

NOTES OF THE JOINT CONTRACTS TRIBUNAL COUNCIL MEETING

HELD ON

21ST SEPTEMBER 2017

1. The JCT Board has again deferred a decision over Build UK's request to be a representative organisation for the Main Contractors College and hence its Main Contractor members were not in attendance.
2. The Sub-contractors College was represented by Jo Fautley (College Official) and the writer.
3. Council endorsed the reappointment of Richard Saxon as JCT Chairman, although the Local Authority representatives restated the need for transparency and equal opportunities in the appointment.
4. The JCT Board has approved the reappointment of Victoria Peckett as Chair and John Riches as Vice-Chair of the Drafting Sub-Committee.
5. The Drafting Sub-Committee will not now draft a Minor Works (Residential Occupier) Contract but will expand the current Guidance Notes on the need for amendments when the Minor Works Contract is used for residential occupiers.
6. The Target Cost Contract Drafting Brief will be based on the JCT DB Contract with some clauses from the Prime Costs Contract and some from the Constructing Excellence Contract. Much time was given over to discussing Pain and Gain, Guaranteed Maximum Cost, Guaranteed Maximum Price and Cap provisions. Opinions differed with one Employers College Member noting that in his experience such provisions served as a target for Contractors with overrun scheme costs regularly being very close to the Guaranteed Maximum.
7. The BIM Working Group believes that it is too early for JCT to look at a contractual framework for Level 3 BIM. Consideration will be given to issuing JCT amendments to accommodate BIM rather than relying on the CIC BIM Protocol.
8. The Performance Bond Working Group is to ascertain from the ABI if its members are supportive of the proposed Adjudication Bond. If not then drafting will not proceed. The Contractors College expressed its opinion that such a bond would only be suitable for use on large projects. The Sub-Contractors College recognises that an Adjudication Bond could be an acceptable compromise between a Default Bond and an On Demand Bond. The Working Group is also considering the wording for a JCT Parent Company Guarantee, drafted as a Collateral Agreement.
9. The Construction Dispute Resolution Group notes that the Consultants College has now withdrawn its support for the current default position under JCT Contracts of Litigation rather than Arbitration. The status quo will remain however as Litigation is the other Colleges' preferred position. The position is however different in Scotland where JCT Scot contracts have Arbitration as the default. The Group is commissioning

a due diligence review of the JCT approved ANB's and is basing the Drafting of Dispute Board provisions on the current CI Arb Rules.

10. The Facilities Management Working Group is working on establishing its brief.

D Colven

Sub-Contractor College Member