

# FEDERATION OF PILING SPECIALISTS MINUTES OF A COMMERCIAL COMMITTEE MEETING

**Date:** Thursday 28<sup>th</sup> September 2017

**Time:** 10:00am

**Location:** Friends House, 173-177 Euston Road, London, NW1 2BJ

**PRESENT:**

Andrew West	Bachy Soletanche
Steve Wood	Balfour Beatty Ground Engineering
Mike Parkes	Cementation Skanska
Simon Lyons	Central Piling
Roger Barrett	Keller Limited
Greg Haynes	Keltbray
David Colven	Roger Bullivant

**Guest Attendees:**

Alex Walsh	Balfour Beatty Ground Engineering
Magda Kielbowicz	BAM Ritchies
Joanna Mikoda	Cementation Skanska
Charlotte Humphreys	Keltbray

**In the Chair:** Mark Sheridan BAM Ritchies

**In Attendance:** Ciaran Jennings FPS Secretariat  
Grace Hawkins FPS Secretariat

No	TOPIC	ACTION
1.	<b>APOLOGIES FOR ABSENCE</b>	
	Apologies had been received from Nicholas Rogers (Bauer Technologies), Gemma Richardson (Expanded Geotechnical), Terry Martin (Murphy Ground Engineering) and Andy Goddard (Rock and Alluvium).	
2.	<b>MINUTES OF THE LAST MEETING</b>	
	The minutes of the meeting held on 10 <sup>th</sup> May 2017 were approved.	
3.	<b>MATTERS ARISING</b>	
i)	<p><b>Unexploded Ordnance</b></p> <p>At the last meeting Nick Rogers drafted two alternative wordings for a clause to address UXO in the FPS Facilities and Attendances document. One of these set out a separate clause and the other incorporated them into the general conditions clause on obstructions.</p> <p>Mark Sheridan reported that the wording was circulated round to the Committee for review. Steve Wood sent in an edited draft which was also circulated for comparison and comment, this took the approach of including them in the general conditions. The group agreed they should be incorporated into the general condition on Obstructions.</p> <p>In discussion it was determined that the title of the clause should read "Obstructions, Voids and UXOs" and the abbreviations should be spelt out in full in the text. The Secretary agreed to make the required changes to the Facilities and Attendances Document.</p> <p>It was also asked whether asbestos should be added. The Secretary reported that this issue had been looked at in 2015 and it had been concluded that it was covered in the</p>	<b>FPS Secretariat</b>

	requirement for the working platform to be free of contaminants, however he would confirm this for the next meeting.	<b>FPS Secretariat</b>
<b>4.</b>	<b>MARKET TRENDS: FPS 2<sup>nd</sup> QUARTER STATISTICS</b>	
	<p>Mark Sheridan asked what the feeling around the Committee was; David Colven advised it was slow from a Roger Bullivant perspective. Greg Haynes agreed that enquiries have decreased since the summer months; he added historically the figures in June are down. Roger Barrett advised Keller has had a few start dates being held back, Greg agreed it was the same at Keltbray with dates going back. Mike Parkes commented there is a trend which is not positive.</p> <p>Mark noted one positive, there is no decrease in infrastructure. He reminded the group the last and current quarter incorporates new members statistics from Franki Foundations and Murphy Ground Engineering so this may distort the impression of the statistics in comparison to previous quarters.</p> <p>Mike advised in 2019 an increase should be noted due to the start of HS2; as the first phase of HS2's ground investigation is ending soon. It has been previously reported there is not enough concrete produced in the UK to meet the needs of the project, which will create problems for HS2 and the wider market that all will need to address.</p> <p>It was felt that work was going to smaller companies who are new market entrants with poorer quality practices than audited FPS members. The question was raised as to how the FPS Members could promote their differentiation as Members.</p> <p>Ciaran reported the FPS are meeting with Crossrail 2 on the 2<sup>nd</sup> October, he asked are there other clients the FPS should be going to talk to. Mark replied the difficulty is the governance that comes with clients such as HS2 or Crossrail that prevents a commercial dialogue. Ciaran explained that the message being put across at these meetings was one of quality being recognised in the supply chain via the procurement process.</p> <p>Greg enquired if it would be possible to see how many applicants do not receive membership, Ciaran explained the number of applicants who are rejected is limited, due to the candidness of the audit schedule. The FPS Secretariat will send the audit schedules before an application fee is paid to ensure the applicant is at the level they should be to join. The companies who do not meet the FPS standards do not tend to go ahead with the application process. It was noted the FPS do not highlight where each member ranks on the audit score.</p> <p>Ciaran suggested the audit schedule could be published on the website as it is not currently public, it is sent upon request, publishing these may highlight the higher standard required to be an FPS member.</p> <p>Ciaran reminded the Committee the FPS used to have a leaflet which had "Why use an FPS member" information, he suggested the Commercial Committee could create a one-page leaflet for members to use for increased business. Alex Walsh added it should state use this company because the standards have been recognised by the FPS. Ciaran agreed to ask the FPS PR Debbie Darling and the FPS Executive to create a leaflet as discussed under the PR budget.</p> <p>David Colven commented this is a topic for Build UK engagement. Ciaran and Alasdair Henderson are due to meet with Build UK to talk about this regarding the PQQ.</p>	<b>Ciaran Jennings</b>
<b>5.</b>	<b>PROJECT BANK ACCOUNTS POSITION PAPER</b>	
	Mark Sheridan noted on the next agenda all position papers should be under one item, the FPS Secretariat agreed to do so.	<b>FPS Secretariat</b>

	<p>Roger Barratt explained he wanted some feedback following the last meeting. Ciaran Jennings replied the paper went to the FPS Quarterly but was not debated fully due to a low attendance. The FPS Executive supports Project Bank Accounts; therefore, the paper needs to present a positive view from the FPS.</p> <p>Mike Parkes asked what the use of Project Bank Accounts was around the room. Mark replied he has experience of tier one use, however he has had much more experience of them at BAM Nuttall than at BAM Ritchies.</p> <p>Roger commented there is a tension between the main contractor and specialists as main contractors are not in favour but the FPS is. Mark agreed they are not the best option for the main contractor, as the main contractor can end up funding the job. Mark also felt they work better abroad but not as well in the UK.</p> <p>Roger was unsure whether to add the pitfalls seeing as the paper is intended to promote them. Nick Rogers stated the set-up time is one of the key pitfalls. The group agreed these pitfalls previously discussed should be added. Roger agreed to amend the paper and to list the pitfalls to be responsible; the FPS is in favour but recognises the pitfalls.</p> <p>The FPS Secretariat agreed to circulate to the amended draft to the Committee again and it was requested members send comments back as track changes on the document before the next meeting in November.</p>	<p><b>Roger Barratt</b></p> <p><b>FPS Secretariat</b></p>
<b>6.</b>	<b>FAIR CERTIFICATION POSITION PAPER</b>	
	<p>At the last meeting Mark Sheridan agreed he will begin to write some content for a position paper, but acknowledged it is a difficult topic and will remain difficult. Mark explained he has struggled with this paper, at the last meeting it was considered what is in it for customers and that a happy supply chain provides a better outcome.</p> <p>Mark has spoken to a few customers and has received the same answer; they claim to certify fairly and it is hard to demonstrate there is a problem.</p> <p>It was asked if there are alternative methods to encourage fair payment practices that should be considered. He described a method in Germany where clients pay into Certibau which charges late payers double the VAT amount. This works relatively well.</p> <p>It was noted the understanding of cash flow is the main problem; the group agreed better cash flow facilitates training, high standards and safety. However this is not understood by clients, consultants and others involved in the payment process. Mark agreed to continue with this position paper before the next meeting and to include the benefits of a positive cash flow.</p>	<p><b>Mark Sheridan</b></p>
<b>7.</b>	<b>FPS WEBSITE LAUNCH</b>	
	<p>Ciaran Jennings presented the new FPS website to the Committee, he pointed out the website is still having minor amendments made. He advised the changes which were discussed at the last meeting have been made. He highlighted the page "Why use an FPS member" has been added to the main menu; at the last meeting the Committee felt it was hidden and needed to be more at the forefront.</p> <p>Ciaran explained members are currently going through their entries to confirm the information is correct. It is expected to go live imminently. Some more news stories will be added in due course.</p> <p>Ciaran added it will be easy to make changes to the website in the future, whereas the old website required the web developers to make any changes at a significant cost to the Federation.</p>	<p><b>FPS Secretariat</b></p>

	Roger Barratt asked about branding; Ciaran replied the branding will go live with the website. The new logo will be added to guidance documents, email signatures and to FPS branded stationary.	
<b>8.</b>	<b>FUTURE TOPICS FOR THE FPS COMMERCIAL COMMITTEE</b>	
	Nothing to report under this item.	
<b>9.</b>	<b>CONTRACTS AND TERMS</b>	
<b>a)</b>	<b>Build UK</b>	
<b>i)</b>	<p><b>Pre-Qualification</b></p> <p>Previously it was reported that Build UK are trying to create a unified PQQ system, it is split into two sections for high and low risk activities. They are intending it to work as a base set of questions across all trades then specific question sets for specialists. They have approached trade associations for their audit schedules.</p> <p>The issue for FPS is the introduction of the FPS audit process into this PQQ process. currently the audit is carried out every three years, but this will be changed to every year under the Build UK proposals. It also means every piling company would be audited to FPS standard which may remove one of the key differentiators for FPS Members. It was suggested there is a risk it may decrease the value of being a Member.</p> <p>The FPS have rejected the Build UK proposal and in the interim they have modified their proposals. Ciaran Jennings relayed the reply Jim de Waele sent with the FPS objections and questions.</p> <p>It was reported on the 11<sup>th</sup> October 2017, Ciaran and Alasdair Henderson will be meeting with Build UK, to discuss the elements which the FPS are not happy with. Ciaran advised the FPS also wants to get Build UK to focus on fair cashflow in the industry.</p>	
<b>ii)</b>	<p><b>Payment Group</b></p> <p>It was noted there has been no Payment Group meeting since the last FPS Commercial Meeting.</p>	
<b>b)</b>	<p><b>JCT Report</b></p> <p>David Colven reported there has been two JCT meetings take place since the last FPS Commercial Meeting, both report notes were circulated ahead of the meeting, however he highlighted the second set from the 21<sup>st</sup> September 2017 is more relevant. David summarised on the following;</p> <p><i>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.</i></p> <p><i>2. The Sub-contractors College was represented by Jo Fautley (College Official) and the David Colven.</i></p> <p><i>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.</i></p> <p><i>4. The JCT Board has approved the reappointment of Victoria Peckett as Chair and John Riches as Vice-Chair of the Drafting Sub-Committee.</i></p>	

	<p>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.</p> <p>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 outrun scheme costs regularly being very close to the Guaranteed Maximum.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>10. The Facilities Management Working Group is working on establishing its brief.</p>	
10.	<b>NEXT GENERATION OF NEC CONTRACTS: NEC4</b>	
	<p>It was previously reported the release of the next generation of NEC contracts have been issued and that a summary of the changes has been produced. It was commented that the latest changes are very good and introduced "Scope" in place of works information and requirements to pay what you can justify. The summary was circulated to Members for discussion. Andrew West was speculating when it will be engaged.</p> <p>Mark Sheridan advised he has been invited to presentations on how they work, he agreed to feedback at the next meeting.</p> <p>Mark asked if the Committee had any comments on contacts and contract terms, Greg Haynes noted the obligations are becoming more onerous.</p>	<p><b>Mark Sheridan</b></p>
11.	<b>DIGITAL CONSTRUCTION</b>	
i)	<p>FIEC project</p> <p>Ciaran Jennings explained he was recently approached by Sue Arundale at FIEC about the issues between contractors and plant manufacturers in relation to BIM. He relayed to her what experience the FPS had had with BIM and rig models. Sue is interested from in stopping technology companies taking over Digital construction and wants to ensure contractors and the supplychain are driving development in the industry.</p> <p>Mark Sheridan commented it was discussed within FIEC to rename BIM/digital construction to Construction 4.0. He did not support this move as it did not promote an</p>	

<p>ii)</p>	<p>accurate understanding of what digital construction entails. He reported that his experience was that BAM was moving towards real time information being available and replacing traditional record keeping. They are trialling visual only reports and are finding that being able to show clients current progress was stopping disputes. He also reported that BAM were beginning to be asked for their digital plan for larger projects.</p> <p>FPS BIM survey results Ciaran Jennings reported John Chick put together a survey to help shape an understanding of where the FPS is with Digital Construction at a strategic level.</p> <p>It has previously advised the survey results indicated 80% of participants are pro BIM and the remaining 20% feel the cost of adoption has not been worth it in terms of a tangible benefit to the company when competing for contracts. It was suggested the internal benefit has been greater than has been seen out on site. There are recognised issues such as PDFs interrupting the flow of data, which is a barrier to implementations. It was noted clients are only asking for it on larger projects. It was concluded the overall impression is the industry has a BIM ready workforce.</p>	
<p>12.</p>	<p><b>EQUALITY, DIVERSITY AND INCLUSIVITY</b></p>	
	<p>At the last meeting it was discussed how to improve the inclusivity and diversity of people in the commercial function of the industry. It was acknowledged that inviting new people to participate in the Committee was a good step towards this.</p> <p>Andrew West attended Bachy Soletanche’s parent company meeting last week, he noted it is the first meeting he has attended where the men were in the minority. He continued that the quality of debate was good, Mark Sheridan replied the indication here is diversity should be encouraged.</p> <p>Ciaran Jennings reported at the FPS Executive Committee it was recognised that working parents struggle to work in the industry especially with 12 hour shifts away from home, so working patterns should be looked at and roles made more accommodating. Mark agreed working parents may struggle however he feels commercially they are more inclusive than the engineering side, due to the hours required. Mark added the FPS need to focus on attracting good people and not just gender specific goals.</p> <p>The Chair asked the group how the FPS can create some excitement for people to get into the commercial function of the industry. It was noted that the ICE has an initiative involving the provision of bridge building sets to children.</p> <p>Mark advised at BAM Ritchies there are two commercial managers who work flexibly, there is a policy about talking to employees about flexible working so that it is available when required.</p> <p>BAM Ritchies considered removing the job title and advertising for the skills and experience, but it did not work well. Charlotte Humphreys commented when a person is in the early stages of their chosen career path, the job title is important for building respect and potential career progression.</p> <p>Greg Haynes agreed getting people into commercial roles is important for the industry. Ciaran suggested the Committee place career profiles onto the website that explain what the role is, what progression is available and how to qualify for them. It could also be considered to start a mentoring scheme for the commercial function. David Colven suggested an article based on the theme “A day in the life” to further illustrate what is involved in the career.</p> <p>The group agreed that career profiles should be added to the website. Steve Wood suggested people outside of the Commercial Committee should be involved as it</p>	

	<p>should be various people at different career stages. Greg proposed three or four members of the Commercial Committee should write a few paragraphs for the website. Everyone else should request someone in their company writes an article based on either the theme "A day in the life" or an article in the format of a career profile to send in to the FPS Secretariat.</p> <p>Joanna Mikoda noted this is a good idea and will be on the website, but she asked how does the FPS get this to graduates attention. Mark agreed this will need to be addressed, but the first step is to create the content.</p> <p>Ciaran also suggested a Careers in Piling campaign is created, Greg agreed to take a lead on this. Steve asked would the campaign involve the universities. Ciaran to talk to Debbie Darling about getting the campaign into the universities.</p>	<p><b>All</b></p> <p><b>Greg Haynes</b> <b>Ciaran</b> <b>Jennings</b></p>
<b>13.</b>	<b>PROMOTION OF THE FPS</b>	
	Nothing to report under this item.	
<b>14.</b>	<b>EFFC</b>	
	<p><u>Sustainability Charter</u></p> <p>Nothing to report under this item.</p>	
<b>15.</b>	<b>SOCIAL EVENTS</b>	
	<p><b>Annual Dinner 2017</b></p> <p>The Annual Dinner for 2017 will be taking place on the 20<sup>th</sup> October 2017; it will be held at the Sheraton Hotel.</p>	
<b>16.</b>	<b>ANY OTHER BUSINESS</b>	
	No any other business was reported.	
<b>17.</b>	<b>DATES OF 2017 MEETINGS</b>	
	<p>Next meeting dates held at Friends House, 173-177 Euston Road, London, NW1 2BJ:</p> <ul style="list-style-type: none"> <li>• 9th November 2017</li> </ul>	