



*“Driving a culture change to tackle poor procurement practices”*

Presented by

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# “Driving a culture change to tackle poor procurement practices”

## Introduction

- This May saw two key reports both raising Regulation and procurement as an issue in our industry and these follow the recommendations made in the Cole report in 2017.
- A “race to the bottom” caused either through ignorance, indifference, or a culture that does not facilitate good practice ..*Dame Judith Hackitt.*
- “The governments drive for cost savings can itself come at a price: the cheapest bid is not always the best. Yet companies have danced to the Government’s tune, focusing on delivering a price, not service, volume, not value” ... *DWP report on the collapse of Carillion.*
- Dame Judith has challenged the industry to **“Drive a culture change and a change to procurement practices”**.

# “Driving a culture change and a change to poor procurement practices”

- At the heart of Dame Judith's issue with the current procurement culture appears to be the principle of Design and Build and “value engineering”.
- Professor Cole’s point was the abdication of responsibility by public sector procurers in other words “risk dumping”. The public sector cannot delegate the duty it ultimately owes to the general public. The assumption that everyone will do what they are supposed to do is at best.. naïve.
- A DWP summary point was the culture of a “semi professional approach” and an inadequate risk management process, with Carillion this led to the taxpayer picking up the bill.

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## Contributing factors to the current culture?

- Risk adversity..... with a failure to recognise a commercial approach.
- The belief that a cost that is too good to be true will *actually* deliver a quality project.
- Public procurement regulations? If not, then an over emphasis on cost and/ or an inappropriate means of defining and evaluating the quality and service required.
- The inability for authorities to act as an “intelligent Customer” ...*cole* either through resourcing, training or culture.
- The loss of public subsidy, reduced budgets.
- The distance between the client and the ultimate designer

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## From a poor culture is the “the race to the bottom”

- Insufficient time and budget allocated to produce comprehensive tender documents dumps undefined risk on contractors who have to price for it.
- A relaxed approach to qualifications and post tender amendments encourages tenderers to do it more.
- Two stage tendering can put the value engineering into the hands of the contractor whose driver is cost not value... if not managed properly.
- Insufficient time to review and drill down into tenders further encourages “gaming”.
- The relaxed approach to settling claims for additional work and EoT again encourages “gaming” at tender stage.

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## What are the consequences of the culture created

- Poor quality service and products delivered by the lowest bidder (the “race to the bottom”)
- Greater Whole life costs
- Compromises made to the safety of occupants/users
- The skill shortage in the industry requires a greater obligation to check, monitor and validate. (This is often not adopted)
- A lack of understanding of how the building is designed and operates.
- The consequence of poor procurement may be the cheapest price... but not the best value for money.

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## Design and Build ... and Value Engineering.

- Is it fit for purpose? ..and who's fault is it if it isn't?
- How does a contractor define and properly price undefined risk in a 6 week tender period?
- Are contract amendments fair and reasonable?.. and do they get enforced?
- Is sufficient time allowed to produce tender docs and analyse results
- Who validates the contractors designs?
- Few contractors actually use their overheads and profit in the tender; most rely on the recovery of margin by value engineering for their own benefit not the Employer (dumbing down)

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## Design and Build ... and Value Engineering.

- Some contractors regard a single or a first stage tender is simply a “foot in the door”
- Success on a first stage tender can enable the Contractor to drive the project and the client loses control of cost and quality
- 2 stage tenders can often become protracted affairs during which, whilst all risk is defined, both cost and time can slip
- Even where a contractor is held to their original price there is a risk of insolvency, quality and numerous contractual claims.



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## Addressing a culture change

- This has to start from the top, ultimately a CEO or Development directors are responsible
- Introduce support, skill and training into their organisation and “build capacity” and change the culture
- Commit greater levels of cost to pre tender due diligence and de-risking, *you have to pay for it at some stage*
- Provide a model where whole life costs have greater influence in viability appraisals
- Create checks for the safety of occupants/users... pre planning
- Commit to Information Management systems (BIM) to record how the building is designed and operates (the “Golden Thread”)

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## Addressing a culture change

- Take on board the approach of commercial developers, in particular risk management. Empower senior staff to deliver.
- Employ the resource to manage designers as a developer would.
- Allow more time to validate prices and drill down as to the service, skills and personnel who will deliver the project.
- Weight tender submissions for value in the same way as price
- Look for best value not cheapest price
- Fund the obligation to properly check, monitor and validate the works.

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## Procuring consultant services.

- Does the scope adequately cover the service required? Has the lowest tenderer allowed for it? Do they believe no one will check if he complies?
- “...more rigorous and oversight at the front end of the process can lead to significant increases in productivity. *Dame Judith Hackitt*”
- Is the de-risking, optimisation and Value Engineering not best placed pre-planning/procurement stage as a commercial developer would? Thus placing design, value and safety in the hands of the client not a D&B Contractor.
- Does the capacity for the skill sets required to manage this approach in the consultant sector exist? .. Yes with certain consultants but it will cost more..

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## Some suggestions... Act like a Developer

- Use design and commercial management resources to challenge the designs of your Architects for buildability and optimise proposals to enhance value
- Obtain robust cost plans from EA's, or commission cost consultants to do so
- Conduct a full series of due diligence surveys and investigations to understand risk pre planning
- During the planning process clear all pre-commencement conditions
- Plan for and instigate enabling works during the tender period.
- Revise cost plan before planning submission
- Ensure fire strategy incorporated into proposals before planning

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## Some suggestions... Reduce risk pricing by contactors

- Provide a comprehensive set of Tender Documents. Ensure proposals are buildable, provide all surveys reports etc, Ensure ER's are not generic and specifications are clear and unambiguous.
- Provide all the Employers CDM information as their obligations
- Conduct a proper pre tender questionnaire process
- Allow adequate time to tender c8weeks (subject to construction)
- Provide robust tender query/qualification service during the tender period
- Allow enough time and seek a single tender no qualification approach
- Insist upon a full CSA and programme and preliminary breakdown.

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## Summary

- If the public sector wants to be a commercial developer it needs to procure like one, upskill its resource, be accountable and use appropriately competent support.
- No private sector developer puts their brand in the hands of an unmanaged Architect or a D&B contractor, neither, I consider should the public sector.
- “...improving the procurement process will play a large part in setting the tone for any construction project and drive the right behaviours” *Hackitt* and... in my opinion give lower outturn prices.
- Dame Judith’s recommendations for leaders to improve competence and accountability across the sector are equally relevant.. but of course this represents a significant challenge to our industry.



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# Questions