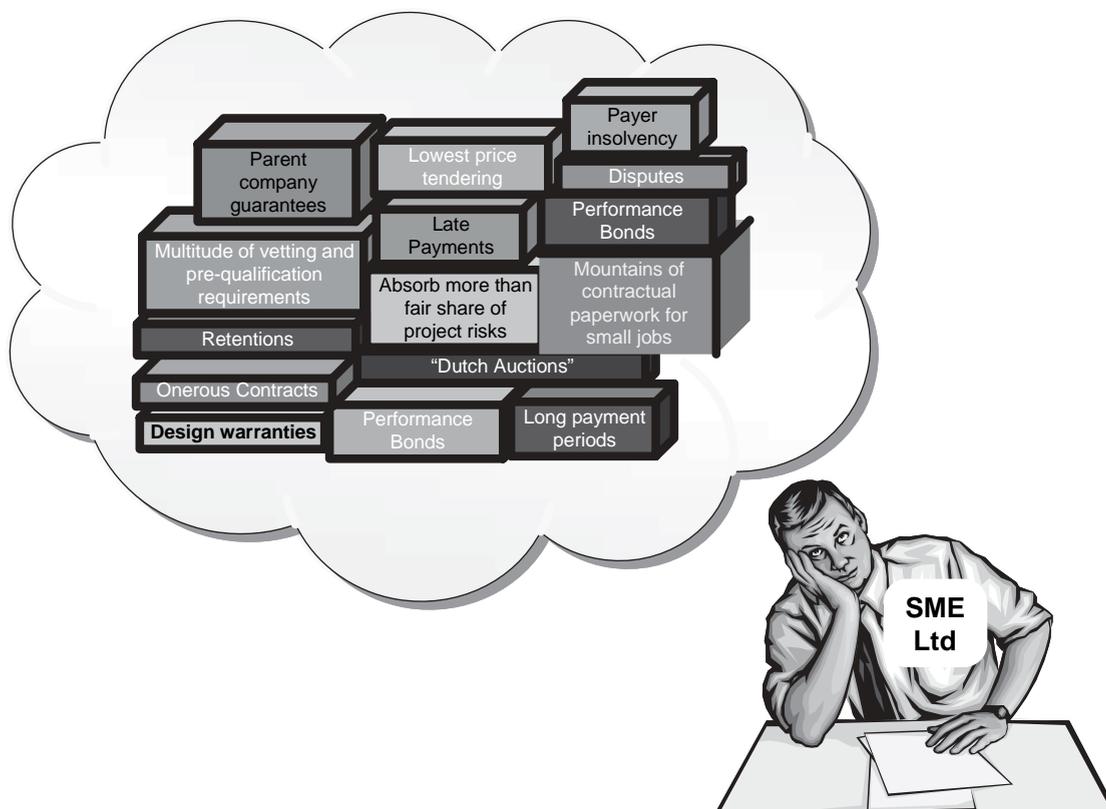
4.13 Our proposal is that the DCLG should develop a single identifiable badge for competent persons schemes together with common standards of accreditation for such schemes. Having a single identifiable badge will mean that a firm which is a competent person under a badged scheme will also qualify as a competent person under other schemes and, possibly, also comply with other requirements relating to competence under the Building Regulations and/or other related regulations.

4.14 The vision is that at some point in the future we will simply have one badge of competence showing that a firm is compliant with core and essential criteria relating to technical proficiency, financial standing and health and safety.

SUMMARY OF SEC GROUP RECOMMENDATIONS

- 4.A It is suggested that the Committee recommend that all procurers (including supply chain members) of all new public sector works commencing in 2009 will only select firms that have (either individually or as a member of a qualification scheme) complied with the core criteria in the Approved Code of Practice issued under the 2007 Construction Design & Management Regulations. It is necessary that the Government makes an announcement to this effect as soon as possible to enable the industry to have sufficient time in which to become compliant.
- 4.B In collaboration with the industry the OGC should be invited to develop core criteria in relation to technical proficiency and financial standing for recognising membership of registration/licensing/qualification schemes as a reliable indicator of competence (or for recognising individual firms as competent).
- 4.C Once the core criteria (at 4.B) have been developed it is suggested that the Committee recommends that the OGC and DCLG (following a suitable lead-in time for the industry to become compliant with the criteria) advise all procurers of public sector works—including supply chain members—only to select firms in membership of schemes of qualification that are badged as complying with the core criteria (or individual firms that have demonstrated such compliance).
- 4.D We suggest that the Committee invites the DCLG (and other interested parties) to work with the industry in developing a single identifiable badge for “competent persons” schemes so that membership of one scheme may suffice for membership of other schemes and, possibly, also satisfy other requirements relating to competence under the Building Regulations and other related regulations.

5. RELEASING THE POTENTIAL OF SMEs



5.1 The burden of poor procurement and contractual practices is generally borne by SMEs. They comprise the overwhelming majority of firms in the construction industry; most are sub-contractors. They are responsible for delivering most of the industry's output.

5.2 A high proportion of the overheads of SMEs is wasted in dealing with adversarial tendering and contractual practices that are primarily aimed at transferring all risks to the SME. This burden upon SMEs is significantly enhanced by poor payment practices which we have already discussed at some length. All this has a detrimental impact on investment in training, technology and, ultimately, on capacity and productivity.

SME productivity

"Evidence suggests that small firm productivity is a key contributor to the overall productivity gap. This is especially important to the UK given the long and often in-efficient supply chains in construction: many smaller firms contribute to key elements of major projects."

(para. 5.9, 2005–15: Construction Demand/Capacity Study, Deloitte, 2007 (Report to the OGC))

5.3 In 2003 the Better Regulation Task Force and the Small Business Council recommended that public sector clients should become proactive in improving the commercial treatment of SMEs. In its 2005 report, *Improving Public Services through better construction*, the NAO made a similar recommendation. Although the Public Sector Construction Clients' Forum and OGC has published a Fair Payment Charter there is a need for a broader charter that addresses a number of barriers to SMEs becoming fully engaged in public sector works. At Schedule 3 we have included a draft best practice SME Charter for public sector construction procurement. This should be endorsed by the OGC (and its counterparts in Scotland, Wales and Northern Ireland) and applied to all public sector works contracts.

Treatment of SMEs

Extract from letter dated 29 March 2006 from Carillion to sub-contractors/suppliers following acquisition of Mowlem,

"I am writing to you to request your agreement to payment terms of net 65 days monthly account on all future subcontracts and orders. Please be aware that, whilst it is accepted that not everyone will be able to comply, preference must necessarily be given to Companies offering the most advantageous terms."

[NOTE: The Government's standard period for discharging payments is 30 days.]

The issue

Public sector procurers should be more proactive in improving the commercial treatment of SMEs engaged on public sector works contracts.

Question

Would there be any objection in principle to public sector clients adopting a best practice construction charter for SMEs and ensuring that such charter is adopted and implemented on public sector works? [Treasury, OGC, DCLG]

SEC GROUP RECOMMENDATION

5. We invite the Committee to recommend that the OGC (and its counterparts in Scotland, Wales, Northern Ireland) endorse the draft best practice SME Charter attached at Schedule 3. Following such endorsement they should be invited to take steps to ensure that the Charter is adopted and implemented by all procurers of public sector works. Further, its use should be monitored and it should be understood that non-compliance with the Charter could result in a failure to obtain public sector works contracts in the future.

SCHEDULE 1

EXPLANATORY NOTE ON PART II OF THE HOUSING GRANTS, CONSTRUCTION AND REGENERATION ACT 1996 (“the Act”)

The Act introduces a number of statutory rights:

- (a) A right to progress payments.
- (b) A right to a withholding notice before deductions can be made from sums due for payment.
- (c) A right to suspend one’s contract for non-payment.
- (d) A right to refer disputes to adjudication—intended to be a stop-gap process for dealing with disputes rapidly and inexpensively.

In addition the Act:

- (e) Requires that construction contracts contain an adequate payment mechanism for determining *what* is to be paid and *when*; this is fundamental to the operation of the Act.
- (f) Requires construction contracts to ensure payer notifies payee of the amount of interim/final payment [he] intends to pay.
- (g) Imposes a limited ban on *pay when paid* provisions; they can still be relied upon by a payer where his own payer has gone into insolvency.
- (h) Requires construction contracts to contain certain provisions relating to adjudication.
- (i) Introduced the *Scheme for Construction Contracts* comprising fall-back provisions in the event that contracts do not comply with the Act.

WEAKNESSES IN THE ACT

The weaknesses in the payment provisions can be summarised as follows:

- (i) Contracts are required to have an adequate mechanism for payment. In practice, they are drafted to enable the payer to delay payment by spurious challenges to a payment claim or by simply ignoring the claim, thus forcing the payee to go to adjudication (and, thus incur significant costs).
- (ii) Although the Act requires the payer (by virtue of an imposed contractual obligation) to notify the payee of the amount it intends to pay; such notice is rarely given because of the lack of sanction. This means that more often than not a payee will not know the amount it can expect from the payer.
- (iii) It is unclear when the right to progress payments actually arises—as a result payment usually starts sometime after arrival on site. Many firms will have incurred vast expense (eg on design, manufacture and assembly) prior to such arrival and this is a significant drain on resources, particularly for SMEs.
- (iv) *Pay when certified* or *pay what is certified* provisions are commonplace; they are an attempt to avoid the [limited] ban on *pay when (what) paid*.
- (v) Deductions from monies due often consist of claims alleged to exist under other unrelated contracts (cross-contract set-off).
- (vi) Withholding notices are only required to state the amount(s) withheld and the reason(s); in practice this enables the payer to state, for example, “£1,000 is deducted for delay” without providing any detail.

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- (vii) By legitimising pay when/if paid provisions (enabling a payer to refuse payment where his payer has gone into insolvency); the Act has increased the exposure of SMEs to the risk of upstream insolvencies.

The weaknesses in the adjudication process:

- (i) there are myriad bespoke adjudication procedures aimed at undermining the statutory provisions;
- (ii) the cost of adjudication has been significantly increased by habitual challenges to the adjudicator's jurisdiction; and
- (iii) many bespoke contractual adjudication procedures seek to impose upon a party an obligation to meet the other side's legal costs. This is inappropriate to a procedure which is only a stop-gap and not determinative of the parties' rights.

SCHEDULE 2

ISSUES RAISED IN SIR MICHAEL LATHAM'S REVIEW OF THE ACT AND PROGRESS TO DATE

<i>PAYMENT</i>			
<i>Issue</i>	<i>Comment</i>	<i>BERR's Response</i>	<i>Comment</i>
1. Adequate payment mechanism	<p>Key issue. Should be a statutory procedure that defines a debt. The operation of the Act depends on this.</p> <p>At present, there isn't the means in the Act (other than adjudication) for resolving the deadlock where a payer ignores a claim or simply challenges it on spurious grounds to delay payment.</p> <ul style="list-style-type: none"> — Payee can challenge payment notice in adjudication; — If no notice issued, payee's payment claim will be sum due subject to a withholding notice. 	<p>BERR accepts that "<i>the sum due is the cornerstone on which the rest of the payment framework is built</i>".</p> <p>BERR proposes:</p> <ul style="list-style-type: none"> — Payer should issues payment notice not later than 5 working days after due date for payment; — Payer states amount he proposes to pay; — The sum due is the payer's statement of the payee's entitlement less any objections; — Payer may subsequently issue a withholding notice revising the payment notice. 	<p>The mechanism is wholly unfair to payee. How would BT respond if its customers wrote out their own versions of BT's bills which became the sum due (subject to a later withholding notice from the customer). BT could always challenge the "customer's bill" in an adjudication.</p> <p>A simple and logical procedure should be as follows:</p> <ul style="list-style-type: none"> — An application for payment; — A response; — The application will constitute the debt if no response; — The response will constitute the debt provided it fully justifies any difference from the amount applied for. <p>In a consultation in 2005 on changes to the Act 65% of firms wanted a statutory definition of what would result in a debt.</p>
2. Ban on all conditional payment provisions	<p>Absolutely necessary for certainty on timing and amount</p>	<p>Not prepared to outlaw all conditional payment provisions; will outlaw pay when certified clauses.</p>	<p>It is possible that pay what certified clauses would fall foul of BERR's current proposals.</p>
3. More detail in withholding notices	<p>Withholding monies is a very serious matter—further explanation in a notice is required</p>	<p>No action</p>	<p>A payer can simply withhold monies by stating, for example: "£100k withheld for delay".</p>

PAYMENT

<i>Issue</i>	<i>Comment</i>	<i>BERR's Response</i>	<i>Comment</i>
4. Removal of <i>pay when paid</i> clauses in cases of insolvency	This would occur if all conditional payment clauses outlawed. Such provision would not be acceptable in other industries.	No action. This exemption was the subject of a “pragmatic compromise” between government and industry in 1996 when Act was passed.	In the DTI's 2005 consultation on changes to the Act, 67% agreed to this. The government's half of the compromise was not honoured—ie. that there should be an inquiry into the operation of insolvency law and practice in the construction industry.
5. Commencement of progress payments	Should start from “ <i>commencement of contract</i> ”. This is the starting point for progress payments under the Scheme for Construction contracts—the fall-back provisions.	No action	BERR did not appear to understand this point.
6. Excessive payment periods	Payment periods have increased to mitigate the impact of the Act.	No action	BERR did not consult on this.
7. Improvements to right of suspension		Payee to have statutory right to reasonable cost of suspension including remobilisation and extended time for remobilisation. Furthermore not all obligations have to be suspended.	Agree
8. Outlawing of contractual provisions relating to cross-contract set-off	Needed to promote payment certainty. Recommended by Sir Michael Latham in his 1994 Report, “ <i>Constructing the Team</i> ”.	No action	BERR thought this too difficult to draft into legislation. In the 2005 consultation 67% of respondents agreed with the proposal.

PAYMENT

<i>Issue</i>	<i>Comment</i>	<i>BERR's Response</i>	<i>Comment</i>
9. Right for a third party (eg client) to make direct payment to a payee (eg subcontractor) whose payer (main contractor) has gone into insolvency	<p>Insolvency risks are high in construction. Unlike other industries there is little or no protection available to construction supply chains.</p> <p><i>“I believe . . . still, that many of these [payment] concerns would be effectively remedied by . . . statutorily backed trust funds for payment . . .”</i> (extracted from Sir Michael Latham’s letter to Nigel Griffiths MP Construction Minister, 17 September 2004).</p>	<p>No action.</p> <p>Did not consult on this issue since it would breach insolvency law. Proposal would give the payee preferred creditor status and therefore contrary to <i>pari passu</i> rule of distribution. This rule requires that creditors should be treated equally. But construction supply chains do not have the means to protect themselves against insolvency risks to the same extent as in other industries.</p>	<p>Legislation can override other legislation (in this case, the Insolvency Act 1986). For example; in section 159 Companies Act 1989 there is an exemption to the <i>pari passu</i> principle for certain schemes operated by investment clearing houses.</p> <p>Further, the BERR did not offer any alternatives. An alternative could be a statutory right for a payee to insist upon bank guarantees or payment bonds in the event of the payer’s insolvency.</p>

*ADJUDICATION**

<i>Issue</i>	<i>Comment</i>	<i>BERR's Response</i>	<i>Comment</i>
10. Specific provisions in bespoke adjudication procedures aimed at undermining the Act	<p>In Sir Michael Latham's review three such provisions were highlighted:</p> <p>(a) contractual requirement that once adjudicator has made his decision, he/she must place monies in a trustee stakeholder account pending final determination of dispute;</p> <p>(b) Decisions of one party expressed to be—"final and conclusive";</p> <p>(c) All costs of dispute to be paid by referring party irrespective of outcome of adjudication. (sanctioned in the case of <i>Bridgeway v Tolent</i>; 2000).</p>	<p>DTI agreed to outlaw the following:</p> <p>(a) "trustee—stakeholder" provisions;</p> <p>(b) "final and conclusive provisions" provided that they only concern interim payments;</p> <p>Prior to Sir Michael's review the DTI was already committed to outlawing (c), although no detailed plans have been brought forward</p>	<p>With regard to (b) our view is that all "final and conclusive" provisions should be outlawed. All disputes should be capable of being referred to adjudication since this was the intention of Parliament when passing the Act.</p> <p>There are other onerous costs provisions eg one major contractor requires all its subcontractors to place £10k in a stakeholder account as security for costs before referring disputes to adjudication. Such provisions are not being outlawed.</p>
11. A single adjudication procedure	<p>Bespoke adjudication procedures are rife in the industry:</p> <p>(a) They increase the costs of adjudication because they give rise to a further dispute about whether the procedure is Act compliant;</p> <p>(b) They are primarily aimed at undermining statutory adjudication.</p>	<p>The DTI refused to consult on this issue.</p>	<p>The BERR appears to ignore the fact that the vast majority of adjudication procedures are bespoke. There is now evidence that these are having the effect of deterring SMEs from using adjudication. Furthermore it is impractical to regularly amend the Act to outlaw specific onerous provisions.</p> <p>This issue has been further complicated by case law which enables bespoke procedures to operate alongside the statutory procedures.</p>

ADJUDICATION*

Issue	Comment	BERR's Response	Comment
12. Expanding the jurisdiction of the adjudicator	<p>The issue is that there are now regular challenges to the jurisdiction of the adjudicator. This has substantially increased the cost of the process. An adjudicator should have the power to decide whether:</p> <ul style="list-style-type: none"> (a) there is a construction contract; (b) there is a dispute and the scope of the dispute; (c) he/she is validly appointed. 	No action	83% of respondents to the DTI's 2005 consultation agreed that the jurisdiction of the adjudicator should be expanded to deal with the matters listed in the 2nd column.
13. Scope of the Act	<ul style="list-style-type: none"> (a) The Act exempts some elements of process plant construction from its provisions. There is no sound basis for such exemption and it should be removed especially when other elements of process plant construction are in scope. (b) The Act applies to contracts <i>in writing</i>. The courts have decided that this means that everything that has been agreed must be reduced to writing; otherwise a party cannot use the Act. In effect this deprives many SMEs of the Act's protection since their contracts may be wholly or partly oral agreements. <p>Furthermore, both (a) and (b) have provided a fertile ground for challenges to the jurisdiction of the adjudicator.</p>	<ul style="list-style-type: none"> (a) No action. (b) The BERR appears to be willing to abolish the requirement relating to writing. 	Confirmation of the DTI's position on the issue of writing is still required. The Act should apply to all contracts—whether in writing or otherwise.

<i>ADJUDICATION*</i>			
<i>Issue</i>	<i>Comment</i>	<i>BERR's Response</i>	<i>Comment</i>
14. Power of the adjudicator to award costs	This was not addressed in Sir Michael's review because the DTI was already committed to dealing with the issue.	<p>BERR will amend the Act to make clear that adjudicators do not have power to order a losing party to pay the winner's costs.</p> <p>However it will allow this to be agreed between the parties following referral of a dispute to adjudication.</p>	The adjudicator should not have power under any circumstances to award a winning party its costs (as in litigation) since adjudication is a stop-gap process. Its purpose is to ensure the flow of cash. It is not intended to establish which party is (ultimately) right or wrong.

Footnote:

* The working group examining the adjudication provisions provided Sir Michael Latham with a lengthy "shopping list" of issues; we have highlighted the key issues.

SCHEDULE 3

A BEST PRACTICE SME CHARTER FOR PUBLIC SECTOR CONSTRUCTION PROCUREMENT

THE AIMS OF THE CHARTER

- This Charter sets out best practice principles on procurement and contracts to encourage the involvement of SMEs on public sector works. It is intended to be applied along the supply chain from the public sector client to sub-contractors (unless the Charter indicates that a certain requirement(s) applies to a particular party).
- Lead contractors and their supply chains will be expected to sign the Charter prior to undertaking public sector works contracts. It is intended that compliance with the Charter will:
 - help deliver best value in construction procurement to the public sector;
 - improve the capacity of SMEs in the construction industry; and
 - improve profit margins for SMEs engaged on public sector works.

PRE-QUALIFICATION

- Wherever possible and subject to the Public Sector Contracts Regulations 2006 procurers will seek to use local contractors.
- Procurers will seek to use contractors registered with reputable schemes of qualification that verify technical competence, health and safety performance and financial standing.
- Contractors who are registered with reputable schemes of qualification would automatically qualify for all public sector works contracts unless there are requirements that are highly specific to the nature or type of work involved.
- Procurers will use standard pre-qualification documentation developed by the Office of Government Commerce (OGC).

SELECTION AND APPOINTMENT

- Partnering or collaborative working arrangements will be inclusive of the supply chain.
- Contractors should be appointed as early as possible in the procurement process, preferably as part of the design team (in which case they should be paid a fee for their design input).
- Bids should always be assessed on best value (embracing whole life performance and sustainable solutions) rather than on lowest price; the best value criteria together with the respective weightings should be available to all tenderers.
- Lead contractors and sub-contractors should list members of their supply chains when tendering and such lists should be adhered to.
- When bidding all contractors should provide evidence of their payment performance in respect of their supply chains.

MONITORING QUALITY & PERFORMANCE

- Public sector clients will seek to institute mid-project and post-project reviews of performance to provide feedback to the whole supply chain that will include progress against Key Performance Indicators thereby promoting continuous improvement.
- Suppliers will work together as a team to manage out defects as work progresses.

CONTRACTS

- The suites of contracts used by the public sector client will be adopted (unamended) by the supply chain provided they achieve a fair and proportionate allocation of risk.

PAYMENT

- All payments will be discharged within a period not exceeding 30 days from the date on which payment becomes due.
- Public sector clients will announce targets for phasing out the practice of retentions and, where they do not use retentions, this policy will be followed through the supply chain.
- Where retentions are deducted they shall be ringfenced for the whole supply chain in a trust account.

-
- Where a contractor deducts retentions from members of his supply chain he must offer mutuality of security such as a payment bond.
 - Public sector clients to put in place project bank accounts unless it is demonstrated that they would not be cost effective to set up.
 - All final accounts will be agreed within a period of 30 days commencing from completion of the contract.

NON-COMPLIANCE WITH THIS CHARTER

- Complaints concerning non-compliance with this Charter may be made by clients or by individual firms or by a trade association acting on a firm's behalf.
- In the event that a complaint is not resolved between the relevant parties it may be submitted to the OGC to be considered in accordance with the suppliers' complaints procedure.
- The OGC will report to the relevant parties (and the public sector client if the client is not a relevant party) on whether there has been a failure to comply with the Charter.
- The OGC will produce an annual report on the extent of compliance with the Charter.
- Repeated non-compliance with this Charter by a client could affect future funding of projects instigated by that client.
- Repeated non-compliance by a contracting firm could affect its future selection for public sector works.

NOTE:

References to the OGC include its counterparts in the rest of the UK; the Scottish Executive, Welsh Assembly Government and the Northern Ireland Procurement Directorate. The provisions of this charter do not conflict with the OGC's Fair Payment Charter launched on 19 September 2007.

Supplementary evidence submitted by the Specialist Engineering Contractors' Group

RE: EVIDENCE PROVIDED BY BERR ON THE REVIEW OF THE CONSTRUCTION ACT: STATEMENT BY STEPHEN TIMMS MP ON THE PREFERRED CASE FOR INDUSTRY CONSENSUS

Further to the evidence provided by the Department for Business, Enterprise and Regulatory Reform on 22 January 2008 to the BERR Committee, the SEC Group would like to address a particular issue that was raised in the course of evidence. This concerned the Construction Act. In giving evidence of progress on amending the Act, the Rt. Hon Stephen Timms MP (the, then, Construction Minister) emphasised that changes to the payment provisions in the Act can only come about through industry consensus.

As an organisation we represent the interests of thousands of SMEs in the industry. We are confident that the overwhelming majority of SMEs want changes to the Act that will be effective in ensuring that there is clarity of the amount and timing of payment. They do not want their payments to be made conditional on certificates issued under another contract or, indeed, on anything else for that matter. They do not want monies withheld because of some issue arising under an unrelated contract. In short, they want to know exactly how much they will be paid at the date for payment. The original intention of the Act aimed to achieve this, but as we have explained in our own evidence, it was not entirely successful.

The main opposition to amending the Act comes from those who profit from traditional and adversarial practices—including late payments. For example some building contractors achieve on average 20% of their profits through the interest gained on the cash they hold for their supply chains. Therefore, they are unlikely to accept certainty of payment for their supply chains since this could have negative impact on their margins. If any consensus had been possible, there would not have been a problem in the first place.

As an industry we must re-direct our effort to improving profitability by delivering value for money through the quality of service we provide rather than through our ability to generate positive cash flow at the expense of our supply chains.

8 February 2008

Further supplementary evidence from SEC Group

DRIVERS TO ACHIEVE INTEGRATED DELIVERY IN THE CONSTRUCTION INDUSTRY

1. The NAO has indicated its approval of making funding of government projects conditional on the use of integrated delivery teams. (See para 2.29 *Improving public services through better construction, 2005*) This can be introduced at Gateway 3 where, according to the OGC's procurement procedures, the decision to go ahead with the project is made. This principle can also be applied to non-public sector projects funded by government or from the lottery fund.

2. The integration "*champion*" or "*tsar*" should, ideally, be a person of stature and authority from the business world, preferably the oil or gas industries where they have embraced the concept of integration in their construction delivery processes. Therefore, a high profile personality from these industries would be most effective in this role. The "*champion*" would sell the business case for integration and identify those procurers having problems in implementation. He or she would, then, suggest how these problems could be overcome and offer solutions. Ideally the appointed champion would be helped by a small team of staff. Most importantly, he/she should be seen to be acting with the full authority of government.

3. As was pointed out in evidence, local authorities have the greatest difficulty in applying integrated procurement and delivery in construction. The driver here could be the best value audit process which could hold local authorities to account if they cannot demonstrate sufficient progress in applying integration.

PROJECT BANK ACCOUNTS

4. The question related to the extent to which main contractors and clients had not thought of using project bank accounts (PBAs) to date. Guidance on the setting up of project bank accounts was not published until September this year when the OGC published its Guide to best Fair Payment practices. Furthermore, it was only in 2005 that the NAO recommended setting up PBAs.

PROCUREMENT STRATEGIES

5. Apart from integrated teams delivering construction projects, there is also a need to integrate procurement strategies. In particular, it is inefficient to have different procurement arrangements for design, construction, maintenance (or facilities management) and even disposal at the end of the life of the building or installation. There should be "cradle to grave" procurement arrangements so that the design, construction or installation and maintenance are procured together. An example was given recently by an M&E contractor. A boiler facility was required by a hospital. The contractor undertook to design it, install it and maintain it for 15 years at a cost to the hospital of £2 million. The MoD, for example, will never purchase fighter aircraft on their own. They will be purchased together with programmes of pilot training and maintenance for the life of the aircraft.

GOVERNMENT CONTRACTS

6. Both the NAO and OGC have recommended that all public sector procurers use collaborative contracts. There are now three in existence—the New Engineering Contract, PPC 2000 and the JCT Collaborative Contract. These contracts promote fair and efficient risk allocation. Public sector procurers need not use other forms. Many public sector procurers, however, ignore these contracts and continue to use traditional, adversarial contracts. For example, Network Rail and *Building Schools for the Future* rely on traditional contractual arrangements that facilitate the passing of risk along the supply chain.

OLYMPIC DELIVERY AUTHORITY

7. It is suggested that the following questions should be addressed to the ODA when they come to give evidence.

- (a) To what extent will the ODA ensure that there is fair and equal treatment along the supply chain?
- (b) What arrangements has the ODA put in place to ensure that risk is shared fairly amongst the delivery teams on Olympic projects?
- (c) On how many projects is the ODA planning to use PBAs?
- (d) According to newspaper reports, the detailed design for the Aquatic Centre has now been completed and the appointment of a contractor will be made in February/March. Were specialist contractors involved in the team that produced the design for the Aquatic Centre?
- (e) Will the ODA ensure that its policy of not deducting retentions will be applied along the supply chain?

BERR

8. We have informally suggested questions to be addressed to BERR but would add the following which are topical:

- (a) What is the timescale for introducing amendments to the Construction Act?
- (b) To what extent will BERR be taking into account the views expressed by bodies such as the Specialist Engineering Contractors that represent the views of SMEs in the Industry?
- (c) How will those views be translated into legislation?

Memorandum submitted by the Subsidence Forum

EXECUTIVE SUMMARY

1. Until recently, the timeliness and effectiveness of the payment process in the subsidence industry has not been challenged. However, as suppliers become more discerning in their choice of client, as a direct impact of the present construction boom which will continue for most of the next decade, payments issues become more critical.

2. A detailed analysis of the cost of the problem does not exist. However assessment of the direct and indirect costs of the current payments process against a backdrop of external subsidence claims expenditure of £500 million (with all its inadequacies) indicates cost as much as £15 million per annum, or 3% of the total.

3. The paper suggests that good payment terms and increased capacity in the subsidence marketplace go hand in hand.

4. Poor payment terms coupled with reduced margins will reduce the supply base, reducing competition and further increasing claims costs (against a background of already increasing cost due to the construction boom).

5. The paper looks at some of the payment issues along the entire supply chain, and recommends a series of short-term and medium-term proposals for improvement.

6. Importantly this is not an attempt simply to improve the position of contractors in the supply chain. Whilst in essence there is nothing wrong with this, the theme of the “poor old contractor” not getting paid is not central to this paper, rather that there is a need to match 21st century processes with 21st century payment systems.

INTRODUCTION

7. Poor payment has traditionally been an issue for the subsidence industry, but one which has not risen to the surface. This is not to say that payment processes have been satisfactory or indeed payment being made in a timely manner—simply that it has not featured openly or been discussed openly as a problem area.

8. The fact remains that payment problems have been with the subsidence industry almost for as long as the peril came into existence in the mid 1970's, over 30 years ago. Those with longer industry experience will remember the demand of insurers to be provided with full interim and payment reports before releasing funds. These funds would be made either directly to the insured, to a repairer or to an adjuster under a mandate. Whichever option was adopted, a paper chase inevitably occurred.

9. This paper chase would usually initially show itself in complaint calls to the adjuster, then leading to occasional intimidation of the policyholder. This threat by contractors tends to become more prominent as they vent their frustration at not being able to get payments released in a timely manner.

10. In many cases slow payment to a repairer would result in a last minute faxed reports to the claims office, coupled with the famous promise “the cheque is in the post”. In the most extreme cases, the strength of the relationship between the adjuster and insurer was such that an insurer would make a payment based on a verbal request, to be backed up on paper at a later date.

11. Thirty years ago, the industry was heavily fragmented; nowadays it operates in an entirely different way, through delegated authority arrangements with suppliers, framework or term contract agreements, service level agreements (SLA's) and the advent of supply management techniques. But for all these changes, the payment process fundamentally remained as it was 30 years ago.

12. This report on behalf of the Subsidence Forum as a whole has been created against a backdrop of a different construction environment which places even greater focus on the need for better payment systems. The construction market is more buoyant than existed before in the history of subsidence. The approaching 2012 Olympics, Thames Gateway development and general building boom increasingly lead to suppliers being more discerning as to who they work for.

13. Payment terms are becoming as important as profit margins. Repairers were prepared to tolerate poor payment terms provided the work was adequately profitable, but that profitability has evaporated with the advent of supply management techniques, greater transparency and the leveraging of commercial relationships to create claims cost savings. Profit margins in the insurance sector have been reduced by the professional procurement of services, but also go hand in hand with prompt payments terms—which have not always been delivered as promised.

14. When coupled with poor profitability, against a background of other more profitable, less onerous repair sectors such as public sector regeneration, the problem of late payment becomes a real disincentive for the supplier base to work for insurers. This creates a problem for the present and also builds a problem for the future.

A BUOYANT CONSTRUCTION MARKETPLACE

15. The BCIS Construction Briefing in April 2006 concluded:

- Materials costs rose 2.1% in the year to 4th quarter 2005, yet nationally agreed wage rates rose by 5.4% in the same period.
- Materials prices are likely to rise at around the rate of inflation over the next year.
- Wage settlements are already expected to be agreed above the rate of inflation for 2006.
- New orders for construction rose by 6% in the 4th quarter of 2005, compared with the previous quarter, and 11% compared with the same quarter a year earlier.

These independent figures clearly indicate a buoyant construction market, confident in short term future workload, with a shortage of skilled labour driving increased construction costs. There is no likelihood of the position changing in the short or mid term future.

PAYMENT IN THE WIDER CONSTRUCTION INDUSTRY

16. Subsidence is simply an element of the construction industry which in itself is plagued with a poor payment record.

17. A similar survey by the National Association of Specialist Contractors confirmed that construction specialists continue to wait for payment:

- Half are paid up to 1 month late.
- Third are paid extremely late (1 month plus).
- 70% say they are never paid on time.

Domestic customers, local authorities and councils are reported to be the best payers.

Larger or main contractors are considered the worst payers.

The smaller the company, the quicker the payment is received:

- 22% of larger companies (turnover of over £5 million wait for 60 days plus);
- compared with just 7% of smaller companies.

However, the failures of the UK construction industry as a whole cannot justify inadequacies within the insurance sector. Two “wrongs” never ever make a “right”.

ASUC SURVEY

18. Albeit based on a relatively small survey sample, The Association of Specialist Underpinning Contractors (ASUC) undertook a survey of members. This indicated that the greatest payment issues arose where intermediaries—adjusters and project managers—were involved. (Appendix A)

19. It is important to recognise that this may not represent the industry as a whole and that others may have much more favourable experience of reimbursement.

LATE PAYMENT—HOW BIG IS THE PROBLEM?

20. To date, no independent assessment has ever been carried out to identify the direct and indirect cost of poor payments in the subsidence sector.

21. Some organisations mandate payments directly from insurers to contractors and, barring the very odd exception of “human error” or where, for example, e-mails have gone astray etc, one of the biggest delays in certifying payments results from contractors presentation of unsubstantiated claims for additional works; poorly presented interim accounts, or the like.

22. Whilst this clearly does not apply to all, and many do a great job, it seems to be that contractors can very often be their own worst enemies when it comes to the certification and receipt of prompt payments. These, along with the important responsibilities of the contract administrator, are critical factors.

23. Supplier organisations are already considering a best practice document for their members to ensure the contractors “do their bit” around agreeing valuations, variations and timing of interim applications.

24. In a world of “home workers” and call centres it is often difficult to have direct conversations with adjustor regarding variations and the like whilst work is in progress on site.

25. It is suggested that if the original specifications are more accurately prepared with a 10–15% contingency then the contractors could be within budget without recourse back to an adjustor—this of course requires confidence and adequate controls down the supply chain to allow contractors to spend the contingency within a set of given parameters.

Poor payment process appears not only to irritate but to add cost to the process. These costs fall into two distinct categories:

- the direct costs of managing the existing payment process; and
- secondly the “knock on effects” of suppliers choosing to work in other sectors as a direct result of poor payment.

DIRECT COSTS FROM POOR PAYMENT PROCESS

26. The starting point is probably to consider the number of payment applications for subsidence related work in any given year, and the physical cost of this process.

27. Figures are uncertain, but if in a “normal year” of say 30,000 cases 50% are repudiated that leaves 15,000 cases each with at least one maybe two payment reports. Taking the worst case scenario that equates to 30,000 payments reports pa. Assuming that each payment report takes 30 minutes for the repairer to generate, 30 minutes for the adjuster to check and generate a report, and 15 minutes to process by the insurer, over 37,500 man hours per year are involved.

28. Assuming a fully loaded cost of say £50 ph, this equates to a cost of creating valuations and processing payments in the order of £1.9 million per annum.

29. Of the 30,000 cases there may be a particular problem with 1% requiring an additional resource of a further one hour making a further cost of £1.5 million.

30. Added to this is the cost of payment reconciliation issues—comprising the cost of sorting out whether a direct payment to a contractor has been made, or not. Again, figures are vague but across the industry a figure of £1 million per annum might not be considered unrealistic.

31. The total “direct cost” of valuation generation and payment processing is of the order of £ 4.4 million.

INDIRECT COSTS FROM POOR PAYMENT PROCESSES

32. These fall into two categories:

- the cost of adverse cash flow; and
- the poor payment effect on encouraging suppliers to enter the subsidence industry.

Adverse cash flow

33. Indirect costs relate to the cost of adverse cash flow. In any year, against industry spend of £500 million, say 30% (£150 million) of this is delayed beyond 30 days, to 90 or even 120 days. The aggregate cost of this to the supplier base in terms of overdraft facility may be as much as £5 million per annum.

34. There is anecdotal evidence that some banks supporting contractors, who have traditionally granted overdraft facilities on the back of “safe” insurance funded works, are now beginning to change their opinion and advising their clients to withdraw from this market unless cash flow can be improved.

Disincentive to Enter the Sector

35. At a time of construction boom, suppliers are becoming more discerning as to who they adopt as clients. There is a clear pattern of suppliers exiting the subsidence market. Coupled with consolidation, the supply/demand imbalance is increasingly taking effect as the competitive environment reduces.

36. For example, engineering firms, builders and specialists are increasingly focused on new build. Exceptions naturally exist, namely those organisations which are locked into the industry with little chance of escape. However these “locked in suppliers” do not constitute the majority of insurer expenditure, which rests with the building repairers themselves.

37. The advent of repairer networks whilst reducing supplier management costs may in some areas be actually adding cost to the process. The Office of Government and Commerce (OGC) asked the question in their publication “Smaller supplier, Better Value”? It is beyond the scope of this report to debate supplier management issues but until the subsidence industry is able to attract new entrants through improved payment terms, the industry will need to depend on the present or perhaps even fewer incumbents.

38. Suffice it to say that with less choice, distortions in the supplier base and the lack of competition may be leading to increased repair costs of possibly as much as 1%, or £5 million per annum.

39. Even recognising the “guesstimation” which has occurred in these calculations, a case can be argued for poor payment process directly and indirectly costing the subsidence industry in total as much as £15 million per annum.

PRODUCTIVITY AND PRIORITISATION

40. At first sight it is easy to blame the insurer, intermediary or the individuals involved. However it is important to consider the causes, rather than the symptoms.

Productivity

41. The increasing effect of commoditisation within subsidence has directly lead to suppliers needing to operate at a high level of productivity, to meet:

- the financial needs and demands of their ownership structure;
- the need for profitability within limited remuneration rates; and
- to comply with client requirements to meet contracted service levels, even if this means inefficient working practices.

42. As a result, the individual workloads of intermediaries are at a high level, albeit this figure can be disguised by the breaking of the caseload into segments. This also may reflect on customer service, and the problem heightens when there is a surge of work—when existing resources “stretch” to meet increased new losses (sometime at the risk of reducing attention on work in progress).

Prioritisation

43. At the same time, there appears to be an absence of requirement—either implied or contractual—to deal with payment issues in a timely manner.

44. As a result, payment issues do not receive full attention as they have low priority. In fact payments may only be dealt with by the individual to avoid supplier complaint which has an even greater disruptive effect.

45. In an environment of service levels, there are few controls around the speed of the payment process mid claim. Where controls do exist, they are seldom adequately policed.

THE ROLE OF THE INSURER

46. Under ICOB 7 for Retail customers, insurers are required to endeavour to make payments within five business days. For commercial customers it is within a reasonable period but most insurers try to adopt the five business days as a model. They get round this on the larger commercial cases by making electronic payments. Most large insurers have central payment teams for suppliers and there is no reason why they should not adopt the five business days model for them as they do so for customers.

47. There is no evidence that insurers deliberately withhold payment. Indeed most insurers simply see the payment process as just that—a “process” within the overall claims system. (There is anecdotal evidence of one insurer imposing a delay of a month or more in making payment to third parties which seems to cause problems for other insurers and their suppliers such as solicitors and adjusters, but that in itself appears to be a deliberately managed matter and capable of change.)

48. For insurers, the fewer touches, the less work, the better for their operational effectiveness provided of course that adequate controls are in place to ensure that valuations are correctly stated and properly “signed off”.

49. Insurers could however ensure as part of their procurement process that all parties in their supply chain have an adequate payment process in place and audit the efficiency of such a process.

50. E-payments are being considered by insurers and are certainly more efficient. Suppliers can ask for such a facility in negotiating contracts. Some insurers comment that e-payment is perhaps no quicker than the cheque payment system—easier for the recipient but not perhaps any faster to issue by the insurer. (Perhaps electronic systems as they currently operate are not in fact the panacea.)

51. An increased move to delegated authorities can help the payment process provided that the insurer has a good payment team that is not overloaded.

52. No insurer trusts its adjuster or engineer enough to give direct access to their payments system but some do provide advance funds to adjusters to speed up the payments process. This may be a useful way forward which might be capable of further exploration.

53. Whilst the importance of cash flow to contractors is fully acknowledged, they are not alone in such problems. Commercial constraints are often presented by the business terms required by some insurers of their intermediaries and loss adjusters. Typically these include no interim fees payments on lengthy claims; performance related fee structures bordering on penalty terms; consolidated invoicing arrangements which then take additional lengthy time to pay; requirements for service providers to share insurers risks; and commercial arrangements based upon predicted volumes of business which then, for whatever reason, do not then materialise.

54. There can be no doubt that he who pays the piper calls the tune . . . but of course it is important to pay the piper in a timely manner.

THE INTERMEDIARY AS FUND HOLDER OR DISTRIBUTOR

55. In some situations there is evidence of intermediaries acting as fund holders or distributor whereby insurers' money is paid to the intermediary—perhaps under a mandate—and then passed on to the repairer.

56. Problems often occur:

- The intermediary may derive financial benefit from not passing money promptly onto the supplier who may feel in such a vulnerable position as not to be able to complain (but may withdraw future services).
- The intermediaries' own systems may not exhibit adequate controls to ensure payment is promptly made.

57. This is often seen to happen where the intermediary operates a network, receiving a commission for the management of that network. The intermediary may consider that the only sure way of obtaining the commission is through deduction “at source”.

58. One member of the Subsidence Forum suggested the worse payers are contractors to subcontractors, and that they ought to lead by example!

THE ROLE OF THE SUPPLIER—NEVER AT FAULT?

59. There is a tendency for suppliers to think that the payment problem may entirely be of the insurers making, or their intermediary. This is not so.

60. Incorrect references may result in cases being difficult to track. Poor valuations of work, perhaps presented on a speculative basis may be rejected.

61. Requests for payments “on account” for work not yet carried out (because of an anticipated delay in payment) may be unsustainable, apart from the fact that few construction trades elsewhere are actually paid for work they have yet to do.

62. The suppliers own systems may be inadequate to ensure that payments received are properly recorded.

63. Suppliers need to learn to follow the clearly defined payment systems required by supply chain teams and work with their principals.

64. This situation is heightened when a payment is made with an incorrect or perhaps no reference, or for the incorrect amount (net of the policy excess for example, or as a part payment against a larger sum).

65. Particular focus is likely to be placed on adjusters and intermediaries who particularly may need to work smarter. The subject of payment is gaining momentum and will become increasingly important in competitive tenders.

66. Adjusters increasingly need to show that they can reduce the life of the claim.

67. Lengthy, long outstanding claims cost more money and all insurers are keen to reduce costs!

THE ROLL OF THE SUBSIDENCE FORUM TO IMPROVE MATTERS

68. At the end of the day, insurers are driving costs and performance but suppliers have a choice—to adapt, or to exit. Perhaps this paper might have alternatively been entitled “If you can't stand the heat . . .”

69. The issue here though is that for some suppliers, leaving the sector may not be an option ie subsidence specialist loss adjusters. For that reason, the Subsidence Forum seeks to improve the status quo rather than recommending an exit strategy to the disenchanted.

70. The reality of the situation must also be recognized in that every insurer is always going to drive the “deal” which they believe delivers the maximum benefit to their customers and shareholders, and everybody else in the supply chain has the choice to participate or not, as they see fit, on the terms being offered.

There are simply “market forces” at play here. Whilst the current construction boom might mean that things will have to be improved industry wide, this will only happen as and when the market dictates such changes as being beneficial. There is an obligation on the Forum at least to raise awareness.

71. It has been suggested that the payment problem relates more to the companies that are not actively involved with the Subsidence Forum rather than those that are. That is not to say that with the larger companies problems do occur from time to time—but in the main the larger companies seem to have systems to make payments promptly.

72. The challenge for the Forum as to how to influence those smaller companies that are failing is a real challenge and not one that the Forum recognizes it will be able to achieve in the short term, but one which is nevertheless possible.

CHANGE IS POSSIBLE

73. Against this backdrop, some observers may suggest that the process is so ingrained as to make change impossible. This is not accepted by the Forum.

74. Some 25 years ago, the process of “retentions” was commonly a part of the subsidence process. (A retention is an amount of money held by the client against the discovery of defects)

75. Retentions are also a problem area for the general construction industry. In a survey by NSCC they report

76. At any time, an estimated £680 million is being held in retentions within the construction industry

- (a) 54% of respondents fail to recover 20% of their retentions.
- (b) 10% fail to recover 80% of their retention.
- (c) Despite the use of retentions to rectify defects, almost 80% of respondents are not required to return and rectify defects.

77. Retentions are not commonly used in the subsidence industry, and have been increasingly replaced by defects insurance guarantees. The reasons for the movement away from retentions were principally that:

- Framework agreements between insurers and repairers placed a commercial obligation on the repairer to return and complete poor work.
- The adjuster or intermediary had no desire to keep the file open and delay submitting a fee.
- The insurer equally had no desire to keep the file open.

78. Payment of the retention to the policyholder to be passed on in six months was met with problems, in that the policyholder would often conveniently find defects which prevented the retention money being passed on.

79. The repairer saw the release of the retention as being a “bonus”—in that there was a low expectation of its release and profitability did not depend on it.

80. Although the reason for the removal of retentions is multiple and partly complex, and the practice of retentions remain in the wider construction market, this example gives hope to the fact that the current payment process is capable of modification.

21ST CENTURY CLAIMS, 20TH CENTURY PAYMENT PROCESS

81. The past five years have seen an increasing trend of standardisation of the subsidence process, following the model of Egan and Latham.

82. All the key targets for improvement have been met or exceeded, without compromising commercial advantage or diluting competition. Indeed success has gone to those firms which have been able to provide effective, compliant products at low cost, whilst at the same time differentiating themselves through adding value.

83. The Subsidence Forum support the sentiments of the NSCC Chairman, who said

84. “The timely movement of money through the supply chain is fundamental not only to enable specialists to invest and innovate, but in many cases to survive and for the client to enjoy the true benefits of integration”.

85. “Good payment practices must become the norm and we must continue to address payment practices within our industry, if we are to increase investment in training, manage health and safety more effectively, and deliver quality products”.

86. 2007 brings two new features to the subsidence template:

- Increased capacity in the market.
- Better payment processes.

87. The two elements go hand in hand in that as payment terms and processes improve, there is less likely to be losses of traders from the sector, in fact there may be new entrants. This healthy position will increase competition, controlling claims costs and driving up standards.

NEXT STEPS

88. The Forum proposes a three stage process.

89. Raising of awareness not only of the issues but of the consequences.

90. Through the Forum's links with CILA and the Subsidence Special Interest Group their chairman has agreed to approach all loss adjustors for facts and figures regarding the payment issues covering:

- (a) Numbers of claims.
- (b) Repudiation rates.
- (c) How many average payments per claim.
- (d) Timescales adjustors work to regarding payments.

91. Better information on current payment issues, to allow improved understanding of the scale of the problem, and also to ensure that there is a benchmark against which to measure improvement.

92. A further report by the end of Quarter 3 2007 which proposes key action points including the results of the CILA survey above.

Interim Activities

93. Attention to detail—It has been suggested that many of the problems rest in the simple things—poor or no references. Suppliers particularly are encouraged to pay attention to detail in that regard.

94. Documented payment processes—Organisations should as a matter of course have documented processes which identify the payment workflow. These should be up-to-date, and shared along the supply chain.

95. Procurement documentation—Bid documents should make reference to payment processes, and use these in part as a measure of the evaluation of a suppliers suitability.

96. Audit processes—Internal and external audit should review compliance with payment service levels.

Medium Term Activities

97. The direct and indirect cost of poor payments is indicated to cost the subsidence industry perhaps £15m, or 3% of total insurer spend in an average year, based on £500m total expenditure.

98. Increasing pressures on insurers will inevitably encourage them to look for improvements in effectiveness, part of which may come directly and indirectly from payment processes and terms of payment.

99. Increased and demonstrable progress in this area will encourage new entrants to the subsidence marketplace, improving sector capacity and competitiveness.

100. It is inevitable that future payment processes will be both standardised and electronically based, at least in part. Consideration should be given to the encouragement of innovation in this specific area, recognising that the cost benefit of slicker payment would substantially outweigh other areas of innovation interest.

SUMMARY

101. Introducing modern payment processes into the subsidence arena is not going to be easy. It is a complicated and sensitive area—after all we are considering a series of different services and supplier types, not widgets.

102. Pressures on insurers will continue to increase as we approach the end of the decade, and insurers will want to look carefully at all the options available to them. Claims departments which sometimes suffocate under paper driven systems may find e-invoicing a blessing, making the process easier to manage, and free people up to concentrate on strategic business areas such as service delivery and continuous improvement.

103. It is unlikely that e-invoicing will be developed in isolation, but rather be accompanied by electronic tendering, and electronic contract management. This will lead to secondary effects. The advent of “electronic tendering” is likely to slash the cost of procurement, and the cost of handling numerous tenders and responses, which will in the future be more easily compared. The effect of this may be to reduce the duration of term contracts, or perhaps remove them entirely.

104. Electronic tendering will come hand in hand with electronic contract management—enhancing the management and performance monitoring of a larger number of suppliers. Information will be able to be accessed quickly, electronic audit trails will established and performance management will go through a step change of improvement. Inevitably some will be concerned that electronic invoicing, coupled with electronic tendering and contract management will damage the quality of services, but this is not the experience of the public sector and of those organisations which have successfully challenged the status quo (such as Kent County Council).

105. But if the future of payment processes rests in electronic systems, at present no insurers or suppliers in the subsidence sector use such a method to its fullest extent. But interest is growing within procurement professionals who have successfully used such techniques in different sectors.

106. Now may be the time to start to explore how electronic systems can make the process simpler, and in doing so release valuable funds to improve the claims loss ratio. Future pressures on the residential insurance market will increasingly make a 3% saving in claims cost worth having—and squeezing the supplier is unlikely to be a viable strategy.

107. A 21st Century claims service requires a 21st Century payment process.

APPENDIX

<i>Client Base</i>	<i>Approx payment period (in days)</i>			
	<i>0–30</i>	<i>30–60</i>	<i>60–90</i>	<i>90+</i>
1 Employed by Local Authorities	3	6		
2 Employed by home owners (non-insurance)	7	2		
3 Employed by main contractors (insurance related)		7	2	
4 Employed by main contractors (non-insurance)	1	8		
5 Where employed directly by Insurance Companies	1	2	2	2
6 Where employed by home owners who have a professional advisor acting for them ie Engineers or Surveyors with an intermediary Loss Adjusting Practice involved	1	1	4	3
7 Where employed by Insurance Company appointed Project Managers		3	1.5	4.5

ASUC report 2007—Payments in the Underpinning Sector

June 2007

Memorandum submitted by the Union of Construction Allied Trades and Technicians (UCATT)

UCATT represents 125,000 members employed in the construction industry throughout the United Kingdom and the Republic of Ireland.

There are 2.2 million people working in the construction industry.

The construction industry currently accounts for approximately 9% of GDP.

EMPLOYMENT AND PAYMENT PRACTICES

UCATT is extremely concerned about the ongoing casualisation in the construction industry.

We believe that the improper use of the Construction Industry Scheme (4), self-employment tax system, is rife and is corrupting the industry.

UCATT estimates that almost 50% of all the two million people employed in construction are bogusly self-employed on CIS4 cards. In UCATT's opinion workers who have set hours, have to obey orders, cannot refuse work and have their materials and tools provided are directly employed and are not self-employed.

In 2001 work undertaken for UCATT by Dr Mark Harvey Senior Research Fellow at the ESRC Centre for Innovation and Competition at the University of Manchester, discovered that bogus self-employment was costing the Treasury £1.5 billion a year. After having consulted many construction experts and having taken into consideration the rise in self-employment, the increased activity in the construction industry and inflation, UCATT conservatively estimates that the current cost of bogus self-employment to the Treasury is £2.5 billion.

Under the CIS scheme workers have 20% of their earnings deducted by the contractor, this money is then paid directly to the Treasury. As they are self-employed their National Insurance contributions are a fraction of those paid by people employed on a PAYE basis. Workers registered, as CIS4 are entitled to make a self-employed earnings declaration, from which they receive substantial refunds “for legitimate expenses” they have incurred.

The taxpayer experiences a treble whammy from bogus self-employment not only is there £2.5 billion less in treasury coffers but also as workers are falsely classified as self employed they do not receive sick pay, holiday pay, or save towards their pensions.

When they become ill or too old to work it is the state that is forced to provide for them.

Companies have been allowed to favour bogus self-employment due to lazy enforcement regimes and there is no plausible evidence that this will change in the near future. UCATT rejects claims made by the Treasury that changing the CIS scheme to one based on online registration and abolishing the previous photo card system will massively reduce the problem of bogus self-employment.

In fact UCATT believes that the changes to the system will make the problems worse. It will be very difficult for employers to actually discover if the individual presenting himself or herself for work is the same as the person registered for the CIS card. Our concerns about the reforms to the CIS scheme are also shared by a number of major employer organisations. Several senior accountants who are experts in construction tax issues also share these views. Due to the Government's very poor record of implementing major IT projects there is a growing fear in UCATT that the recent change to the new online registration scheme will be a recipe for fraud, confusion and lost payments.

It is UCATT's opinion that if the Government acted to outlaw bogus self-employment in the construction industry then many of the other problems, which currently afflict the industry, would be wholly or partially resolved.

DELIVERY OF THE GOVERNMENT'S CAPITAL INVESTMENT PROGRAMME

The Government's heavy investment in the nation's infrastructure is welcomed by UCATT.

We are concerned that these major projects will not be delivered on time and on budget if the wrong employment model is adopted. UCATT believes that past errors in major projects can be avoided if new contract compliance legislation is introduced.

Under contract compliance it would be entirely within the Government's rights to insist that all contractors bidding for Government contracts employed direct labour. Such a decision would have an enormous affect on the construction industry. The Government is by far the largest construction client in Britain. By opting for the direct labour model in its construction projects, the construction industry would be forced to reorganise itself in order to place bids. It would also send an unequivocal message to the construction industry, that the current trend towards casualisation and bogus self-employment is not acceptable.

Under contract compliance UCATT believes the following conditions should be adopted:

- direct employment and the implementation of a maximum 48 hour week;
- adherence to the terms and conditions of industry agreements;
- representation for trade unions on the project including full time conveners;
- well financed welfare conditions;
- a high level commitment to safety on the job;
- training for workers to achieve CSCS accreditation of all site workers;
- language training for migrant workers; and
- a framework to ensure apprentices are trained on all government contracts.

LONG-TERM CAPACITY FOR THE DELIVERY OF LARGE INFRASTRUCTURE PROJECTS ON TIME AND TO BUDGET, SUCH AS THE OLYMPICS

UCATT believe that there is currently a serious question mark over whether the Olympics can be delivered on time and on budget. This opinion has been formed from the union's experience of other (similar) major infrastructure projects.

We believe that it is imperative that the Olympics follows the employment model of Heathrow Terminal 5, which overwhelmingly used direct labour and is scheduled to come in on time and on budget.

The alternative is to use the models adopted for the construction of Wembley stadium and the Scottish Parliament building in Holyrood. Both of which were built by fragmented self-employed labour and which were both beset by severe delays and spiralling costs.

The failure of the British construction industry to adequately invest in skills and training over the last 30 years has created a severe construction skills shortage in Britain. Due to indigenous skills shortages it will be necessary to use foreign migrant labour to assist in the construction of the Olympic venues. It is UCATT's belief that problems of exploitation and social tensions can be minimised if the direct labour model is adopted, thus guaranteeing wage rates and working conditions.

UK DEPENDENCE ON IMPORTED LABOUR AND EXPERTISE

Due to the severe skills shortages being experienced in the British construction industry and the current boom in construction projects there has been a need to recruit skilled migrant labour, to Britain in recent years.

UCATT is very concerned that the casualised nature of the building industry means that migrant labour being recruited is particularly vulnerable to exploitation.

Many migrant labourers are signed up to the CIS scheme as soon as they arrive in Britain. There are documented cases where migrant labour has been signed up to bogus self-employment schemes, before they have departed their home country. Foreign workers are often told that unless they sign up for self-employment schemes they will not be hired.

By becoming self-employed migrant workers surrender the most basic employment rights. Unscrupulous employers and agencies use the self-employed status of migrant workers to pay them wages below industry agreed minimums, undercutting the wages of existing domestic labour. The undercutting of wage rates has caused substantial social tensions in many communities.

In many cases migrant workers experience high and unfair deductions being taken from their wages, often by employment agencies. They are frequently overcharged for accommodation, which is often overcrowded and of a substandard nature. Stories of hot bedding and garden sheds being converted into accommodation blocks are not uncommon. Unfair deductions relating to travel to and from work, equipment and clothing, have also been recorded.

UCATT is not opposed to migrant labour. We are opposed to the exploitation of migrant workers. Our opposition is principally because all forms of exploitation is entirely unacceptable. Secondly because the effects that exploitation and undercutting of wages has on the economy and its affect on the livelihoods of other construction workers.

British unions have been increasingly working with migrant workers to insure that they get paid fairly and that other issues relating to employment rights and working conditions are resolved. There have been some minor improvements in some areas. What is clear is that far more needs to be done to inform migrant workers of their rights; how they should ensure that they avoid accidents at work and their legal entitlements. Unions and other voluntary organisations can do some of this work but serious attention needs to be given about how the Government could play a more pro-active part in attempting to resolve these issues.

AVAILABILITY OF, AND INVESTMENT IN SKILLS

The under investment in training and skills by the Government and the Construction industry for the last 30 years is having serious consequences for the industry.

Despite the chronic skills shortages, which have been identified in a series of Government reports—most notably the Leitch Report, not nearly enough is being done to attempt to try to fill this gap.

Last year 50,000 young people applied to the Construction Industry Board for construction apprenticeships. However only 9,000 places for apprentices could be found. This year it dropped to 7,000.

The Construction Skills Network in their recent reports, have estimated that in the whole of the construction industry there is a need for 87,000 new entrants a year, due to additional demand and workers leaving the industry. In particular there is a huge demand for wood trade operatives, due to the strength of the housing sector (both new build and repair and maintenance) it is estimated that there is a need for 11,000 new wood trade operatives every year.

UCATT believes that high quality apprenticeships will become an increasingly important part of the education system in forthcoming years, in the light of the Government's decision to extend the school leaving age to 18. The Department of Education and Skills has made it clear that many children remaining in full-time education/training post 16 will be studying on vocational courses.

UCATT's experience is that apprentices who are based with an employer and granted day release to attend college, gain a far better education and acquire more skills than students who undertake college based courses. In general construction companies prefer to recruit apprentices who have undertaken workplace schemes rather than those who have attended college based courses.

It is vital that the construction industries preferred training model is recognised at this stage. A large increase in college based construction training will not overly benefit the industry if construction companies do not believe that the potential entrants have acquired the necessary skills and training.

One of the reasons behind the lack of apprenticeships is the issue of bogus self-employment. If a company uses bogus self-employment it is highly unlikely to hire apprentices, or provide additional skills training. Its fragmented workforce means that there will be no one to train or oversee apprentices. Workers who are self-employed are not willing to perform extra duties without increased financial incentive and the nature of their employment means they do not have a contract requiring them to be involved in training apprentices.

Construction is the most dangerous industry in Britain. Last year deaths on building sites rose by 30% with 77 people losing their lives.

UCATT is alarmed that the fragmentation and casualisation of the industry is making it an increasingly dangerous place to work. There is strong evidence that sites which employ direct labour and which allow independent employee safety representatives, are far safer and sustain fewer accidents and fatalities, than those that do not.

The Corporate Manslaughter Bill, which is currently in the process of completing its Parliamentary stages, is to be welcomed as any strengthening of the current unsatisfactory legislation must be accepted as an improvement. However UCATT is of the opinion that deaths on construction sites will not substantially decrease until an individual director is sent to prison for their involvement in killing an employee. It is the union's belief that the levying of fines, no matter how large, will never be a sufficient deterrent.

While far from a panacea UCATT has warmly welcomed the new Construction, Design and Management Regulations, which came into, affect on April 6 2007. The union hopes that the intent of the new CDM regulations to reduce pointless paper exercise and to force different agents working together on site, will be effective in making construction sites safer.

One area in particular where UCATT has very serious health and safety concerns is regarding the safe removal of asbestos. The high level of deaths due to asbestos related diseases is deeply worrying. From a construction viewpoint research indicating that in future, primary exposure to asbestos will mainly occur when buildings are repaired or refurbished, should be noted. This makes joiners, plumbers, electricians and builders, all at risk to exposure. It is vital that rules and regulations concerning the removal of asbestos are not relaxed.

In the light of this UCATT is gravely disappointed that the Health and Safety Executive have recently decided to allow non-approved companies to remove textured coatings, such as aertex, without a license. This will unnecessarily increase the danger of exposure to asbestos for many workers.

2007

Memorandum submitted by Unite-the Union (formerly Amicus)

1. INTRODUCTION

1.1 Amicus is the UK's second largest trade union with 1.2 million members across the private and public sectors. Our members work in a range of industries including manufacturing, financial services, print, media, construction and not for profit sectors, local government, education and the health service. The union has just completed a merger with the TGWU to form the UK's largest union of over two million members.

1.2 Amicus welcomes the decision by the Trade & Industry Select Committee to conduct a far reaching inquiry into the state of the UK construction industry. We believe this first comprehensive Parliamentary overview of the industry is well timed, given its ongoing expansion and the massive high profile infrastructure developments it is expected to deliver.

1.3 Amicus members are involved in all aspects of construction industry across the whole of the public and private sector, both in engineering construction and the installation of plumbing, heating and electrical systems.

1.4 Amicus members are responsible for the building and repair & maintenance of key elements of Britain's infrastructure including energy sources, nuclear, gas and coal fired power stations, petrochemical refineries, chemical plants, pharmaceuticals, steel and other industrial output centres, structural steel for public and commercial building, major water treatment and steel bridge construction.

1.5 Amicus believes that high profile infrastructure developments are crucial to the ongoing expansion of the whole of the UK economy. Amicus believes that such developments cannot be delivered either on time or on budget without a commitment from all stakeholders to:

- Direct employment.
- National collective agreements.
- Equal treatment of migrant labour.
- Best practice in public procurement.
- Industry accredited apprenticeships and training.

2. THE UK CONSTRUCTION INDUSTRY

2.1 The industry over the past 7 years has had the most sustained period of growth in decades. A snapshot of the buoyant demand shows that in the 12 months to the end of November 2006 the top 30 contractors in the UK construction industry had completed or were engaged in some 4,290 projects with a combined value of £23,216 million.⁵⁸

2.2 The main industry “customers” continue to be a mix of public sector and large private sector corporations, with retail heavily represented. That said, by far the largest client in the twelve months to December 2006 was the Department for Health who awarded a total of 210 contracts with a total value of £3,166.8 million.⁵⁹

2.3 The current growth of the UK economy is reliant on the infrastructure developments the industry will deliver. Not only that, as UK infrastructure increases with economic expansion so does the demand for repair & maintenance.

2.4 A scan of the national press gives some idea of the work facing the industry in the coming years. The current and planned work on nuclear de-commissioning is crucial, which is almost certain to be followed by a sustained period of nuclear new build. Other infrastructure developments are almost too numerous to mention, some are significantly more high profile than others.

2.5 Notwithstanding the relative demand arising from the construction of such high profile major projects as the London 2012 Olympic site, some industry experts are already predicting a 45% increase in infrastructure activity between 2008 and 2013. In the transport sector alone, included in such forecasts are projects such as:

- Network Rail’s plans to deliver the revised Thameslink 2000 scheme.
- The East London Line extension.
- The Thames Gateway Bridge at Becton.

2.6 On the same regional level there is the development of the Thames Gateway and the proposed Crossrail scheme. In addition there are current plans for the widening of the M25 motorway.

2.7 A significant concern for the industry will be the recent publication of the Construction Skills Network Report for 2006. Working on their calculations, the construction industry is expected to expand by 12.7% between 2006 and 2010. The report predicts that the industry will need an additional 348,000 workers over the next four years.⁶⁰

2.8 These projected shortages are not an isolated estimate, nor are they being overlooked by industry commentators. It is not just the industry press that is reporting, “Crucial construction projects could be hit by skills shortage”.⁶¹

3. NATIONAL COLLECTIVE AGREEMENTS

3.1 Longstanding national agreements between employers associations and the trade unions facilitate excellent employment relations in an industry that is particularly prevalent with small employers. Current estimates suggest that the industry employs around 10% of UK workers across 192,404 firms.⁶² Significantly 170,471 of these companies employ 13 or fewer workers.⁶³

3.2 Within the context of this part of the Amicus response it should be understood that Amicus involvement in the referenced national collective agreements relates largely to our joint operation of the following:

- NAECI National Agreement for the Engineering Construction Industry;
- JIB Joint Industry Board for the Electrical Contracting Industry;
- SJIB Scottish Joint Industry Board for the Electrical Contracting Industry;
- HVAC Heating, Ventilating, Air Conditioning, Piping and Domestic Engineering Industry National Agreement;
- JIB-PMES Joint Industry Board for Plumbing Mechanical Engineering Services;
- SNIJIB Scottish & Northern Ireland Joint Industry Board for the Plumbing Industry; and
- MPA Major Projects Agreement.

3.3 Central to the Amicus role in the UK construction industry is our ongoing support for national collective agreements, not only for their role in maintaining terms and conditions for our membership but also because we believe they provide stability for an industry otherwise characterised by poor industrial relations.

⁵⁸ Barbour ABI data, December 2006.

⁵⁹ Emap glenigan, December 2006.

⁶⁰ Construction Skills Network Report for 2006.

⁶¹ *Financial Times* 21 November 2005.

⁶² www.cnplus.co.uk

⁶³ DTI Construction Statistics 2006.

3.4 Given the increasing expansion of the industry, the ongoing industrial relations stability cannot be overlooked. It is not insignificant that, in the ten years to 2005 the number of working days lost due to “stoppages” fell by 83%.⁶⁴

3.5 Without the current benefit schemes enshrined in the national agreements Amicus believes that not only will workers leave the industry, (especially in periods of economic downturn), but that it will become increasingly difficult to address the long term skills shortages.

3.6 It should be noted that these benefit schemes are provided by industry regulated independent bodies and provide for a range of industry financed provisions for directly employed workers, including:

- Pension Provision;
- Sickness Benefit;
- Permanent and Total Disability Waiver;
- Death Benefit and Accidental Death Benefit;
- Medical Healthcare;
- Occupational Health Assessment;
- Occupational Health Care; and
- Holiday pay.

3.7 Without doubt one of the most essential aspects of industry provided benefit schemes is the provision of pensions. The contribution of these schemes to the construction industry cannot be overlooked. Especially when research suggests that only 38% of employers in the industry make any form of pension provision.⁶⁵

3.8 With the transient nature of the UK’s construction industry such provision is essential, not only for the well being of the workforce, but also for recruitment and retention of workers into the industry.

3.9 Furthermore, Amicus believes that collective agreements can provide the framework for developing the relationships between workers and employers that will facilitate ongoing improvements in productivity to the benefit of all stakeholders. This position has been supported by independent and objective research such as the Baker Mallett report⁶⁶ on the implementation of the Major Projects Agreement on the BAA Terminal 5 Project.

4. THE TRADE UNIONS EXPERIENCE OF HEATHROW TERMINAL 5

4.1 This is not an isolated success story for the UK construction industry. However, Amicus believes that it is highly significant when considering future procurement strategies for major projects such as the London 2012 Olympics and Paralympics.

4.2 The total value of the Terminal 5 project, commissioned by the British Airports Authority (BAA), is reported to be in the region of £4.2 billion. Included in the project—along with a new terminal building—are roads, car parks, other transport facilities, hotels and offices.

4.3 The overall project, due for final completion in 2011, has over 60 separate contractors and comprises of 16 major projects and 147 sub-projects on a site of 260 hectares.

4.4 Central to the agreement between BAA, its contractors and the trade unions are:

- A commitment to promoting direct employment.
- Collective agreements for the project built upon, and no less favourable than, existing national agreements.
- A partnership approach adopted to encourage trade union involvement.
- Specification of quality employment standards throughout the supply chain, with active monitoring.
- Highest standards of health and safety.
- An acknowledgment that trade unions have a substantial contribution to make to the project, so trade union membership is encouraged and the function of trade unions on site facilitated.
- A commitment to building a learning environment in which there is broad access to training and learning at the workplace.
- Brokerage of employment opportunities for local residents.
- A shared commitment to equalities issues.

4.5 There is a consensus view that the Major Projects Agreement (MPA) adopted for Terminal 5 has set new standards in organising major construction projects.

⁶⁴ DTI Construction Statistics 2006.

⁶⁵ Employers Pension Survey—DWP.

⁶⁶ A Study of the Implementation of the Major Projects Agreement on the BAA Terminal 5 Project—2005.

4.6 The MPA has firmly established its value to the client, contractors and workforce on the Heathrow Terminal 5 project, with enhanced welfare, health and safety, employment reward and industrial relations stability for a project of such a large size.

4.7 It should also be recognised that the proactive and interventionist approach taken by BAA has been beneficial. It is their rigorous and persistent monitoring of these high standards that has ensured that the contractors deliver on their obligations. Central to their ability to operate in this method is the open and recognised involvement of the trade unions.

4.8 As an objective measure of the relative success of the procurement strategy adopted at Terminal 5 it is worth considering the fact that Roger Bayliss, BAA's Construction Director, remains committed to the procedure for future projects at Heathrow. This is even more significant when we consider the fact that BAA has currently budgeted for a £6.8 billion investment programme at Heathrow, Gatwick and Stansted over the next 10 years (including the redevelopment of Heathrow Terminal 2 in time for the London 2012 Olympics).

5. MIGRANT LABOUR

5.1 Amicus believes that in a significant number of cases overseas workers are discouraged from communicating with their UK counterparts on construction sites let alone a dialogue with union representatives who would provide their only access to information on employment rights in the UK. Amicus believes that this culture, coupled with the language barrier, creates an extremely worrying situation where health & safety requirements are at best overlooked and at worst bypassed in favour of reducing costs.

5.2 In research recently undertaken for the Northern TUC—*Organising Migrant Workers in Construction: Experience from the North East of England*—the point concerning the working environment for migrant construction workers is further substantiated. The main findings of this work for migrant workers were that:

- they are treated with little respect;
- their employers often have little concern for their health and well-being;
- the legalities that most of us do not even consider, (eg having wages slips, contracts of employment, and wages paid in full), are often not afforded to many; and
- that the threat of violence is never far from the surface.

5.3 This is further supported by the briefing from the Citizens Advice Bureau *Home From Home?* (December 2005). In which it is claimed that many migrant workers across the UK economy have similar experiences, including:

- inaccurate representation of the nature of the jobs available; specifically concerning pay and holiday entitlement;
- inadequate information provided on workers rights; and
- lack of transparency and proportionality surrounding the deductions made by the employer for accommodation.

5.4 Amicus does not seek to exclude migrant labour. However, given our recent experiences of inconsistent practices within the UK construction industry Amicus is keen to see that all workers employed in the industry are paid at the same collectively agreed rates. Amicus is extremely concerned that the exploitation of vulnerable workers will become the hidden legacy of the current expansion in the UK's built environment infrastructure

5.5 To ensure consistency and eradicate exploitation Amicus called persistently upon the UK Government to implement the true spirit of the EU Posted Workers Directive.

6. PUBLIC PROCUREMENT

6.1 As the largest single customer of the UK construction industry, Amicus is calling on the UK Government to ensure that the *2012 Construction Commitments* agreed and published by the Strategic Forum for Construction 2012 Task Group in July 2006 are adopted for all public sector contracts.

6.2 Not insignificantly the *2012 Construction Commitments* states that, "The employment practices of all organisations, including sub-contractors and the self employed, will be scrutinised by the client and the supply chain to avoid abuses."⁶⁷

⁶⁷ 2012 Construction Commitments.

7. INDUSTRY ACCREDITED APPRENTICESHIPS AND TRAINING

7.1 There can be little doubt that a skills shortage does currently exist within the industry. The obvious solution is to increase training. Amicus believes that the available people and skills already exist in the UK economy to fill the gap. Too few companies take on too few apprentices. We should be talking about an “investment shortage” not a “skills shortage”.

7.2 Amicus also believes that more needs to be done to attract older workers into the sector. With the continuing haemorrhaging of manufacturing jobs, many of these workers have the key transferable skills to enter the construction jobs market through *bona fide* adult training schemes to NVQ level 3.

7.3 This situation has not gone unnoticed by JTL, the UK’s leading training provider for the sector, which informs visitors to their website that, “Whilst most JTL apprentices join the industry at the age of 16 or 17, young people up to the age of 24 can apply as long as you are not in full-time education. Although, you should be aware that there is limited provision over the age of 19 due to Government funding restrictions”.⁶⁸

7.4 Employers are also concerned about the lack of a co-ordinated response from the UK Government. In recent research undertaken to formulate the Sector Skills Agreement, a significant number of employers voiced their concern about, “the Government’s policies on funding and the lack of support that some companies feel they have had in training new entrants”.⁶⁹

8. CONCLUSION

8.1 Amicus believes that a directly employed construction workforce is essential to facilitate an expanding construction industry, which itself is a core foundation for continued UK economic growth.

8.2 The importance of direct employment through national collective agreements, (with enshrined benefits packages), in the industry is not just a trade union prerequisite. Amicus believes it is essential on three counts:

- as a disincentive for workers to be encouraged into bogus self employment schemes which;
- facilitate tax avoidance; and
- make insufficient provision for private and state pensions.

8.3 Amicus believes that such an inquiry must have a clear understanding of the fact that the UK construction industry is unlike any other sector of the economy.

8.4 The proliferation of small employers, the complexity of supply chains on major projects and the transient nature of the workforce all increase the requirement for active and enforceable regulations and legislation.

8.5 Amicus believes this can only be facilitated by the direct participation of all stakeholders. Trade unions are essential in this process.

May 2007

Memorandum submitted by Unite—the Union (formerly Transport & General Workers Union)

The Transport & General Workers Union (TGWU) represents thousands of construction workers in the UK and when the union merges on the 1st of May with amicus to form the new union Unite it will represent thousands more within the industry. With two million workers Unite will be a significant union not just within the construction industry but in the UK economy in general. The T&G is a signatory to many of the most important agreements in the industry including the Construction Industry Joint Council (CIJC) and the Building and Allied Trades Joint Council (BATJIC) which between them cover 800,000 construction workers.

With regards to the Trade and Industry Select Committee’s inquiry into the UK construction industry the T&G would like to bring the following areas to the Committees attention:

1. BOGUS SELF-EMPLOYMENT

The Government is the largest paymaster in the UK construction industry today so has a responsibility to make sure that the employment status in the UK construction industry is not a matter of choice. Employers cannot simply decide to treat working arrangements as self-employment. It is the circumstances of the engagement that are the deciding factors.

⁶⁸ www.jtltraining.com

⁶⁹ Draft Sector Need Analysis of the Building Services Engineering Sector.

The UK Construction industry is the fifth largest in the world and provides exports worth £10 billion. It contributes around 8% of GDP and employs around two million people in Britain. However billions of pounds a year are lost to the Exchequer by the avoidance of the bogus self-employed and unscrupulous contractors not paying the correct income tax (PAYE) and class one national insurance contributions.

The following are simple tests that can be used to define the difference between “employee status and self-employed status”.

Employee status in construction

- (a) You do not risk your own money and you have no possibility of losing money on the job.
- (b) You have no business premises, yard, materials or workers.
- (c) You are paid by the hour, day, week or month.
- (d) You supply your own tools.
- (e) The contractor providing the work has the right to tell you what to do and where and when even if in reality this rarely happens.

If the terms listed apply you are an employee and must be employed on PAYE and class one national insurance contributions apply.

Self-employed status in construction

- (a) You provide the materials and plant for the job.
- (b) You tender or bid for the job and will have to carry the extra cost if your price was too low.
- (c) You have the right to employ others who will be responsible to you and are on your payroll.
- (d) That you are paid an agreed price irrespective of how long the job takes to complete.
- (e) That you decide how and when the job is done within an overall deadline.
- (f) That you work for a large number of different people during the course of the year.
- (g) In law one of the tests of genuine self-employment is the ability of individual workers to send substitutes to do their work.

To be defined as self-employed you would have to meet the above circumstances in their entirety and not simply one or two.

The TGWU believe that the current “self employment” hire and fire culture is one of the main obstacles to attracting more women and ethnic minorities into the industry and until this situation is addressed by government who are the largest employer in the UK construction industry, progress with regard to achieving real improvement will remain painfully slow.

Therefore the TGWU urge a government inquiry into “bogus self-employment in the building and construction industry.”

2. SKILLS AND TRAINING

The Construction Industry Training Board has said previously that the construction sector must recruit 88,000 skilled workers every year for the next five years to meet its needs.

So skills training is obviously urgently required if the UK is going to be able to satisfy this sustained level of demand. However in a time when the industry is booming and the demand is clearly there it is unacceptable that out of 42,500 applicants for construction apprenticeships last year only 9,000 apprentices actually succeeded in being placed with employers in the industry.

So the problem is a far more complex one than just saying we need to train more people in construction skills. Evidently we need to work harder at finding and developing the places for these apprentices with employers in the UK’s construction industry.

In addition imported labour couldn’t and shouldn’t be relied on to fill the gaps in the construction industry which we shall discuss next in more detail.

3. UK DEPENDENCE ON IMPORTED LABOUR AND EXPERTISE

The T&G believe that the UK construction industry is over reliant on an imported off the peg skilled workforce. A more balanced strategy is required of domestic and imported skilled construction workers if the UK is going to be able to respond to changing levels of demand not only when the industry as it does currently find itself in a boom but also when it is in recession. Reliance on migrant workers also erodes the training base and further removes the training culture within the UK construction industry.

Assuming the economies of the current EU members in Central and Eastern Europe expand prompting migrant workers from the likes of Poland who are currently the predominant imported skilled construction worker in the UK return home, the resulting gap will have to be filled.

So can we simply rely on other migrant workers from other recent EU accession countries such as Bulgaria and Romania and in 2014 at the earliest Turkey to fill the gaps?

Well put simply no we can't and nor should we be trying to.

Firstly, the RICS Construction Market Survey found that the construction industry is experiencing significant growth thus creating skill shortages even in the absence of any migrant worker departures.

More importantly domestic skilled construction workers should be entitled to expect to benefit from the growth that is currently being felt within the UK construction industry.

In addition the current political climate sees the size of the influx of immigrants depending on UK Government restrictions.

So in conclusion more domestic skilled construction workers need to be trained, placed and used alongside their imported counterparts than is currently the case.

4. HEALTH AND SAFETY

For workers in the construction industry the dangers are greater than any other industry. Workers in construction are seven times as likely to die at work than in other industries. Currently about one in three of all work related deaths occur in the construction industry. In the last 25 years over 2,800 construction employees have been killed at work. In the last year 32% more construction workers have been killed at work than in the previous year.

Then there are the occupational ill health fatalities, which are far higher over a longer period of time than site deaths. Past exposures in the construction industry have led to high rates of asbestos related diseases, which are now at least 4 times the average rate for all industries. It is estimated that at least, a quarter of all mesothelioma deaths each year in the UK arise from exposure in the construction industry. At one time mesothelioma was one of the rarest cancers in the world, now it kills more people than all of the other industrial carcinomas added together.

The level of the penalties for breaches for health & safety are completely inadequate.

The average fine including fatalities in construction actually fell last year to a disgusting £8,400. Which begs the distasteful question of, how much is a life worth to these companies?

In addition, the total number of prosecutions also fell. It is clear that too few workplace injuries are investigated and too few companies are ever visited by the HSE.

By April 2008 we know that there will be 388 less HSE inspectors due to Government cutbacks. This is not justice and is no deterrent against poor health & safety practices.

Action needs to be taken to ensure that directors are made accountable for the health & safety practices of their company. For too long there has been a culture in the construction industry that fails to put health & safety first. This culture must change and so must the law.

The law currently in effect permits neglect by unscrupulous or disinterested directors.

We believe that hearing the clunk of the cell doors behind the first jailed director will result in immediate changes in practices on sites.

The T&G looks forward to having a further opportunity to voice our views to the Committee on the UK construction industry.

30 April 2007