

Policy Update - July 2011



New Bribery Act in force

The Bribery Act 2010 is coming into force on 1st July 2011.

The Act covers failure of a commercial organisation to prevent third parties paying bribes on its behalf. A company may be criminally liable for failing to prevent bribery unless it can demonstrate that it had adequate procedures designed to prevent such bribery taking place.

Hospitality is not prohibited by the Act provided that hospitality or promotional expenditure is proportionate and reasonable. The action you take should be proportionate to the risks you face and to the size of your business.

Especially if a company is entering new business arrangements or markets overseas they ought to consider a risk assessment in this area.

Guidance on the new act has been published by the Ministry of Justice.
<http://www.justice.gov.uk/downloads/guidance/making-reviewing-law/bribery-act-2010-guidance.pdf>

Chris Powell

Government Construction Strategy

The Government under the auspices of the Cabinet Office have published its Construction Strategy on 31 May 2011.

Complementing plans already outlined in the Plan for Growth and the Infrastructure cost Review, the main aim of the strategy is to change the relationship between public authorities and the construction industry, resulting in cost reductions of 20% by the end of this parliament.

To provide effective co-ordination and alignment of procurement across the Government's construction and infrastructure programme a new Government Construction Board, chaired by Paul Morrell, the Government's Chief Construction Adviser, will be established. This new body will strengthen the public sector's client power in the scoping, design, procurement and delivery of all construction projects.

Key elements in relation to the new strategy are measures aimed to ensure that the public sector acts as a more informed, better co-ordinated client and that industry business models and practices change so that a more collaborative culture emerges.

Specific measures to achieve these aims include:

- a requirement that the Government will aim for fully collaborative Building Information Modelling (BIM) to be in use for its projects by 2016;
- the establishment of a Centralised Public Sector Construction Database (PSCD);
- the establishment of a range of pilot projects to test supply chain innovations and lean procurement,
- to improve efficiency through the use of standard forms of contract without bespoke amendment;
- to consider measures such as the use of integrated project insurance;
- to monitor project bank accounts on trial projects and;
- to embed fair payment provisions throughout all Government projects.

A steering group drawn from Government and industry will be established to provide industry joint leadership in implementing this Construction Strategy.

CIC Building Information Modelling (BIM) Forum

CIC has set up a Building Information Modelling (BIM) Forum in response to the Government's announced intention in its Construction Strategy to deliver a structured Government/Sector capability to increase BIM take-up over a five year horizon. The promotion of BIM is a key element in a plan to improve the performance of the government estate in terms of its cost, value and carbon performance.

Members of the Forum represent the major institutions of CIC and the education sector. The nine members, together with Chairman Rob Manning of CIBSE, have also contacts with major contractors and consultants. The first meeting of the Forum will take place on 7 July 2011.

Consultation to date has identified some emergent challenges for the construction professions. These challenges effectively set the terms of reference for the institutions in the CIC BIM Group for Building Construction.

- *Education.* Are the programmes we currently accredit able to meet future low carbon and BIM demands? Are we accrediting graduates with appropriate knowledge and understanding of BIM, and Post-graduate specialists able to take leadership roles in the sector?

- *Dissemination of best practice and new knowledge.* How can we help to develop a better breadth and depth of expertise, given the substantial differences in resources available between larger and smaller businesses in the sector?
- *Research and development response.* How can we help to achieve stronger engagement between businesses and educational institutions? How can we effectively share resources across professional disciplines to leverage research funds for collective benefit?
- *Legal.* How can we overcome perceived complexities of contractual accountability, when BIM is designed to integrate data? What legal framework is needed so accountability/responsibility is managed, without becoming a barrier to implementation?

The BIM roadmap

The Building Information Modelling (BIM) Industry Working Party' set up in September 2009' has produced a strategy paper for the Government Construction Client Group. This report provides a suggested roadmap and strategy to enable the progressive use of BIM on Government building programmes as well as providing a framework for procurement and delivery standards.

Appendices to the report consider matters such as: the levels of competence and supporting standards and guidance at various levels of BIM usage: legal, contracts, insurance matters and the training and support required to enable the industry to rise to the BIM challenge.

<http://www.bis.gov.uk/policies/business-sectors/construction/research-and-innovation/working-group-on-bimm>

CIC participating in Lofstedt review

In conjunction with ICE, CIC is participating in a review of health and safety legislation which has been launched by the Department for Work and Pensions. Chaired by risk management specialist Professor Lofstedt, the call for evidence in this review lists ten questions.

<http://www.dwp.gov.uk/docs/lofstedt-call-for-evidence.pdf>

The overall aim of the review is to consider opportunities to reduce health and safety legislation.

Statistics from the Health and Safety Executive (HSE) show that construction is the industry with the largest number of fatal injuries, although there has been a 72% reduction in the fatality rate since 1981. However, despite increases in safety, occupational health problems are a continuing issue. For instance, deaths relating to silica and asbestos exposure remain a problem. HSE figures show that of 4000 asbestos related deaths per year, the most common occurrence was amongst construction related occupations.

Members can submit evidence for this review up to the deadline of 29 July 2011. Professor Lofstedt will publish his findings in the autumn and is due to make recommendations to ministers by the end of October 2011.

Chris Powell

Liability sub-group formed

The Liability Panel have established a small working group to consider the liability implications of Building Information Modelling (BIM) in response to the report of the Government Construction Clients Board on Building Information Modelling and Management, which was published on June 20.

Under the chairmanship of David King of HOK architects, two meetings have taken place so far of the BIM Liability sub-group: an introductory meeting on 9 June 2011 and another on June 17 2011. The meeting on June 17 agreed that the terms of reference of this sub-group would be:

- To develop a pan-professional view of the legal, contractual and insurance issues that the implementation of BIM poses for the UK construction industry and its current procurement processes and working practices.
- To review the current known information and initiatives on BIM and develop ideas for improvements to the UK construction industry's legal, contractual and insurance practices to achieve more effective, cost efficient and low-carbon construction, with the full implementation of Level 3 BIM.
- To report and make recommendations to the CIC's BIM Forum and Liability Panel for adoption as CIC's response to the Government's Construction Strategy (May 2011) and IGT Low Carbon Construction Report.
- To complete these tasks by end December 2011.

Contact has been established between Rob Manning, who is heading the main CIC BIM Forum. Ciaran Molloy who acts as both secretary to the main Liability Panel and also the BIM Liability sub-group will attend the meeting of the BIM Forum on 7 July .

Low carbon Action Plan

The Government's Low Carbon Action Plan, launched on 22 June, when taken together with other initiatives such as the Construction Strategy and the Report on BIM, demonstrate a commitment towards a more efficient construction sector geared to produce low carbon buildings and infrastructure.

Among ideas set out in the plan are:

- A Green Construction Board to drive forward actions set out in the action plan.
- The confirmation of the Green Deal policy to the commercial sector.
- The identification of skills development as a key area for construction's contribution to the green economy.

A full copy of this report can be seen by following the link below:

<http://www.bis.gov.uk/assets/biscore/business-sectors/docs/l/11-976-low-carbon-construction-action-plan.pdf>

Input into National Infrastructure Plan

CIC has presented a document to Lord Sassoon, the commercial secretary to the Treasury, which outlines the benefits of standardised consultancy contracts.

This was prepared, on behalf of the Liability Panel, by a sub-group, which consisted of Tony Broomhead from ARUP, a co-optee on the Liability Panel, along with Brendan Van Rooyen (ICE), Clive Marsden (ACE), Sarah Lupton (RIBA) and Clare Bristow (Chairman of the Liability Panel).

The full text of this document can be found by following the link below

http://www.cic.org.uk/newsevents/Lord_Sasson.pdf