**Construction Industry Wales Stakeholders Group**

**Providing views from the sector into the Ministerial Construction Forum for Wales**

The latest Wales Industry Stakeholders Group met before the news that Jehu became insolvent and ceased trading on October 20th 2022. Insolvency practitioners said that delivering fixed priced contracts with single digit margins, agreed some years ago, decimated the groups cash reserves despite support from key stakeholders. This is another casualty in the Welsh construction sector, who now are added to the list with WRW, Dawnus and Carillion.

The construction industry is providing consistent feedback that funding allocations are not keeping pace with the actual cost of projects, that projects are becoming more complex with requirements to deliver more outcomes, and that there is a lack of high-quality skills in the market. In the context of lower government funding combined with a shortfall of critical social and economic infrastructure to be delivered in Wales, substantial change will be required to the way infrastructure and buildings are planned, procured, delivered, and managed.

This is a prime opportunity to stress the need for strategic leadership from Welsh Government on how to deliver smarter, net zero, and affordable assets through a more collaborative and integrated approach. For example, we know that if risk is collaboratively managed within the construction/built environment sector in Wales, it will lead to more efficient construction methods, a safer environment, and fewer claims. There are also a lot of recommendations within the Construction Playbook on how risk can be managed, this requires a point contact and dedicated officers to take a construction lead. An enduring effort to engage with the construction sector would improve visibility of the pipeline of projects and allow industry to contribute to the planning and specifications for future infrastructure and built environment. In this way, private sector innovation and experience has the opportunity to inform realistic funding envelopes and procurement approaches.

**Recommendation 1:** Welsh Government’s Procurement Reform and Commercial Policy team should establish a dedicated point of contact for the construction sector and initiate an enduring programme of proactive industry engagement.

Research could be commissioned to evaluate the contribution of the construction sector to the economy of Wales; so, we have a greater understanding of how the sector operates, who is operating in Wales and what categories these companies constitute. In essence a deep dive into the Welsh construction supply chain. Setting an international benchmark, Infrastructure Australia's *Infrastructure Market Capacity report* provides a new evidence base for a comprehensive understanding of the supply and demand of the skills and materials critical to deliver Australia's major infrastructure pipeline, and associated risks in planning and delivery.

**Recommendation 2:** Welsh Government should commission an annual Market Capacity report for Wales to support public and private sector decision making and help ensure value for money outcomes from our future infrastructure and built environment investments.

**Discussion point on Inflationary pressures, materials price volatility and labour costs** – how can the industry better manage these pressures and is support needed? Are these risks being professionally managed across the sector?

*How is Welsh Government taking this forward? Is there a need for the WPPN 09/21 Sourcing building materials for construction projects in Wales, to be updated? More needs to be done on how the WPPN’s are implemented. Without clear strategic guidance inflation risks alone can suck the cash out of businesses this year.*

*More needs to be done from the client, can they do more from a contractual perspective? The sector wants more to be done on price adjustment clauses which was a proposal by Vaughan Gething MS Minister for Economy.*

*There are budgetary pressures from clients as projects have been priced, 2-3 years ago, so have they therefore been adjusted to reflect the market? There is high variability in sharing cost risks. It is important to come to the market correctly from procurement. How can the sector influence and inform budgets that were set a long time ago, for example 21stC Schools budget was set in 2016. Looking at types of contracts can help clients with cost pressures.*

**Recommendation 3:** There is an urgent need to update *Welsh Procurement Policy Note WPPN 09/21: Sourcing building materials for construction projects in Wales* to better reflect the inflationary pressures, materials price volatility and labour costs faced by the construction sector.

*Industry is still reporting working in an environment of fixed priced contracts, this needs to be changed at procurement with the behaviour change starting here, to filter though to Tier One’s arrangement with their sub-contractors.*

*We need a global application for change. Whilst there are inflation and fluctuation*

*clauses in NEC or JCT contracts, public sector are reluctant to use them as their own*

*budgets are fixed, not index linked. So, passing through the government wish means that*

*they have to value engineer a scheme if they can or cut other aspects of the capital*

*programme. This needs to change to a variable approach. Hyperinflation clauses need to be*

*looked at.*

*At an NEC contract level, we need to use Inflation Clause X1 more often to share the risk on inflation. In England, the industry is experiencing that local authority clients are becoming more receptive to contracts that have such clauses. In Wales, contractors have become reluctant to bid for work without such clauses.*

*Councils cited the need for cost certainty.*

*Design and build process led by principal contractors gives a more strategic view on frameworks when bids come out. Clients need to think about budgets in a different way by building in risks as part of the cost, like shared risk registers, enabling the risk cost to be held by both the client and contractor. There also needs to be a robust approach to value management and value engineering as a means of tackling cost pressures with the earliest possible engagement of the whole supply chain to assist this process. This approach will also reap benefits in carbon reduction.*

*The sector wants evidence of price increases, to make informed decisions to put provisions in place like risk schedules, hyperinflation clauses and an open book approach. Indices often do not reflect true inflation, so clients need to take more of the risk.*

*There is experience of non-return on tenders, therefore there is a need to reassess budgets.*

*Construction Purchasing Managers Index (PMI) needs to be taken into consideration from the outset and reimbursements made on cost.*

*On the design side, capacity and resource is the issue, it is difficult for clients to fix budgets, so it is very fast moving and therefore difficult to adapt that quickly.*

*A separate contract for materials is recommended. Within the NEC contract there is a way to look at early warning signals to address the risk as they materialise. The lack of estimating resource is at the heart of it, this needs to be addressed.*

*Frameworks are trying to respond to the market, and some have x1 clauses, which are used for shorter contracts. For example, Health Boards are asked to look at plans but there is evidence of contractors not bidding for the work.*

*The issue is more than material inflation, people costs are escalating, and sought-after resources are becoming scarce and demanding higher than inflation increase salaries in the*

*South East are already pulling people from West to East and inflation increases are just*

*making that divide even larger.*

*Overall, it is clear that the construction sector, who are delivering contracts now, can bring innovation and best practice to the early procurement phase of new projects. But Welsh Government and its agencies must be willing to allow this to happen and then facilitate the process. When conditions are right and the shared desires combine, results are good.*

*Constructing Excellence in Wales facilitated engagement like this for the 21st Century Schools in 2014 when we were commissioned to support the partnership between Welsh Government and Local Authorities. Defining value for money in the context of the 21st Century Schools Programme was a critical factor in gaining a common understanding of educational attainment, Cost, Certainty, Specification, Sustainability, and Social value. However, the shift to collaborative and outcome-focused procurement and contracting is not new. The issue is always a sustained effort in forcing the government delivery agencies to firstly change old behaviours, and then stay the course for the duration of a programme.*

*The Minister needs to be made aware of these issues immediately and the sector requires direction and leadership from WG.*

*In conclusion the industry forum feels the WPPN is not sufficient to effect change in response to a rapidly changing market. A recommendation is that a further WPPN is issued (or a rider) that puts forward a short suite of options which would include:*

*1. fluctuations/X1*

*2. risk share*

*3. carving out of materials such as steel, copper aggregate (NEC enables this if X1 is engaged)*

*4. some hyperinflation clause BUT strongly discourages contracts being let without any provision for inflation.*

1. **Welsh Construction Forum Work Programme 2022:**
	* **Pipeline**

*Visibility of work is still extremely important but there is a lack of transparency in the data. Pipeline Visibility is the key to managing the capacity for any Contracts that will/can be managed. There needs to be partnerships in the public sector to realise the importance of visibility of pipeline to the private sector. LAs should be publishing this work, but they are not. A recommendation is that capital programmes are collated, CEWales used to publish this across ten sector headings in the four regions but it now needs to be resourced. In essence the sector would like visibility of: What they would like to build and for what they have the budget.*

* + **Payments**

*CEWales to share the PBA survey results and run an event on what more needs to be done. WG need to look at Retentions. A separate paper is attached.*

* + **Procurement & Social Value**

*A particularly important area. There is a lack of consistency, but consistency is needed. Industry want guidance on how the sector are expected to report on social value. The sector wants a clear consistent measurement and exposure of the outputs. There seems to be onus on reporting on the highest number of targets rather than merit on the value that is being delivered. The processes need to be simplified. There is need for transparency on what is being achieved, allocated officers to pull all this together for all the various toolkits available. We need to know Value Wales’ plans on this and ask for transparency. Clients often know what*

*the community need and are QS’s and PM’s getting involved in social value as much as they should be?*

* + **People**

*To address the skills and recruitment crisis we need more investment in trade and degree apprentices. We need a landscape review of what we have currently and what is needed. To take on apprentices the sector needs visibility of pipeline to give assurances. Frameworks can*

*help in the shared apprenticeship approach. We need to understand the blockages for the shared apprenticeship model. We need to understand what skills are required within retrofit:* [*https://gov.wales/optimised-retrofit-programme-training*](https://gov.wales/optimised-retrofit-programme-training)*. Degree apprenticeships for surveying exists in the rest of the UK, but not Wales. - these are one of the most popular ways for students to enter public sector bodies especially. So, students simply move over the border for greater opportunities. Hopefully, the next funding review will present an opportunity to get the business case across. RSAW are working with RICS and RTPI to push the apprenticeship discussion. SEWSCAP has been given funding by CITB to run an onsite construction academy, for individuals to be site ready. The Onsite Academy are always looking for Contractors to take on work experience and apprenticeships etc. It is available for all projects on South East Wales.*

* + **Planning**

To be discussed in the next meeting

* + **De-carbonisation**

*To be discussed in the next meeting. Building regs helping the new build construction sector to an extent. Retrofitting of existing buildings is a priority. Heavily reliant on residential, commercial, and public sector funding for the works. Many contractors want to invest in upskilling and new tech, but they need a guarantee of a secure pipeline of works. Value of retrofitting needs addressing - carbon footprint still has little weight in procurement. Carbon measurement - lack of standardise approach endorsed by Welsh Government*.

**Summary**

Much of this paper discusses public sector procurement of new-build projects as these are experiencing particular problems at present; however, the private sector is a major client base and maintenance/refurbishment work as well as new-build is a key element of construction for both the public and private sector. As such construction transcends most WG Ministerial portfolios, whether as budget holders or policy-makers, whilst not being a major component for any single Minister. A vacuum has therefore developed in how the needs of the industry and its relationship with WG as both a policy-maker and funding body are addressed. Now is the time to resolve this with a single point contact and dedicated team within WG to provide the interface with the industry and advice across Ministerial portfolios.

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Contributions to the paper from CEWales Members:



