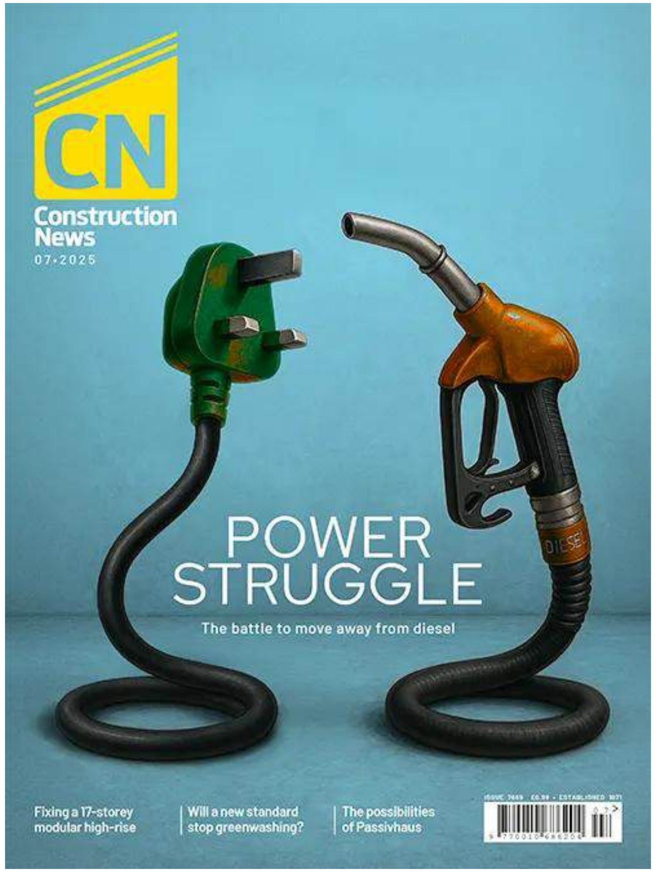
Construction News



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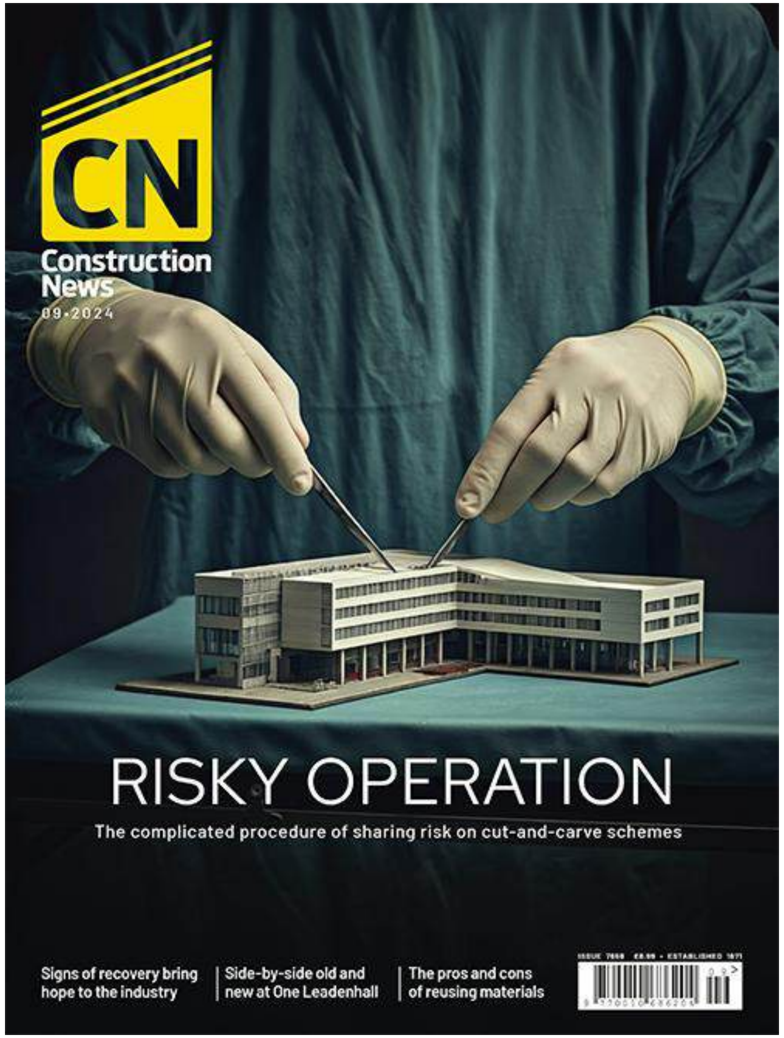
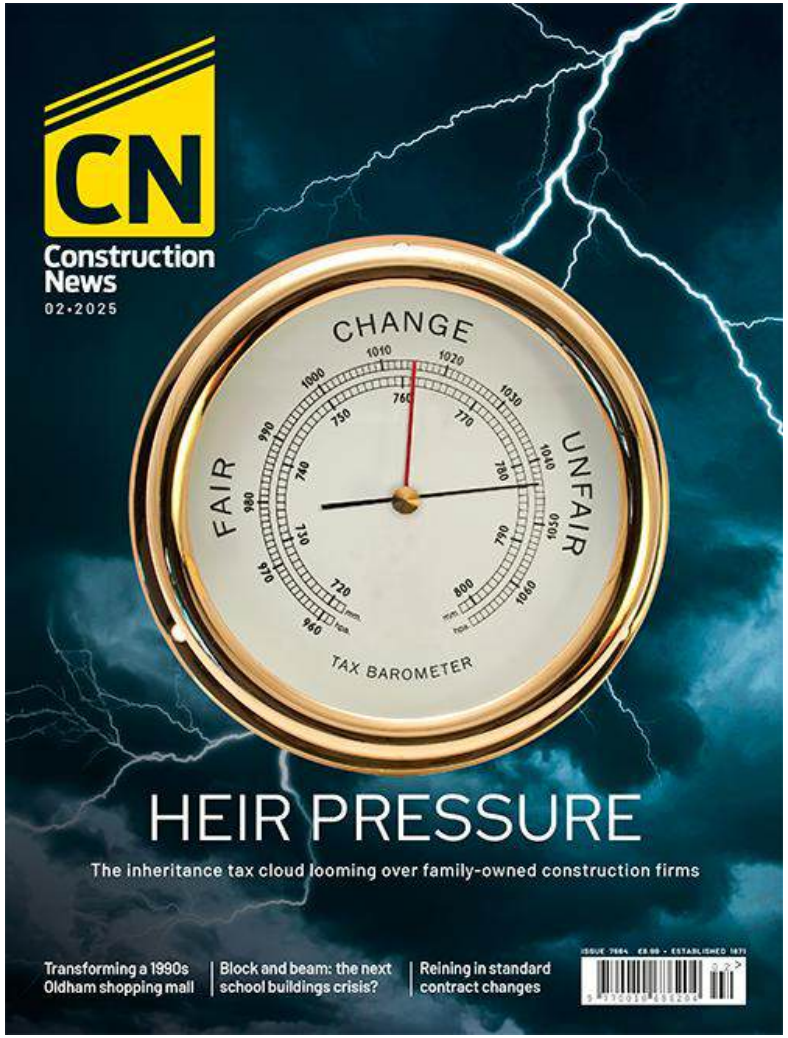
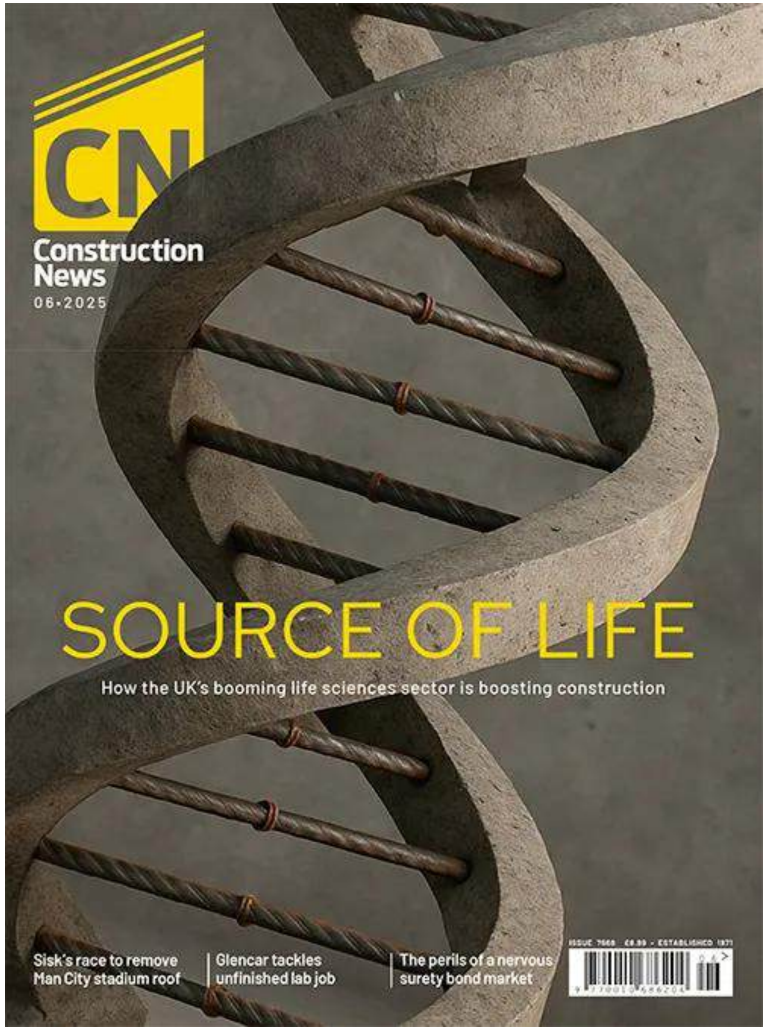




HARNESSING AI IN DESIGN

Employing a designer to create similar images would have cost hundreds of pounds per cover



HARNESSING AI IN DESIGN

Executing the editor's design concepts, *CN*'s art editor created individual elements using AI, then employed traditional skills to finesse


UNHAPPY FAMILIES

Family-run construction firms are warning that planned changes to inheritance tax will have a 'seismic' impact on their businesses. Keith Cooper reports

Samantha was five when her dad started his housebuilding firm from scratch about 40 years ago, in the northern town where they lived. She describes him as a workaholic who "risked it all", including the family home, to keep the firm afloat. Her dad died in 2022 after a short illness, leaving her in charge of what remains a major local employer, providing hundreds of jobs.

Samantha (not her real name) describes this succession as "bloody tough". "We'd lost our leader, I was supporting my mother, and it all came down to me," she says. "It was pretty shit. There's no way of sugar coating it." Despite the personal pain, Samantha successfully took over her dad's business.

HARNESSING AI IN DESIGN

AI helped realise the editor's concept – a twist on the Happy Families card game

LONG READ ▸ EXECUTIVE PAY

A MIXED BAG

***Construction News*' analysis shows that some executives have seen their pay packages fall while others are celebrating heights never seen before.**

Joshua Stein reports

SHUTTERSTOCK.COM/LOT

17.5%

2022-2023

30%

2021-2022

66%

2020-2021

YEAR-ON-YEAR PERCENTAGE INCREASE IN CONSTRUCTION EXECUTIVE PAY

The median pay for a chief executive at a FTSE 100 company reached £4.19m in 2023, the highest level on record, according to the High Pay Centre (HPC).. The HPC was cutting in its commentary on the data. "It is entirely understandable that lots of people feel very uncomfortable with pay awards that are way beyond what anyone needs to live a life of considerable luxury accruing to a tiny number of already very wealthy executives," the centre says in the introduction of its report *Analysis of UK CEO Pay in 2023*. At the same time, "millions of others work incredibly hard" but struggle to cover housing, food and energy costs, it adds.

According to *Construction News*' exclusive analysis of executive pay, construction industry leaders' pay also towers above that of the average employee. The average annual package of the 20 best-paid construction executives has consistently risen since 2019, although the rate of increase has tempered since the huge jump of 66 per cent between 2020 and 2021. The following year it rose 30 per cent, and between 2022 and 2023 the increase was a more modest – but still inflation-busting – 17.5 per cent.

Industry commentators may say that rewarding directors for strong performance is a good thing, as it can drive further strong performance. And our analysis of headline numbers reveals substantial conditional bonus packages that take into account sustainability as well as workplace health and safety.

26

27

HARNESSING AI IN DESIGN

We didn't have an image of golden apples in a bag of fruit - so we used AI to make one

INNOVATION

CN Intelligence Data Dashboards

Data dashboards

View and interact with a wealth of data covering key metrics on UK construction. Filter dashboards by key indicators and date ranges over up to 25 years.

This content is available only to Premium CN subscribers.

Access written analysis of key data from the UK industry, giving you invaluable intelligence on trends in:

UK construction companies' financial performance | Monthly administrations | Monthly contract wins, planning applications and starts on site | Employment levels and pay | Materials prices and supply.

Companies

Interactive dashboards and analysis of audited financial data for UK construction companies - including CN100 tables

Activity

Interactive dashboards and analysis on output, planning applications, contract wins and project starts

Materials

Interactive dashboards and analysis on prices, stocks, deliveries and orders for construction materials

Workforce

Interactive dashboards and analysis on employment numbers and pay levels in the UK construction sector

INNOVATION

CN Intelligence

Company financial data: Turnover, profit and margin

HEAD-TO-HEAD COMPARISON TOOL

Select specific UK construction companies and compare their CN100 financial metrics against rivals back to 2019

Use dropdowns on top left to filter by date and company name

Please select your date range:

Year: 2024 (1)

Please select your data filters:

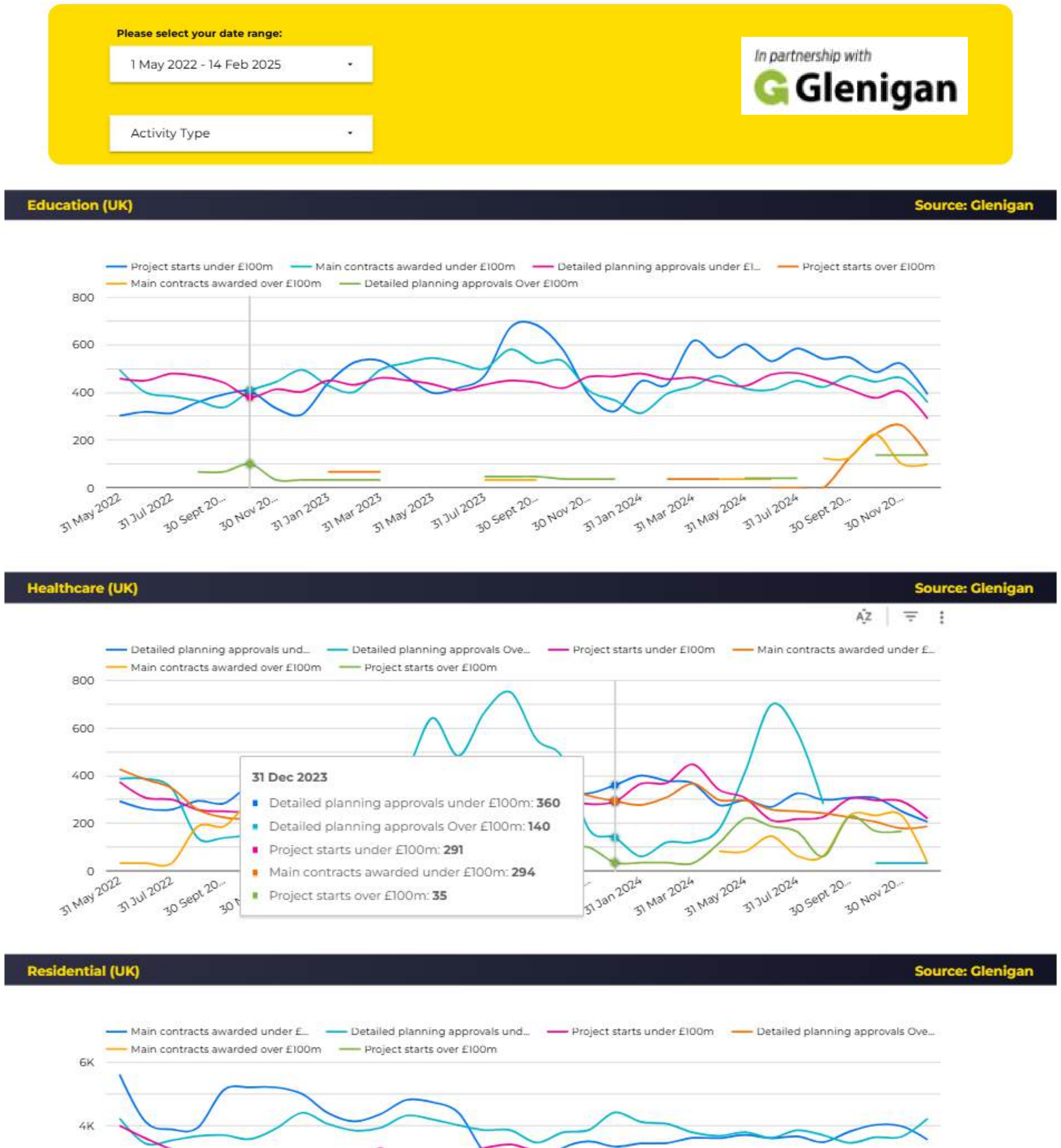
Company

View more CN100 data by:
Cash & debt | Workforce

Click on table headings to reorder data — **Source: CN100 data**

	Company	Turnover (£m) Latest	Turnover (£m) Previous	Turnover Change (%)	PreTax Profit (£m) Latest	PreTax Profit (£m) Previous	PreTax Profit Change (%)	PreTax Margin Latest	PreTax Margin Previous
1.	Balfour Beatty	7,993.00	7,629.00	4.77%	244.00	287.00	-14.98%	3.05%	3.76%
2.	Morgan Sindall	4,117.70	3,612.20	13.99%	143.90	85.30	68.70%	3.49%	2.36%
3.	Kier	3,380.70	3,143.90	7.53%	51.90	15.90	226.42%	1.54%	0.51%
4.	Laing ORourke	3,374.30	2,965.50	13.79%	-288.10	2.70	-10,770.37%	-8.54%	0.09%
5.	Mace	2,356.79	1,892.58	24.53%	61.67	36.46	69.14%	2.62%	1.93%
6.	ISG	2,185.10	2,263.70	-3.47%	11.50	18.50	-37.84%	0.53%	0.82%
7.	Wates	2,101.87	1,786.90	17.63%	44.93	31.53	42.50%	2.14%	1.76%
8.	Vinci	1,980.25	1,798.36	10.11%	-6.67	50.49	-113.21%	-0.34%	2.81%
9.	Royal Bam	1,966.07	2,050.77	-4.13%	-19.79	40.79	-148.52%	-1.01%	1.99%
10.	M Group	1,864.60	1,545.30	20.66%	-79.30	-30.40	-160.86%	-4.25%	-1.97%
11.	Amey	1,836.19	2,224.20	-17.44%	96.99	86.42	12.23%	5.28%	3.89%
12.	Bouygues UK	1,470.60	1,527.55	-3.73%	-182.59	-31.74	-475.27%	-12.42%	-2.08%
13.	VolkerWessels UK	1,433.00	1,348.77	6.24%	38.60	37.72	2.33%	2.69%	2.80%
14.	Murphy Group	1,420.97	1,490.78	-4.68%	66.84	44.58	49.93%	4.70%	2.99%
15.	Galliford Try	1,393.70	1,237.20	12.65%	10.10	5.40	87.04%	0.72%	0.44%
16.	Costain	1,332.00	1,421.40	-6.29%	30.90	32.80	-5.79%	2.32%	2.31%
17.	Skanska UK	1,328.59	1,375.98	-3.44%	27.34	24.52	11.50%	2.06%	1.78%
18.	Bowmer and Kirkland	1,242.39	1,146.46	8.37%	53.35	63.13	-15.49%	4.29%	5.51%
19.	Willmott Dixon	1,172.09	1,147.25	2.17%	-14.35	-8.74	-64.19%	-1.22%	-0.76%

CN Intelligence UK construction activity by sector



INNOVATION

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Enter your question

Ask CN is your go to source for construction industry queries. Our **new AI search engine** exclusively reads Construction News and provides you with instant answers. Construction News content is trusted by the construction industry across the UK.

Who is currently construction minister?

You asked...

Who Is Currently Construction Minister?

Generating answer..|

Helpful Not helpful

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Ask CN
Get your answer

Who Is Currently Construction Minister?

News

Sarah Jones, the MP for Croydon West, is the current construction minister, serving as minister of state in the Department for Business and Trade and the Department for Energy Security and Net Zero [1]. She is the 26th person to hold the construction brief this century, with her portfolio spanning a variety of sectors [1]. The Construction Leadership Council was informed that Jones will take on the construction portfolio [2]. Prior to her current role, Jones served as shadow housing minister between 2018 and 2020 and has been a vocal advocate for building safety [1]. Additionally, she has held positions as shadow minister for industry and decarbonisation, as well as for police and the fire service [1].

Helpful Not helpful

As a note of caution, while the Artificial Intelligence engine is constantly learning, we cannot guarantee these Ask CN AI-generated answers will always be without error. Please use your own judgment on the suitability of the answer and review the articles the answer is based on. Any action taken based on the answer is at your own risk.

My reply is based on the following

New construction minister appointed [1]

Sarah Jones has been appointed as construction minister, Construction News understands.

Jul 17, 2024 News

Weekly job moves: key changes in the top teams [2]

Following the new government ministerial appointments, construction minister Sarah Jones has been confirmed as co-chair of the Construction...

Aug 2, 2024 News

CN/CHATGPT

Breaking the bottleneck

High-rise residential development has virtually ground to a halt since the Building Safety Regulator took on full powers. Charlotte Banks explores the problems – and potential solutions

When Leeds City Council approved plans for three new residential towers on the Dyecoats regeneration scheme in April 2022, construction was expected to start that summer. Three years on, excavators have only just arrived. Before submitting its plans, developer Latimer (housing association Clarion Group's development arm) had proactively redesigned the scheme to incorporate second staircases, in anticipation of one post-Grenfell reform, only to come up against another – the Building Safety Regulator (BSR). The newly established watchdog had given itself a deadline of 12 weeks to determine whether Dyecoats could start building. It took 40.

Dyecoats is one of the lucky schemes. Since April last year, when the BSR became the arbiter of whether construction work can start on taller residential buildings, it has approved only a handful out of more than a hundred applications. New high-rise residential construction has all but ground to a halt. The bottleneck is perhaps the biggest pressure point on an industry struggling to adapt to the post-Grenfell building safety landscape. This hard stop before construction, known as

LATIMER

gateway two, was one of the key recommendations of Dame Judith Hackitt's *Building a Safer Future* report, published in 2018. Of all the changes brought in to ensure the horrifying events of June 2017 are never repeated, it might be the most revolutionary. "It's a sea change in how these types of buildings are developed," says Eric Johnstone, legal director at law firm Brodies.

Waiting game

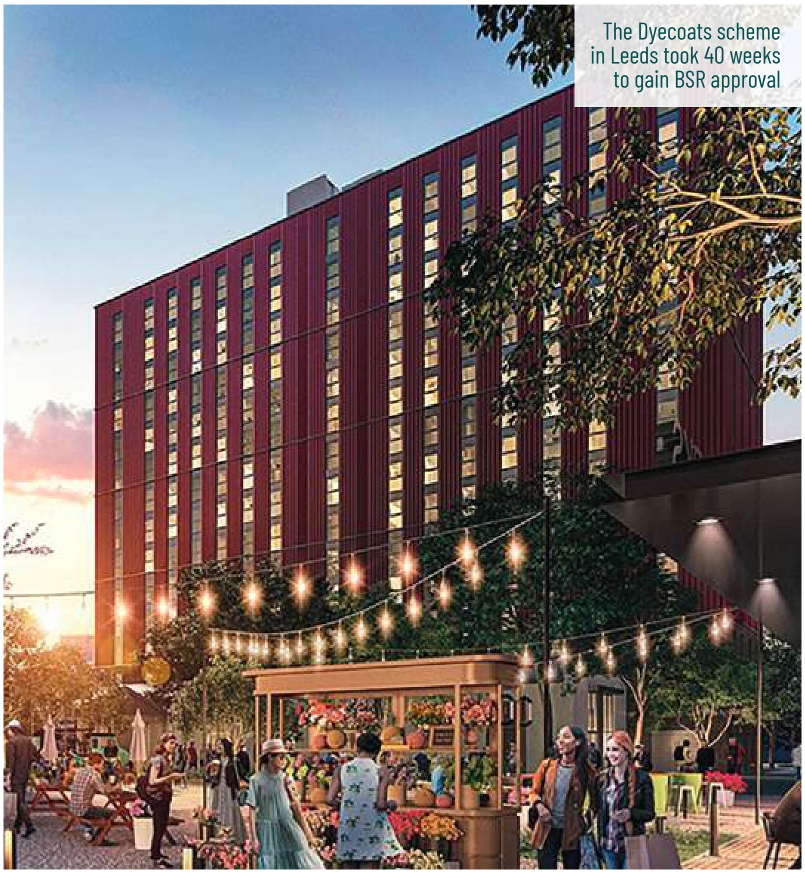
At gateway two, before starting on site, contractors have to demonstrate how they are going to construct a higher-risk building (HRB), defined as being taller than 18 metres and containing more than two residential units. Work cannot start until the BSR deems that these construction plans show they meet building regulations, a level of detail provided far earlier than the construction industry is used to. "You're doing an awful lot of expensive offsite work before you get on the ground, whereas previously you would do offsite work to a certain position, get on site, and then do some iterative processes," says Charis Beverton, partner at law firm Winckworth Sherwood.

Clients are still unsure how they should shape their procurement approach to meet these requirements. Many are entering formal arrangements with contractors and even subcontractors before submitting a gateway two application, so they can provide the detailed design work the BSR needs.

The BSR, which sits under the Health and Safety Executive (HSE), is statutorily required to determine applications for new HRBs within 12 weeks and work on existing ones in eight weeks. But developers and contractors are widely reporting that these decisions are taking months. Some of the earliest applicants are still waiting to find out if they can start building.

In an already challenging environment for construction, these delays hike up costs and push the financial reward further and further away. Having brought them on early, clients may have to pay the contractor's staff while the project goes through the system, to ensure they are available when the project starts. If the project requires external finance – as most projects of the scale of an HRB do – interest accumulates. The price of materials and labour goes up the longer a project takes to get started, and contractors face uncertainty about when they should place orders. "I can imagine when the bottleneck does ease, suddenly everybody could be rushing around trying to get piling rigs and things like that. And we all know what that does to the market," says one senior housing association figure.

"If jobs that are on the cusp of viability have to wait 20 weeks for gateway approval, that can destroy the whole return on investment for those projects," says Lilly Gallafent, chief operating officer of Cast Consultancy. Most developers factor a few months of wiggle room into programmes to deal with unexpected delays, she adds, "but now they don't know whether to put in three



The Dyecoats scheme in Leeds took 40 weeks to gain BSR approval

If jobs that are on the cusp of viability have to wait 20 weeks for gateway approval, that can destroy the whole return on investment for those projects

LILLY GALLAFENT, CAST CONSULTANCY

months' float or a year's float." Certain types of developments suffer more than others when delayed, says Adam Nicholson, preconstruction director at McLaren Construction. In the student accommodation sector, completing work a few weeks late means the buildings cannot be occupied until the next academic year, for example.

Piling subcontractors tend to secure work by providing design free of charge, with an expectation that the client will keep them on when construction starts. They don't get paid until it does. "We're tracking over 40 projects that we've designed," says Malcolm O'Sullivan, Van Elle chief operating officer. "We would expect at least 10 of them to have come to market by now. We've seen one."

The delays are seriously threatening contractors' cashflow. O'Sullivan says he's restricting investment in new plant and moving staff across sectors until his firm gets more orders. He also warns of possible redundancies at other companies.

Short-staffed

With so much at stake, why is it taking so long for the BSR to approve applications? Experts cite multiple factors. One reason the new regulator has struggled to fulfil its duties is a lack of personnel. Each application to the BSR must be assessed by a multidisciplinary team (MDT). These teams are assembled for each project, consisting of a BSR case officer, local authority building inspector and fire safety inspector, although other specialists might be brought in depending on the application.

Philip White, who heads the BSR as the HSE's director of building safety, is upfront about the challenges of putting the teams together. "Two thirds of the resource for assessing applications are not under our control," he says. "It is no secret that it has been a challenge to get those MDTs set up quickly, and it has been taking up nearly half of the statutory time period for determinations."

Cast Consultancy worked on one of the first applications under the new regime last April. When *CN* meets Gallafent in the following February, that application is still stuck in the earliest stages. "They wrote to me this morning that they still don't have the multidisciplinary team. They need a structural engineer."

The regulator has also struggled with a malfunctioning IT system. "The system didn't collapse or anything like that," says White. "But staff were finding it difficult to access some of the documents being sent in by applicants." Then, last June, private building control firm AIS Surveyors went into liquidation, which White said created a "perfect storm". The regulator suddenly had to quickly assess an extra 50 complex building projects at varying stages of construction.

Could these teething issues have been

anticipated? In April last year, *CN* asked senior BSR figures whether the regulator was equipped to deal with a sudden influx of applications. “Yes, I think we are,” said HSE operational policy lead Annette Hall at the time. “We’ve modelled a lot of this.” However, White now admits the models were wrong. “You’re never going to be perfect, but that’s one of the challenges of setting something up new,” he says. “Despite all the user testing – and we worked closely with the industry in terms of testing things out – the reality is, it was taking longer to assess [applications] than was assumed in the business case.”

Time to talk

Delays aren’t the only complaint the industry has about the fledgling regulator. Some believe it could better communicate what it wants. The BSR has previously told *CN* that it was being slowed down by overly lengthy applications containing thousands of plans and drawings, but without the right detail. Others argue that it is unreasonable to expect them to unpick reams of complex legislation – there are 23 pieces of secondary legislation to the Building Safety Act just on the new building control regime – without a steer from the BSR on niche but important points of interpretation.

“If you want to ask [the BSR] a question, you have to type it in this text box that’s got about 135 characters, and I can’t ask a sensible question in 135 characters,” says Beverton, comparing it to texting on a 1990s mobile phone. “And then you wait a long time for them to say: ‘we won’t answer your question because we won’t engage with you, you should go back to your legal adviser.’ Well, I am the legal adviser, and I’m asking a question because none of the documentation is clear and neither I nor a King’s Counsel can find the solution.”

Another fear is that the BSR is deprioritising applications submitted before the influx of projects from AIS Surveyors. One source tells *CN* a local authority was advised by the BSR to withdraw its application and resubmit it to get ahead in the queue. Gallafent’s application also fell within the pre-June backlog. “It seems like we’re being penalised for having submitted something early, because if you submit an application now, you are more likely to get a quick response than we are on that one,” she says. When *CN* puts these criticisms to White, he says he does not accept them, but does not expand further.

“In other sectors, the industry gets together to produce what looks like good practice, rather than waiting to be told what it looks like by the regulator”

DAME JUDITH HACKITT

The BSR is also seriously behind on billing. Alongside an initial fee of £189, the regulator charges £151 per hour of staff time, raised from £144 in April. But many still don’t know much time the BSR has spent assessing their applications, and thus how much they will have to pay. One developer of a new-build that has received gateway two approval tells *CN* it still has not received an invoice.

White blames the lack of invoicing on the IT issues. But the blockage may not be entirely the regulator’s fault. “These are important issues,” says White of the IT struggles. “But, I’m afraid, [they were of a] slightly lower order compared to the quality of applications we were receiving.”

The BSR is currently rejecting around 69 per cent of gateway two applications, White told an online conference in March. These rejections aren’t minor quibbles: the regulator constantly receives plans lacking information on fire barriers or external wall fire spread, he said. Remediation project applications regularly omit arrangements for fixing cladding to a building, or justification for their structural load, says White.

“As opaque as a lot of people think [the new building safety regime] is, in some ways it’s actually quite clear about what’s needed,” says Gallafent. “People are not doing it because they

don't want to do it. They don't want to hear it. They don't feel that they have to do it. It's not because it's not clear." White adds: "People have been warmed up to the legislation – it's not suddenly come in. I think there was a view that it might not happen. People never really got their heads around it."

Hackitt has more faith in the industry. "Some people are getting it," she says. "I think we sometimes spend too long focusing on the ones who don't get it yet, but there are very encouraging signs of leadership among the bigger players." She adds: "Part of the problem is that some of the people who are complaining [about delays] are people who may well have done a good job of their own gateway two applications, but they're stuck in the queue behind people who are creating a lot of problems for the regulator."

A more balanced interpretation is that both the construction industry and the BSR are struggling with the heft of their new responsibilities. After all, the application process is new for both sides. "There will be a learning curve for the people doing this [at the BSR]," says Brodies' Johnstone. "The first application that landed on their desk after the new regime came in will be the very first time they will have been looking at it through that lens."

"There will be a learning curve for the people doing this at the BSR"

ERIC JOHNSTONE, BRODIES

Beverton adds: "It's an extremely complicated and fragmented introduction of a completely new regime. It's very difficult for me even as a professional dealing with this day in, day out to make sure that I'm on top of every single bit of this legislation."

What next?

Despite the difficulties, there are signs the situation may soon improve. The BSR has made changes since those difficult early days last spring. It started recruiting more staff earlier than it had initially agreed with the Treasury. As of this January, it employs 52 case officers and five managers, up from eight case officers the previous February. White says more will have come in by May, while those that joined late last year are being trained.

Central government also chipped in £2m in February, which was spent mostly on IT improvements and external experts to review the regulator's procedures. The BSR also used the money to bring in external building control experts to help support and train its own staff.

White says the regulator is now meeting its statutory targets. Gallafent says that's not what fellow industry figures are reporting, although she does see encouraging signs of improvement. "The stuff that we're submitting more recently is getting validated more quickly," she says. "We're getting questions asked about it more quickly. The wheels are turning now a bit faster than they were."

Other tweaks to the system are being explored. Many of the industry figures *CN* spoke to suggest it would be helpful if the BSR publicised successful applications, so the industry can learn from others' best practice. "If you're doing a planning application, there's lots of examples of what a design and access statement should look like, and they give you lots of guidance as to what it's for and how it can be received, and what you need to include," says Nicholson.

Is the BSR open to providing example answers? "I would look at it the other way round," says White. "Dear industry, if you've got concerns, why don't you share what you're doing with each other or explain how you've got your application through? [We are] happy to be part of it, but I think this is one industry needs to take on."

Hackitt agrees: "In other sectors, the industry gets together to produce what looks like good practice, rather than waiting to be told what it looks like by the regulator. That's the bit I haven't seen."

David Frise, chief executive of the Building Engineering Services Association, counters that the industry is already doing this. "We, along with other organisations, have done a lot of work in setting up what we think would help contractors comply with the BSA," he says. "But the BSR won't tell us if it's the kind of thing it wants."

Another suggestion is that the BSR should offer some kind of pre-application meeting to ease miscommunication. Nicholson proposes a method similar to the one used within the planning system: the meeting would be paid for by the applicant, and used to discuss project-specific points of building regulations interpretation. "Developers and builders wouldn't do millions of pounds of design investments into a planning application without having a planning consultant or paying for a pre-app," he says. "We're finding that gateway two applications are becoming as important as a planning application."

Such a function may be on the table. Hackitt says the idea of a pre-application meeting would not necessarily betray the spirit of the regulator, although she cautions that a balance has to be struck between giving guidance without telling applicants what to do. "We've got to get this shift in ownership and responsibility," she says.

White has a similar view. "I'm not convinced about the idea of pre-application advice, per se, but I wouldn't be averse to some sort of pre-application engagement."

Of course, offering such meetings would put further pressure on staff, particularly building control expertise. The BSR is already looking at ways to use talent more efficiently: it is going to private sector building inspectors for support with lower-risk projects, to expedite them through the system. White also mentions the possibility of temporarily bringing inspectors in-house. "If there were a particular development where we know there's going to be, say, 120 applications in one place," he says, "would it not be sensible to try and have an MDT that doesn't deal with each one of those, but with all 120? We might bring those people in-house for a year or two, depending on what the nature of that work is."

Although the BSR is playing around with different structures for MDTs, White adds that it wants to work with local authority building control and fire rescue services as much as possible, because they will be responsible for regulating the building once it is complete. Alan Dargue, principal building safety consultant at Safer Sphere, points out another issue with fishing for staff outside the public sector building control pool. "How are people in the private sector balancing their clients and looking after the BSR at the same time? That's where it falls down. If the clients shout louder, they're obviously going to look after their client first," he says.

These tweaks also might not tackle the core problem – there simply aren't enough qualified people in the industry, especially in building control. The only people authorised to assess

“People have been warmed up to the legislation – it's not suddenly come in. I think there was a view that it might not happen. People never really got their heads around it”

PHILLIP WHITE, BSR

plans for HRBs are those that registered last year as a class 3H. There are around 600 inspectors registered at a class 3 in England, according to White. Out of these 600, not all of them work for a local authority, and even fewer are qualified to work on HRBs. The BSR did not share the number registered at class 3H in time for publication. These professionals also have hefty workloads with their own employers, aside from sitting on MDTs.

This is where one post-Grenfell building safety reform – in this case, the licensing of building control professionals – has rubbed up uncomfortably against another. Many experienced building control professionals decided to leave the profession last year rather than go through the effort of qualifying under the new register, and have instead picked up work helping private clients through the gateway system.

Dargue, who spent decades in both local authority and private building control, is one of them. He became a building safety consultant at Safer Sphere in late 2023, and led the gateway two process on the successful Dyecoats application. "The ironic thing is, if I'd stayed where I was, I would probably have been on the MDTs," he says.

It's not just the hassle of qualification that has

driven experienced people away – several of the people *CN* spoke to point out wide disparities in public sector and private sector salaries for experienced building control professionals.

Furthermore, the building control staff that the BSR does have are due to take on even more tasks as those buildings that have passed through gateway two reach new building safety checkpoints. First, any changes to the construction plan must be submitted to the BSR before they are carried out. These fall under two categories: notifiable and major. If the BSR deems the change major, work must stop until it approves the new plans. The whole project goes back into the gateway system, and, in theory, will take up to six weeks to approve.

The BSR is also responsible for regularly inspecting projects under construction. "I think we're going to have to take a really proactive stance around record-keeping because I'm not overly confident this inspection regime is going to happen in a hurry," says the housing association figure.

The final hurdle

All this leads up to the next hurdle: gateway three. Gateway three is another hard stop at the end of construction: the BSR must approve newly built buildings before they can be occupied.

Only a few buildings have yet reached this checkpoint, but concerning signals are already emerging. White says the BSR recently looked at a gateway three application for an unfinished building with serious deficiencies in the fire protection system.

"It just illustrated the challenge that we've got in relation to regulating," he says. "If you think that building was ready to put people in, you're living on another planet. And that's a building that's been put up since Grenfell."

Delays or rejections at the gateway three stage are possibly more catastrophic, as they affect when everyone gets paid. Clients are likely to withhold any outstanding payments or retentions until the project passes gateway three, meaning delays will create additional costs for contractors, which they would likely seek to recover from the supply chain, explains Rudi Klein, barrister and former chief executive of the Specialist Engineering Contractors Group. "Given that the retention often represents the margin on a job, many subcontractors could face severe financial hardship, especially at a time when work is in short supply."

The regulator is working through these hurdles at the same moment its entire structure is up in the air. In February, the government accepted the Grenfell Tower Inquiry's phase two report recommendation to create a single construction regulator working across the whole industry, subsuming the BSR's functions. While many have publicly expressed support for the idea in principle, some worry that it could divert the attention of policymakers away from the problem at hand.

"Both the BSR and the construction products regulator need time to establish and iron out the teething issues that are inevitable when you set up new regulators," says Hackitt. "But the time will come when it is right to bring them together." This is unlikely to be before 2028, the timeline the government gave itself to start implementing the reforms recommended by the inquiry. It has pledged to spend the next year ironing out kinks in the building safety reforms that have already been implemented, before spending two years fleshing out its proposals and getting legislation through parliament.

In the meantime, even more buildings may face gateway two in the near future as the government rethinks the definition of an HRB, another inquiry recommendation. The government has pledged to set out plans for an ongoing review of the definition in summer 2025, but before then there are clues as to what such a review might consider. The original consultation on the definition considered care homes and hospitals, while the Royal Institute of British Architects has called for "temporary leisure establishments and assembly buildings" – which may include hotels, schools and stadiums – to fall under the BSR's remit.

Amid all the uncertainty and pressure, it might be easy to forget the opportunity the new system brings to radically improve some of the worst parts of the construction industry.

"If the BSR becomes fit for purpose, there is a real opportunity to transform the way clients and contractors work together that is less focused on competitive tension and risk-dumping and more on collaboration," Gallafent says. "This will ultimately result in buildings that are much more likely to be completed on time, on budget, and are – obviously – safer." **CN**

ADMINISTRATIONS

ISG's prison PBAs 'not protecting subcontractors at all'

20 AUG 2025 | BY JOSHUA STEIN

HMP Birmingham

As a pre-action legal letter is sent to the MoJ, *CN* asks if project bank account agreements are worth the paper they're written on

In March 2024, an email dropped into the inboxes of subcontractors that had been appointed to ISG's £61m refurbishment of 300 prison cells at HMP Birmingham. It bore good news – the project was to be covered by a project bank account (PBA) managed by the main contractor and the client, the Ministry of Justice (MoJ).

A PBA is a ring-fenced bank account from which payments are made directly and simultaneously to a lead contractor and members of the supply chain. A 2012 guide to PBAs released by the Cabinet Office is clear. PBAs are "intended to allow payment to named suppliers to continue in the event of the insolvency of the contractor", the guidance says.

> "Why do we have government bodies suggesting PBAs are the best way forward, when they appear not to be protecting subcontractors at all?"
>
> Kate Kenneally, Hill Dickinson

The email from ISG was unambiguous about the advantages of using PBAs. "The MoJ are promoting this approach across their projects to avoid a Carillion-type situation, providing more surety that the wider supply chain will receive any payments that they are due in the event of the failure of the constructor," the contractor said.

Six months later ISG went bust. Subcontractors expecting payment for work they had carried out and that had been signed off by ISG's quantity surveyors felt relaxed. After all, they were protected by the PBAs. "They were set up to protect people like me," one told *Construction News*. "They're a fantastic initiative."

But by October, it was clear that not a penny was coming to those who thought they were owed money. The subcontractor, who said his firm was owed almost £200,000 for completed work, said: "I felt like I'd fallen off a cliff. There's no value you can put on the emotional rollercoaster you go through when it's that sort of money."

Taking action

The MoJ and ISG used PBAs across three prison jobs that were live when ISG went under – HMP Birmingham, HMP Guys Marsh and HMP Liverpool.

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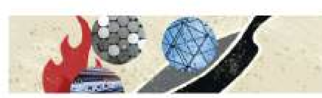

WHO ARE THE BEST-PAID BOSSES IN CONSTRUCTION?

WHICH CONTRACTORS PAY QUICKEST – AND SLOWEST?

Last month, lawyers from Hill Dickinson, acting on behalf of six supply chain firms employed on the jobs, sent a pre-action legal letter to the MoJ, demanding payment. More firms owed smaller amounts are considering joining the action, according to the lawyers.

Iain McIlwee, chief executive of the Finishes and Interiors Sector industry body, is involved in the case, and has estimated that 40 subcontractors he is in contact with are short of around £20m from the three prison PBAs. He believes more firms are yet to be identified.

> "How can it be right that contractors have completed work but find themselves hundreds of thousands of pounds out of pocket"
>
> Iain McIlwee, Finishes and Interiors Sector

The case raises questions over how PBAs – introduced to protect the supply chain from tier one failures – are implemented. Hill Dickinson partner Kate Kenneally, who is working on the case, told *CN*: "The big question mark now is: what's the utility of PBAs? And why do we have major institutions or government bodies suggesting that they are the best way forward, when actually they appear not to be protecting subcontractors at all?"

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Following Carillion's collapse in 2018, which resulted in £2bn of supply chain losses, PBAs were widely adopted across central government to protect SMEs in public procurement. *The Construction Playbook* states they should be used by government departments unless there are "compelling reasons not to".

McIlwee said: "Hard-working SMEs from across the supply chain entered into an agreement with our government with the clear understanding that they would benefit from the protection of a PBA in the event of an insolvency event. This protection has to date failed them."

Under PBAs' fair payment terms, subcontractors should be paid within 30 days of submitting their claims for work. After claims are submitted, quantity surveyors employed by the main contractor assess the work to make sure it is completed to a good standard. Once this certification process is complete, the client is notified. Payments are then released by the client to the subcontractors – normally on the same day.

Emerging issues

The six firms say they completed work that was certified well in time for payments to be expected in their accounts in August – the month before ISG's collapse.

But they say the money did not arrive. So how did these firms end up not being paid for certified work that they did under the PBA arrangements?

Issues began to emerge in July 2024, when some contractors say they noticed that payments due had not appeared in their bank accounts. Kenneally said that it appears that fewer and fewer payments were made to the supply chain in each of the following two months. In September, the month of ISG's collapse, no payments to the firms she is representing appear to have been made at all.

The supply chain on the three jobs comprised an army of fit-out contractors, mechanical and electrical businesses, and labour agencies. McIlwee picked up the case after being approached by 40 of his members in September, asking when they would be paid via the PBAs for work they had completed. Rather than being reassured by officials at the MoJ, he said he was advised that there was no money in the PBAs and there was no intention for the MoJ to deposit money into them.

In March this year, after representations made by lawyers on McIlwee's behalf, the MoJ emailed all subcontractors across its ISG PBA jobs. This email revealed the exact amount left sitting in the PBAs. "The total balance as of 20 September was £239.40," it said.

Clarity needed

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Kenneally is hoping her firm's pre-action letter prises greater clarity from the MoJ as to where the money owed to the supply chain went. At the moment, only fragments of information about the sequence of events is available.

The MoJ's email indicated that ISG did not pocket any money paid into the PBAs. "We can confirm that where payments were made into the project bank accounts by MoJ in respect of ISG's applications for payment, corresponding payments were promptly made out of the project bank accounts to ISG and its supply chain to ensure members of the supply chain were paid without delay," it said.

If ISG didn't hold onto cash owed to the subcontractors, is it possible the MoJ failed to make payments after being informed that the work was signed off? Or could ISG have forgotten to tell the department that work had been signed off? "It's possible that due to (what we imagine was) a difficult situation at ISG as it neared insolvency, staff may have been distracted and have not released payments to subcontractors," Kenneally said. "But we would like to know from the MoJ first whether they did in fact make all the payments due last summer under the PBAs."

Hill Dickinson's letter requests supporting documentation relating to the status of payments due last summer. "As the ultimate client and a party to the PBA Trust Deed, the MoJ is contractually obliged to ensure these payments are made," she argues. "The failure to do so constitutes a breach of both the PBA and the associated contractual framework."

According to data supplied by the MoJ to *CN* under the Freedom of Information (FOI) Act, the department did, in fact, pay at least some money into all three of its ISG prison contract PBAs every month up to August 2024. In one case, however – the HMP Birmingham job – no payments were recorded relating to the September pay run.

The MoJ said it "did not withhold" this payment. Instead, the payment was delayed because it was "subject to numerous revisions by ISG" – and thus was only due after ISG went into administration. However, the MoJ did make payments to the other two PBAs in September, according to the FOI response.

Passing the buck?

The MoJ told *CN* it would not comment on Hill Dickinson's claim that not all the money due to the supply chain for signed-off work had been paid, as it is an ongoing legal matter.

But the government's initial stance on the issue was laid out in its March email to the contractors. This said PBAs "do not provide complete protection from ISG's insolvency, and they do not create a legally binding obligation for MoJ to pay subcontractors directly. We appreciate that you may be disappointed with this news, however we would like to assure you that we have considered the matter in depth over the last few months."

The latest official update on the matter came in June via a written parliamentary answer by prisons minister Lord Timpson. He said: "Subcontractors have been made aware that the department is not able to underwrite debt owed by ISG as a result of their administration, and that they should engage with the joint administrators (Ernst & Young) with regard to any claims arising from their contracts with ISG."

This attempt to pass responsibility to the administrators is not good enough, said Hill Dickinson partner Sarah Emerson, who is also working on the case. Even if there were administrative issues that caused payments to remain unmade, she said the MoJ is still liable for paying the supply chain. "Under the PBAs' trustee status, the department owes a duty in law, which is quite distinct from the normal employer-contractor relationship. When you assume a trustee role, which [MoJ] did, then they are supposed to protect and ultimately look after that money."

Meanwhile, in July, the Cabinet Office quietly withdrew its PBA guidance document. The guidance is still online, but a note has been added by the department, saying that it is "now out of date" and that "a replacement is being prepared". The department had not confirmed to *CN* the reason for the move at the time of publication.

McIlwee welcomes the move to look again at the guidance, saying PBAs are a good idea if they operate the way they should – protecting subcontractors hit by the collapse of a main contractor. "How can it be right that contractors have completed work and fulfilled their responsibilities but find themselves hundreds of thousands of pounds out of pocket, due to the failings of others?" he asks. "[The case] does not necessarily reveal a fundamental flaw with PBAs. But it does show big problems with the way these particular arrangements were operated".

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BUILDING SAFETY

Paul Morrell's verdict on the Grenfell Tower Inquiry

12 SEP 2024 | BY CONTRIBUTOR

Former government chief construction adviser Paul Morrell says the way forward for the government on building safety is clear.

So, after seven years, involving 300 days of evidence, over 300,000 documents, steady employment for far too many lawyers (no less than 160 are credited) and expenditure north of £170m, the final report of the public inquiry into the fire at Grenfell Tower has landed with all the gravity of its 1,700 pages.

Perhaps the first thing to say is that for anyone who has been paying attention there are no great surprises in the findings. Every intervention made by the chairman, Sir Martin Moore-Bick, during the hearings demonstrated that he was "on it", and the report sets out the panel's conclusions as to the facts clearly and convincingly, backed by the evidence and a weight of forensic detail. The panel has also been frank (and again convincing) as to who was believed and who was not, and as unforgiving as the evidence demanded.

Looking ahead (as we now must, while the wheels of justice grind slowly on), the report lays down challenges for everyone involved in designing, constructing and operating buildings, and everything that goes into them, with a view to prioritising safety.

The first challenge is how to summarise those 1,700 pages in one article. Fortunately the report is well organised thematically, and although one of the consistent faults demonstrated in the evidence is the failure to read documentation properly or at all, few people will choose or need to read the full report –

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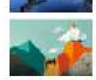
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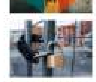
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and for those who do, I would caution those of a nervous disposition to steel themselves.

However, those who are genuinely interested in the necessary reform – not just in government and the regulators, but professional institutions, trade associations and individual companies – will be missing a lot if they rely on a skip through the executive summary and recommendations.

In particular, I would say that the conclusions of relevant volumes are essential reading, even where no specific recommendations follow. For example, in the conclusions of the volume dealing with the refurbishment contract itself the panel draw attention to a number of faults which they think "are likely to be repeated widely across the construction industry", and I fear they are right. These include working without a clear contract between the parties or, where there is a contract, paying little attention to it – not just in observing its obligations, but even in understanding them. The panel described such a casual approach to contracts as "a recipe for disaster" – as it certainly was in this case; and however much argument there may be about the advisability of design and build contracts, for example, we must surely agree that designers, contractors and subcontractors should understand what design responsibility they actually do have, and what it means, under any arrangement.

Added to that are far-reaching issues of competence, or more particularly its absence – including a failure to recognise that, whilst a main contractor might subcontract almost all of the work, it must have "sufficient knowledge and expertise to monitor their work…and to satisfy itself that their work complies with…its own obligations to the client". How many contractors could confidently tick that one off the list, I wonder?

Thereafter, and turning to the report's recommendations, every reader will look at these through the lens of their own day job, and in light of their own experience – so my focus, having led the independent review into construction product testing, is product regulation. In that context, there can be no question about the objective: buildings that are designed, constructed and operated so as to be safe, incorporating products manufactured and marketed with the same end in mind to the same cause.

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I hope I might, however, raise questions about the means proposed in the inquiry report without that being perceived as either sympathy for those criticised or a lack of empathy for those who suffered as a consequence of the behaviour criticised. Both perceptions would be quite wrong. That said, many of the recommendations are uncontroversial, and quite a few align with recommendations made in the product testing review. There is certainly complete agreement as to both the need for reform and the over-arching objective.

Questions therefore relate to some of the proposals made in the service of that objective: sometimes to matters of principle, sometimes to practicality and sometimes to detail.

The detail can wait for another time, but much of it is set out in the report of the testing review – and it is worth adding that I would make no significant changes to the recommendations of that review after reading the inquiry report; and it is in the grinding detail, where both god and the devil reside, that much corrective action is required.

Reservations on just two matters of principle relate to the extent to which proposals involve a change of direction from the plans emanating from the Hackitt Review and the Building Safety Act, and the extent to which the answer lies in more centralisation of responsibility in government.

The new regime heralded by the Building Safety Act (BSA) has barely begun to settle down, and understanding its precepts (again let alone observing them) is still only beginning to penetrate. Further sweeping changes will therefore be disruptive, and that carries its own risks and postpones the adoption of new responsibilities. The question is therefore whether further reform can confidently be expected to secure benefits that cannot be secured in any other way, and which outweigh the disruption.

The second concern, which is closely related to the first, is the extent to which more dependency is placed upon a government department that also comes in for severe criticism in the Inquiry Report, and a regulator who is already overloaded (at a quiet time for the industry, but on the eve of an ambition to build1.5 million homes in the life of this Parliament) – with restructuring recommended for both.

In any organisational review there is a tendency to recommend devolution where the organisation is centralised, and centralisation where is it devolved; but however big the circle is drawn there will always be related issues that lie just outside it, and interfaces within it where problems can still arise. So, although we expressed concern in the testing review about a possible lack of continuity in the regulation of a product as it moves off the shelf and into construction, and from one regulator to another, I wonder if that cannot be addressed by a carefully constructed modus operandi between the two regulators and by effective communication between them. In other words, whether the solution might be operational rather than structural.

Given the evidence heard in the inquiry it is not surprising that the industry is distrusted, but how big a regulatory machine might we need to keep constant watch over an industry of more than two million people if its habits cannot be changed in any other way? Similarly, and quite apart from the many practical difficulties that it would pose, what kind of capacity would be needed by the regulator to adopt the recommendation that it "should be responsible for assessing the conformity of construction products ... and issuing certificates", and where might that capacity be found?

Instead, I think we need to follow the model set out in the Hackitt Review and legislated in the BSA and its secondary legislation which have laid down clear duties in respect of designers, contractors and those who own and operate buildings. But seven years after the fire and three years after the evidence that led to the commissioning of the independent review of testing, there has still been no sign of the promised government response to the review, and not so much as an indication of the direction of travel of policy thinking on the regulation of construction products, beyond the clearly inadequate Construction Product Regulations inherited from the EU. The review revealed the extraordinary complexity of the issue, but also sought to set out both a map and menu: the route through the maze, and the choices to be made along the way.

An article in The Times last week told the moving story of Gina Smith, who was twelve on the night she escaped from Grenfell Tower, losing her best friend in the fire and describing her life since as being "consumed by sadness and grief". "I don't", she said "have to read a report to understand what's going on. We get it. Now let's do something".

The Grenfell Tower Inquiry report represents an invaluable, authoritative piece of work, but hereafter we don't need to read another report either. Instead, government should set out clear duties; industry should set out in more detail what it believes represents the diligent observance of those duties, where that is not clear in statute, and organise itself to live up to them; and the regulators should enforce them; and the new building safety minister, Rushanara Ali MP, who has inherited a difficult brief, should break the deafening silence that has followed the publication of the testing review under her predecessors and make sure that those things happen. I have to believe that the part of the industry that knows how to behave is ready to help.

Paul Morrell was formerly senior partner of Davis Langdon (now part of Aecom) and subsequently the government's first chief construction adviser. More recently, he led the independent review of the UK product testing regime commissioned by the government in 2021.

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