

Construction update

Newsletter | Quarter 4 2014



Welcome

Recent market surveys have highlighted a shortage of both skilled workers and materials in the UK construction industry following months of growth, although a slight drop in activity was reported in October.

HSE figures show that for every construction accident related fatality in 2012/13, 100 construction workers died from work related cancer. It is no surprise then that workers' health is high on the agenda for the HSE at this time.

The consultation on revisions to the Construction (Design and Management) Regulations 2007 is complete and we await further news from the HSE. In this issue we will look at some of the areas we know are changing and the implications.

In this issue we take a look at:

- Skills shortage in the UK
 - Growth affecting materials supply chain
 - UK construction growth slows to 5 month low
 - HSE focus on poor health and safety
 - Construction FFI invoices
 - CDM consultation feedback and likely changes in 2015
 - IOSH Working safely course receives CITB recognition
 - Recent court cases
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RICS survey highlights skills shortage in the UK

Skills shortage concerns in the construction industry now stand at their highest level since 2008 according to the latest RICS UK Construction Market Survey (Q2 2014).

The figures show private housing, commercial and industrial sectors driving strong growth across the whole of the UK, with particularly encouraging performance in the Midlands, which saw workloads rise at a record pace (57% net balance).

However, a shortage of white and blue collar workers (59% of respondents reported shortages of bricklayers and 51% reported a shortage of managerial workers) coupled with difficulties in the sourcing of some key building materials (brick imports were 63% higher than in Q2 2013) is likely to result in upward pressure on costs and prices, while also presenting a challenge to further strong growth in the sector.

Despite this, employment prospects for the sector remain firm, as the industry gets to grips with meeting rapidly rising demands from a historically low base. Across the whole of the UK, a net balance of 60% of respondents expect employment to rise over the next 12 months, with London and the South East outperforming the rest of the UK, and Northern Ireland's employment prospects steadily improving (31%).



The UK construction market is mirroring the rise in demand for housing after five subdued years. This upsurge in housing demand is creating pressure across an industry which failed to invest in attracting new talent or training at the height of the economic downturn. This, in turn, is creating similar effects among material supply.

The good news is there is reason for optimism, with workloads, profits and employment all forecast to deliver growth over the next 12 months. It is now the responsibility of the industry to invest in training and technology to ensure it capitalises on these opportunities.

Construction industry growth in 2014 affects materials supply chain

Construction output grew at its fastest pace in seven months in August but the boom in activity is being held back by materials supply shortages.

The monthly Markit/CIPS UK Construction Purchasing Managers' Index showed that output grew in each of the housing, commercial and civil engineering markets and hiring neared a new record.

Markit chief economist, Chris Williamson, said the survey highlighted a big concern

on the sustainability of the recovery's upward trend.

He said: "The pace of growth is causing supply problems, with the availability of materials and subcontractors deteriorating at record rates.

"Sub-contractors were able to charge more in the face of such strong demand, and average pay rates rose to the greatest extent seen in the survey history. Material costs likewise showed the largest jump for just over three years as demand outstripped supply."

The report suggested that construction companies were still suffering the effects of the financial crisis which forced them to offload workers while production of materials such as bricks slowed dramatically.

The industry only began to grow strongly last year helped by the economic recovery, low interest rates and programmes designed to boost demand for homes.

Separate studies had previously warned that the recovery would be hampered by a lack of skilled workers as many secured jobs in countries such as Australia where construction was still booming.

Construction of new homes in the UK remains below levels needed to meet

demand – although growth was assisted by Help to Buy. The Government confirmed in September that 48,393 homes had been bought under the scheme.

The figures include both the Help to Buy equity loan scheme for England, which is aimed at new-build homes only, and the UK-wide Help to Buy mortgage guarantee scheme, which launched in October 2013.

One of the country's biggest house builders, Redrow, reported that more than a third of its properties had benefited from Help to Buy.

Construction growth slows in October

Following months of significant growth in 2014, with the knock on effects of a skilled labour shortage and materials supply, the Markit/CIPS UK Construction Purchasing Managers' Index fell to 61.4 in October from 64.2 in September.

Some respondents blamed less favourable market conditions for greater caution amongst clients, leading to delays in the launch of new development projects.

Tighter mortgage lending conditions and renewed uncertainties about demand have also helped to drive the slow down in growth.



However, as any figure above 50 indicates growth, it is not all bad news for the construction sector.

In addition, and despite the slowdown in October, the construction sector has expanded for 18 months in a row marking its longest period of growth since the start of the financial crisis in 2007.

More than 50% of construction firms are expecting output to increase over the next year.

FFI invoices in construction industry average £369

In the period from October 2012 to July 2014 the HSE issued 26,849 Fee for Intervention invoices with an average value of £509, equivalent to 4.1 hours of the HSE's time.

9,813 of these invoices were issued to construction companies at a total cost of £3.62 million. This means that an average invoice in the construction industry was £369.

HSE focus on poor health and safety record

It is a very worrying statistic that for every 1 accident related fatality in construction in 2012/13, 100 construction employees died from a work related cancer.

Following the release of these figures, HSE ran a national campaign in September and October 2014 to improve health and safety on construction sites.

HSE Inspectors were tasked with ensuring high-risk activities, particularly those affecting the health of workers, were

being properly managed. These include working with harmful dusts such as silica and asbestos, and other hazardous substances. If unacceptable standards are found Inspectors would take immediate enforcement action.

HSE is urging industry to 'think health' as over 30,000 construction workers are made ill by their work every year.

Philip White, HSE Chief Inspector of Construction, said: "Industry has made much progress in reducing the number of people killed and injured in its activities, but for every fatal accident, approximately 100 construction workers die from a work-related cancer. During the recent health initiative, enforcement action was taken on one in five sites. Time and again we find smaller contractors working on refurbishment and repair work failing to protect their workers through a lack of awareness and poor control of risks.

"This isn't acceptable - it costs lives, and we will take strong and robust action where we find poor practice and risky behaviour. Through campaigns like this we aim to ensure contractors take all risks to their workers seriously, and not just focus on immediate safety implications. They need to put in place practical measures to keep workers both safe and well."

Unacceptable conditions and dangerous practices were found at nearly half of the 1,748 repair and refurbishment sites visited by HSE inspectors, with 1 in 5 sites so poor, formal enforcement action was required. Many of the issues found could have been easily prevented with simple, straightforward management and planning.

We believe it is likely that the industry will see considerable focus from the HSE over the next 12 months, particularly around occupational health which includes noise related injuries and silica dust exposure.

Employers need to ensure they have their documentation in order with regard to risk assessments, the provision of PPE and monitoring of exposure and that they have taken every possible step to reduce exposure to the lowest possible level.

CDM feedback from consultation

The proposed changes to the Construction (Design and Management) Regulations





(CDM) are expected in April 2015. They will introduce significant changes to the existing legislation and affect every construction project.

The CDM 2015 consultation received 1,427 responses, which is among the highest of any consultation undertaken by HSE. The main findings and HSE conclusions are:

- Overall conclusion – broad support for the aims of the proposed revision by industry stakeholders but concerns in some cases about how effectively the regulations and associated guidance will deliver real change, particularly among SMEs;
- Principal Designer / CDM-C – the proposed replacement of the CDM co-ordinator role with that of the principal designer remains appropriate;
- Approved Code of Practice – a case has been made to develop a new, shorter signposting ACOP, complemented by the HSE and joint HSE-industry guidance;
- Competence – HSE proposes to revisit the drafting of this provision to improve clarity, but believes that the replacement of the existing competence requirements remains appropriate.

Overall we expect there to be 9 key changes to the current regulations –

- 1. Structural simplification of the regulations.** The HSE proposes to make them clearer and easier to understand. This is largely aimed at

small to medium projects which tend to use SMEs.

- 2. CDM Coordinator role replaced by a Principal Designer.** When the regulations come into force a Client will need to appoint a Principal Designer for all projects involving more than one contractor (trade contractor) on site at a time. Any designers appointed should not carry out any work beyond initial design unless the Principal Designer has confirmed that the Client is aware of their duties.
- 3. Principal Designer and Principal Contractor appointed for all projects with more than one “trade” contractor on site.** The Client must appoint both the Principal Designer and Principal Contractor in writing, otherwise they are deemed to be carrying out these roles.
- 4. Duties to be applicable to domestic projects.** For projects involving more than one contractor, it is proposed that the Principal Contractor will normally assume the Client duties. The domestic Client can choose to appoint the Principal Designer for the project. If, however, they do not make this appointment, the first designer appointed during the preconstruction phase will be the Principal Designer for the project.

If so, the Principal Designer will be answerable to the Principal Contractor in their role as ‘Client’ for the project and will be responsible for liaising with them.

- 5. Construction phase plan is required for all projects.** The Client is to ensure a Construction Phase Plan provided by the Contractor or Principal Contractor is in place before any works commence.
- 6. Threshold for notification.** The Client will need to notify the HSE of projects before works commence if they will exceed 30 construction days with 20 or more workers working simultaneously, or if the project exceeds 500 person days.
- 7. ‘Explicit competence’ requirements removed.** The Client will need to ensure those that are to be appointed (i.e. Designer, Contractor or Principal Contractor and Principal Designer) can demonstrate appropriate information, instruction, training and supervision.
- 8. The current Approved Code of Practice (ACoP) will be substituted with HSE and Construction Industry Training Board (CITB) industry guidance.** The latest proposal is that a mini ACoP will be published after the legislation goes through on 6 April 2015. Meanwhile HSE Legislation Series



and CITB industry guidance will be available from January 2015.

9. Information, Instruction, Training and Supervision (IITS) requirements.

Anyone working on a construction project should be able to demonstrate capability and have the necessary resources to fulfil legal duties. They must provide sufficient information in relation to the preparation, provision and, where necessary, revision of health and safety information such as Pre-Construction Information, Construction Phase Plans and Health & Safety Files.

CSCS recognises IOSH Working safely course

CSCS have now recognised the IOSH Working safely course as an equivalent to a Level 1 Award in health and safety in a construction environment.

This means that delegates who successfully complete Working safely can apply for a CSCS Labourer card once they have also passed the CITB Health, Safety and Environment Operatives test.

Recent Court Cases

Construction firm sentenced after safety barrier fell on pram

In a case that reinforces the importance of ensuring the public is adequately protected, a construction firm has been sentenced after a safety barrier was blown on top of a pram.

A baby boy was asleep in his pram while his mother used a cash machine outside a supermarket in Drip Road, Stirling, when the incident occurred on 24 October 2011.

Kier Construction Ltd was refurbishing the supermarket and had assembled barriers to separate the public from the work that was going on. Branding banners saying the supermarket was still open for business were attached to the barriers.

The court heard the baby's mother parked the pram near to the barriers with her 13-year-old daughter standing next to it. As she walked to the cash machine she heard her daughter scream. She turned and saw a barrier with banner attached had fallen on top of the pram hood, which had collapsed on the baby. They tried to lift the barrier off the pram and a passer-by came to their assistance.

The baby was taken to hospital with bruising to his forehead. He was discharged that day and suffered no more effects from the incident.

An investigation by the Health and Safety Executive (HSE) found that contrary to manufacturer's instructions, the barriers had not been filled with water to ensure stability and the barriers next to the cash machines had not been locked together.

Inspectors also discovered that the previous month, high winds had caused the barriers to fall over and the site manager had ordered the removal of the banners. Concrete blocks were then placed

at the base of the barriers but they were not filled with water.

Kier Construction Ltd, of, Tempsford Hall, Sandy, Bedfordshire, was fined £4,000 after pleading guilty to breaching Section 3 of the Health and Safety at Work etc. Act 1974.

The HSE has commented that this case should serve as a reminder to construction companies about their duty to protect members of the public who may be affected by their work.

Scaffolding boss jailed for worker death failings

The Eltham-based owner of a Kent scaffolding business has been jailed for 15 months for safety failings after a worker plunged 14 metres to his death at a site in North West London.

The sentence, at Southwark Crown Court, will run concurrently with an unrelated life imprisonment imposed on Mark Anthony Hayes at the Old Bailey in July this year for the murder of his brother in a family feud.

The latest conviction is the third that Mark Hayes, 53, trading as WSS Scaffolding, has received for offences arising from the fatality of scaffolder Grant Dunmall at Linden Gardens in Notting Hill on 2 July 2012.

He was fined at two separate appearances at Westminster Magistrates' Court in January and March last year for offences relating to the non-disclosure of essential documents to support a Health and Safety Executive (HSE) investigation.

When it was eventually supplied, the missing paperwork enabled HSE to conclude its enquiries, and highlighted that Mr Hayes could and should have done more to prevent the fall.

Southwark Crown Court was told that Mr Hayes from Eltham, South East London, was responsible for a tower scaffold outside a domestic property. His employee, scaffolder Grant Dunmall, was working on the structure when he fell, sustaining fatal injuries.

After a three-day trial at Southwark Crown Court, Mr Hayes was found guilty of a breach of the Work at Height Regulations 2005 for failing to properly plan, supervise and carry out the work at height in a safe manner at the Notting Hill site.



QBE Risk Management

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The HSE established that edge protection was missing from the scaffold, and that Mr Dunmall wasn't provided with any other means, such as a fall arrest harness, to prevent or mitigate a fall.

Mr Hayes was found guilty after defending the case and sent to prison for 15 months for breaching the Work at Height Regulations 2005.

Last year, combined fines of £12,000 and costs of £5,601 were imposed on Mr Hayes after he admitted breaches of the Health and Safety at Work etc. Act 1974 and the Employers' Liability (Compulsory Insurance) Act 1969.

The breaches addressed Mr Hayes' failure to provide legally-required documents relating to his management of work at height after he had earlier ignored a notice to produce served by HSE.

Speaking after the sentencing, HSE Inspector Jack Wilby commented:

"The family and friends of Grant Dunmall have suffered enough heartache through the loss of their loved one without the additional stress of the convoluted legal process we have had to go through to secure justice.

"Our investigation into his tragic death was delayed for several months because of Mark Hayes' total lack of co-operation in supporting our work. That had a knock-on impact in delaying the coroner's inquest, and we had no option but to prosecute before he eventually provided the documentation we needed.

"His wilful obstruction only served to accentuate the fact that his systems and procedures for safely managing work at height were sorely lacking, and fell short of the standards expected from a competent scaffolder."