

Playing by the rules: Introducing the Construction Playbook

By Shona Frame, Christopher Hallam and Ailsa Ritchie

The UK Government published its first National Infrastructure Strategy in November 2020 setting out plans for an “infrastructure revolution” with spending of £600bn over 5 years and a focus on innovation, technology, and sustainability.

Government intends to use its weight as a major client to “transform and modernise” the construction industry. The road map to that was said to include publication and implementation of the Construction Playbook.

The Playbook, published in December 2020, follows the success of 2019’s Outsourcing Playbook. Many of the old chestnut issues are addressed: the need to take time to plan projects, payment practices, avoiding the race to the bottom on price and risk transfer.

However, the Playbook is also future-looking in its ambition to drive innovation and the pledge to “build back greener” to achieve sustainable outcomes and meet the zero-carbon commitment. The number of references to transformational change, in particular, is striking.

It is clear Government has also incorporated lessons learned from Grenfell and the Carillion collapse with a drive for quality of build and safe operation as well as a focus on interrogating financial standing of suppliers and contingency planning for insolvency risk.

It also covers practical issues such as the skills shortage and the need to train the future workforce and has health and safety as a high priority.

Fourteen key policies, said to be the reforms or actions which will have the greatest impact, sit behind these overall aims.

The Playbook front-loads project planning,

including early involvement of the supply chain, with a view to faster onsite delivery. It emphasises “value” rather than cost with reference to a “Should Cost” model to understand whole life costs and value.

There is much emphasis on development of long-term strategic, collaborative contractual relationships with the supply chain and amongst contracting authorities, grouping work into portfolios instead of a series of individual projects. Investment in training the future workforce and creation of a market for innovative technologies is encouraged by a 3 – 5-year visibility of project pipeline.

There is a recognition that contracts require to be profitable and the promise of a fair return to ensure the market is sustainable, twinned with a more consistent and equitable approach to risk transfer: allocated to and managed by the party best able to bear and manage it.

Innovation and use of MMC are supported by a presumption in favour of off-site construction. The goal is adoption of a manufacturing-led approach to improving productivity with standardisation of design and use of interoperable components driving efficiencies.

The standardisation theme continues in relation to improving consistency and quality of data and the requirement for a “golden thread” of information as well as to contract terms with a list of standard contracts to choose from – NEC and JCT but also PPC2000, TAC-1 and FAC-1 – and discouragement of bespoke provisions.

The Playbook follows from recent calls by UK and Scottish Governments and the Construction Leadership Council, amongst others, in the context of issues arising from Covid, for a change in approach and more collaborative behaviour.

More generally, concepts like the ICE Project 13 integrated enterprise model for infrastructure delivery and alliancing-type models, are gaining traction.

In the dispute arena, the trend towards more collaborative contract provisions continues and we have seen a movement away from traditional dispute resolution towards dispute avoidance (or, at least, early resolution). This is echoed in the RICS Conflict Avoidance Pledge which supports collaborative working and embedding conflict avoidance mechanisms and which the Playbook suggests is adopted into public works contracts.

Of course, the ambitious policies in the Playbook require widespread engagement and implementation to succeed.

For Government’s part, they are mandated for central government departments and ALBs (arm’s length bodies) and it is committed to a multi-year implementation programme on a “comply or explain” basis, enforced via spending controls. The willingness of central government to enforce compliance will be key to the Playbook’s success, but the supply chain has been encouraged to ‘spill the beans’ on non-compliance via a dedicated email address.

There is a clear recognition that industry also has to engage and change and that the proposals will only succeed with the whole industry working together. To this end, the Playbook was co-developed with and is endorsed by the Construction Leadership Council and wider industry participants. In terms of approach to tendering, we could see procuring authorities including the themes in the Playbook within their evaluation criteria in the procurement phase. Generally, there is a move away from community benefits with a growing focus towards the wider concept of social value. With the government’s focus on achieving net zero there could be the potential for those tenderers making forward-

looking purchasing decisions, for example, use of construction methods delivering low carbon outcomes or of environmentally friendly vehicles and equipment which, if the evaluation criteria are drafted appropriately, may result in higher scores than less environmentally friendly projects or delivery methods which are cheaper. Add to this the UK Government’s requirement that from January 2021, 10% of the score in procurements is to be allocated to Social Value and we see real opportunities for those prepared to invest in low carbon delivery methods.

In an industry described as being ripe for disruption, it is clear that doing things the way they have always been done is unsustainable and will not deliver transformational change. The Playbook sets out a roadmap.

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