
Urgent measures needed to improve cashflow in the construction industry

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A paper issued on behalf of the
Construction Industry Coronavirus (CICV) Forum

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INTRODUCTION

Prior to this crisis, the industry was suffering serious issues over payment and cashflow. COVID 19 has created a huge problem for our industry, and we need a number of different [and concurrent] pronged strategies to ensure construction businesses survive.

This paper suggests a number of short-term measures which could be introduced to urgently improve cash flow in the Scottish construction industry.

These have been discussed and agreed by members of the CICV Forum and it has been agreed that, with the member bodies' support, this paper be taken collectively to public and private sector clients while keeping the Scottish Government informed and seeking their support.

BACKGROUND

The industry is experiencing increasing levels of non-payment of outstanding sums due, and we fully expect this to increase.

Separate guidance has been prepared entitled *Guidance to Members on Cashflow and Payment during COVID-19*. This is aimed at assisting the supply chain through the months ahead to enable construction businesses to survive. This is not rocket science – we just need some creative thinking on addressing what lies ahead.

The Scottish Government's Construction Procurement directorate has issued a new Scottish Procurement Policy Note (SPPN 5/2020) which should be implemented for the payments from public sector organisations and other relevant bodies that will become due to the industry at the end of April 2020. Reference should also be made to CPN 1/2020 issued on 9 April 2020.

It is difficult to see how any work in progress will be generated after the end of April 2020, so we need to consider other ways of generating cashflow and payment to the industry's supply chain.

Although most of our discussions to date have been with the public sector, there is now a small group engaging with private sector employers.

PROPOSED SHORT-TERM MEASURES

The Forum should consider the following measures:

1 Contractors and the employer's QS's should be requested to agree the value of work completed at 30 March 2020, including materials on site. This will effectively be the Final Account at that stage, leaving a line in the sand when work re-commences. Every effort should be made to achieve resolution on any measurement and variation disputed issues, compromise is needed. Any amounts due will fall to be paid in May 2020. The same would apply to any fees that are in dispute between the public body and the design team, in relation to additional services provided.

2 For public sector bodies, using the SPPN 5/2020, the final date for payment should be brought forward, the payment cycle time frame needs to be reduced. Currently SPPN 5/2020 runs till June 2020 but it is likely to be extended. The present hiatus should also be used to carefully plan remaining works from re-commencement (Day 0) with cash flow forecasts to be agreed with possibly milestone payments thus assuring greater cost/revenue certainty down the supply chain.

3 There has to be agreement that agreed payments are fed through the entire supply chain.

4 In relation to any current extension of time and loss and expense claims, there is a current window to get these resolved without recourse to adjudication. The industry needs to consider using alternative methods of dispute resolution, including the Conflict Avoidance Process (CAP) to allow early intervention in contentious issues. We need creative thinking to avoid disputes and to resolve by negotiation.

5 No liquidated and ascertained damages should be deducted, and worst-case scenario is that they should not be deducted during the period of the lockdown. Consideration should be given to the re-payment of these, leaving the issues to be dealt with at Final Account stage, only if it is considered that this absolutely necessary.

6 The public sector should agree to release 50% of retention sums currently being held. These sums should then also released by the contractor to the supply chain. Contracted parties remain under an obligation to remediate defects in any event.

7 Employers, contractors and the supply chain should endeavour to pay out sums historically retained giving the industry valuable cash flow. There are £millions in retention funds throughout the country which ought to have been released by the present date.

8 Consideration should be given to introducing a retention embargo (for six months) when re-commencement of construction starts. This would mean no retention sums would be deducted by clients.

9 On re-commencement of construction, the threshold on PBAs should be reduced to £500,000, in relation to Building Contracts. This will help the cash circulate to all parties.

10 In the event that cash is being retained as a result of construction disputes, use should be made of the recently introduced CIC or RICS Low Cost Value Adjudication Scheme for disputes up to £50,000, and where there is a fixed scale for the adjudicator's fees. Details of this scheme were released on 31 March 2020:



www.rics.org/uk/news-insight/latest-news/news-opinion/adjudication-smes/

Contractors who are members of a trade federation, can also contact their respective membership body for advice and support concerning construction disputes.

RE-COMMENCEMENT OF WORK

The CICV Forum will be looking at the issues facing the industry when work re-commences. This will require contributions from both the contractors and the supply chain. This could involve:

11 Encouragement to both the public and private sectors to continue the procurement process. Failing to do so will have a significant and adverse effect on design teams and on future workload for contractors.

12 Ensuring there is a forward order book and that the industry has the capacity to construct in the future.

Current members of the Construction Industry Coronavirus (CICV) Forum:

- British Constructional Steelwork Association
- Builders Merchants Federation
- Building Engineering Services Association Scotland
- Civil Engineering Contractors Association Scotland
- Electrical Distributors' Association
- Federation of Master Builders
- Lift and Escalator Industry Association
- National Federation of Roofing Contractors
- Royal Incorporation of Architects in Scotland
- Royal Institution of Chartered Surveyors
- The Scaffolding Association
- The Scottish Building Federation
- The Scottish Construction Group
- SNIPEF
- SELECT
- The Stone Federation (GB)

Further information



www.cicvforum.co.uk



yvonne.wilson@select.org.uk

