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Airey Miller is a leading project management and property & construction consultancy. Managing Director Peter Airey lends his views on Dame Judith Hackitt's report. The following is an extract from Peter's talk at Devonshire's June 2018 London seminar where he addressed the question - What will Dame Judith Hackitt's Recommendations mean for the Construction Industry?

## THE HACKITT REPORT

*Recommending a culture change and a change to poor procurement practices.*



May 2018 has seen the publication of two key reports arising in their own way from tragic events in the construction industry. The Independent Review of Building Regulations and fire safety by Dame Judith Hackitt and the Parliamentary Report on the collapse of Carillion.

Both have raised Regulation and Client procurement practices as key issues.

This article seeks to focus on the procurement issues raised and what these messages mean for the construction industry, in particular, the public sector.

A comment made in the conclusion of the Carillion report stated "The Government's 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".

The criticism is levelled at those who manage these procurement processes.

I'm very much of the opinion that if the price looks too good to be true, then it probably is! Like many of my peers, I often scratch my head as to how a competitor can achieve the task at the price quoted. The problem is often because of the following:

- **No clear specification or quality standards are provided.**
- **An assumption that Client's staff managing the outputs will be unaware of the scopes tendered on.**
- **Tenders are poorly put together.**
- **Quality / Cost evaluations are still very much focused on cost through the weighting mechanisms used.**
- **There are little or no incentivised controls to ensure the compliance of the procured service.**

## **Design and Build Procurement**

Dame Judith clearly has referred to Design and Build procurement, and Value Engineering as a procurement process which (if not managed), results in the erosion of quality and standards. Interestingly, Dame Judith attaches the words 'Value Engineering' after most references to Design and Build. The question is who is the beneficiary of any Value Engineering? Many consider it is the Contractor, in particular, Post Contract.

I consider that the Client team can Value Engineer the efficiency of the design, the GDV of the development at the earliest stage of the project whilst fully in control of design development. As Hackitt says "more rigorous and oversight at the front end of

the process can lead to significant increases in productivity”. This is the approach adopted by Commercial Developers who specifically lead this process with their Design & Commercial Managers.

Many consider that Design and Build, as a procurement approach is no longer fit for purpose. I disagree but do recognise as a vehicle for a risk adverse Client to procure it will not always give quality or value. Many Contractors will naturally focus on cost not value. This inevitably will impact upon asset management and whole life cost.

Design and Build can continue to be applicable if risk is properly evaluated, mitigated or even eliminated before the procurement stage. Most Public Sector Clients regard themselves as Developers, but most don't procure as Developers.

Some of the Public Sector approach is a hangover from the Grant funded days when public subsidy encouraged a risk adverse approach. There is a price to pay for 'risk dumping' but without Grant this approach is no longer viable. As risk is still contained within tenders, often unnecessarily, the scope for Value Engineering often falls to key elements of quality and Whole Life Cost.

The appointment of an Architect to obtain planning and then an Employer's Agent (EA) to procure is beginning to change in the Public Sector. However, there is often a reluctance to bring in and pay for other key consultants and specialists managed by Commercial and Design Manager (as a Developer would do). If Chief Executives and Development Managers could structure their procurement approach to ensure projects are optimised and Value Engineered before planning, then budgets could be better realised by corresponding tender returns. Hackitt is also recommending fire and safety reviews at the planning stage. I still find it incredibly inefficient not to obtain such advice pre-planning. Hopefully as a result of this report, the RIBA will add this to RIBA Stage 3 for HRRB's, as will Client's in their scopes.

As part of the risk mitigation and Client's desire for quality and safety (as recommended), the future of how D&B procurement operates may need to change. Dame Judith is suggesting all drawn information and specifications are submitted to the recommended Joint Competent Authority (JCA) before works start on site. This will be difficult to implement unless some indication of exactly what information is required. Time periods between Tender acceptance and start on site will of course be increased. Logically, novations of design teams would foreshorten this however, Clients will require to select appropriate Designers from the outset.

Dame Judith comments that “improving the procurement process will play a large part in setting the tone for any construction project. This is where the drive for quality and good outcomes, rather than lowest cost must start”. I fully support this view because I have seen these positive outcomes.



## Effective Management of the Process

As indicated previously, the skill sets of a typical Developer are often absent from a Public Sector project. Through a combination of misplaced expectation, the skills of a typical Employer's Agent and Architect will require to be supported by other specialists and consultants. Leaving this to be managed later in the process by the cheapest D&B Contractor is inefficient and ultimately does not usually generate value for money. In our experience, this up front design development retains the client's objectives and its cost is saved later in the process.

Many Employer's Agents/Project Managers are upskilling their organisations to include the skills from the Developer sector. These skills carry cost and cannot be delivered too cheaply. The sector needs therefore to fully understand the capacity and skills of those they employ. This is another key point raised by Dame Judith.

## Principal Designers

Dame Judith appears to place a lot of responsibility on the Principal Designer as a duty holder. If properly competent, this would appear to be a sensible approach (rather than EA or Architect). Although Design & Build does usually require a change of Principal Designer Post Contract. Employer's, I consider, should ensure a requirement for transparency during the Post Contract stage with their Pre Contract Principal Designer perhaps appointed to monitor and agree change during this phase.

The skills and knowledge of Principal Designers will require to increase significantly for HRRBs given the enhanced role proposed by Dame Judith.

### Information Management and Digital Data

Whilst the CDM Regulations have required H&S files for some time, it is clear that the receipt nature of those files requires some regulation.

The use of BIM Information Management and Design is promoted by Dame Judith. The logic behind this makes the management of the occupation phase more robust if the information is available in a consistent form.

More consultants will require to upskill in BIM and Information Management to assist their Clients in achieving this objective, albeit a cost to the development programme.

## Training and Capacity Building

Dame Judith's report does place responsibility on industry leaders to focus on the training and development of their own resource. It is clear that the report is proposing to place greater responsibility on all duty holders. Clients cannot pass this off to consultants and CEOs will understand the implications of a failure to train and upskill their own teams. Areas such as H&S, CDM, Information



and BIM Management are all areas for development and capacity building in the sector if as Dame Judith suggests, industry leaders must drive real culture change and right behaviours.

## **Conclusion**

The main thrust of the Hackitt Report is to focus on the development and refurbishment of HRRBs i.e. 10 storeys+. Underlying her recommendations is a consideration that they apply for all properties in multiple occupation and / or with vulnerable occupants. It will be interesting to see if the Government goes for this.

The recommendations in respect of regulatory control, greater duty holder responsibility under the control of a Joint Competent Authority will undoubtedly place safety in a more auditable place. Other recommendations in respect of management, recording of data and the testing of components are all sound recommendations which again can form primary legislation should the Government choose to do so.

The greater challenge will be the recommendations to industry leaders to facilitate a cultural change and change poor procurement practices. By this, the inference is D&B/ Value Engineering as a process, is one that does not 'drive the right behaviours'. I consider if the leadership in Public Sector organisations follow their commercial development peers it will be possible to retain D&B as a procurement method but retain quality, WLC considerations, and safety in their developments.

Retaining control over the design development process, managing risk properly and providing clear requirements and specifications will ensure a competitive procurement process. The private development sector do not put their brand in the hands of a D&B Contractor, neither, I consider, should the Public Sector.

In order to achieve this there has to be, as Dame Judith recommends, a greater emphasis on competence and continuing improvement. This will be a challenge for an industry with significant skill shortages and a desire for a greater output of homes, in particular, affordable homes, but that, as they say, is another story.

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