

FEDERATION OF PILING SPECIALISTS

A Meeting of the FPS Commercial Committee held on Thursday 17th
March 2022 from 10:00-12:00 via Teams

In Attendance:

Tom Allen (Co-Vice Chair)	Rock & Alluvium
Danny Bates	Keltbray
David Bell	GSS
Daniel Cairney	Keller
Stephen Edmondson (Co-Vice Chair)	Foundation Piling
Chris Fletcher	Vibro Menard
Gurmukh Gidda	Keller
John Glennon	Expanded
Mike Hancox	
Richard Imber	BAM
Simon Lyons	Central Piling
Jonathan McGall	DAWSON WAM
Malcolm O'Sullivan	Van Elle
Andy Riggott	Van Elle
James Walter	Balfour Beatty

Present:

Kathryn de Rochefort	Secretariat
Ciaran Jennings	Secretary

Owner	Action	Deadline
T Allen	Put together wording for a cross hire agreement with a 'non-poaching' clause.	Next Meeting
D Bell	To see if GSS Piling have any documentation that can help to inform the FPS Cross Hire Agreement.	Next Meeting
ALL	To share anything helpful or contact anyone that may have similar pre-existing agreements for cross hire exchange of labour.	Next Meeting
C Jennings	To arrange a meeting between Julia Hill [ECG Chair], Stephen, Tom, and Malcolm to discuss promoting commercial functions with the piling industry.	Next Meeting
C Jennings	To give feedback to Build UK about CAS and update the committee.	Next Meeting
ALL	If anyone has any further comments/amendments to add to the mission statement send them to Stephen and Tom.	Next Meeting
C Jennings	To speak to Daniel Ball about taking out the HS2 statics from the Total Order Value by Quarter.	Next Meeting
C Jennings	Contact Vanessa Bolt about the Hospital Building Programme.	Next Meeting

K de Rochefort	Upload the updated schedule of attendance to the FPS website.	ASAP
K de Rochefort	To share the CLC document with the meeting minutes.	

No	TOPIC	ACTION
1.	APOLOGIES FOR ABSENCE	
	Paul Kelly (DAWSON WAM), Peter Kerr (DAWSON WAM), Damien-F Kilkenny (Bachy Soletanche), Brian Kelly (DAWSON WAM), Craig Macklin (Franki Foundations), Louise Anderson (BAM), Alex Walsh (Van Elle), Andy West (Bachy Soletanche) and Ian Alcorn (Roger Bullivant).	
2.	MINUTES OF THE LAST MEETING	
	Approval of the Minutes of the meeting held on Thursday 25th November 2021 The minutes of the previous meeting were approved.	
3.	MATTERS ARISING	
	<p>i. Quarterly Meeting Update-Labour Agencies</p> <p>Stephen reported that Labour Agencies have been discussed at length and there were discussions about the FPS establishing our own labour agency. Stephen asked the committee who would be in favour of sharing labour between members rather than going through agencies, 6 hands were raised out 15 in attendance.</p> <p>Ciaran added that there has been a consensus around setting a minimum standard that Labour Agency workers need to meet. While there was a support for the FPS creating our own labour agency the general thinking is that it would be too much of an undertaking. However, there have now been discussions about having some kind of labour exchange between members which would afford greater job security. Malcolm highlighted that the issue has already been discussed at the Executive and that there have been agreements between Members before now to pass over workers to other Members when available with attached no poaching agreements.</p> <p>It may be a challenge to set this up between all members of the FPS but equally setting up our labour agency would be very costly. A simpler solution would be to have individual agreements between Members that we have labour available then we send them to another member's site if they require extra workers.</p> <p>Stephen raised concerns that setting a minimum standard with Labour Agencies will imply that that labour agencies are a continuing factor of the industry but if we share among members, we know that there is already a minimum standard and that the workers are qualified to do the work.</p> <p>Daniel suggested that we run the risk of being accused of 'acting like a cartel' but proposed that we could put a template in place to state a standard cross hire arrangement between the members and any commercial areas can be agreed</p>	

<p>between the members. Malcolm added that it may be a way of giving members a choice of who they want to partner with. Ciaran suggested that if we pursue this route, it would be worth bringing together Labour Managers in order to foster relationships.</p> <p>Tom stated that we need to action putting together words for a cross hire agreement and to have an anti-poaching agreement as an add into that document. Then it can be filter to management or the Ops Committee to get that out to the labour staff. Andy suggested that it would be worth have a non-poaching and non-collusion agreement to frames what we are doing and why we are doing it to offer transparency of how the collaboration will work.</p> <p>Stephen queried with Ciaran if we have an in-house legal team that would be able to look over the document, Ciaran stated that we do not have an in-house legal team, but we do have the budget to do this.</p> <p>Malcolm asked the committee if anyone has a pre-existing agreement that they would be willing to share to help inform our own document.</p> <p>David stated that most agreements GSS Piling have apply heavily to their own T&C's, but he will see if there is anything he can share. Stephen asked everyone in the committee if they can share anything helpful or contact anyone that may have similar pre-existing agreements.</p> <p>ii. PI Insurance Updates</p> <p>Stephen reported that he has had one meeting outside of the FPS [CLC] regarding PI insurance where he will push issues with PI Insurance. Stephen also met with Gallaghers to discuss PI insurance and received an encouraging update that there is a tentative reintroduction of people into the market that they have avoided for a number of years. It sounds like there maybe a softening of availability come through but no indications that price will reduce.</p> <p>There is an aim within the FPS to generate better rates for our members, one of the key points is to look at the risks for a piling contractor to avoid being locked into a generic construction.</p> <p>David stated that GSS piling PI insurance premium has come down in recent years but there is nervousness around digging in basements, having more education around what we do could be helpful.</p> <p>Andy added that rates seem to stabilise or reaching a plateau now. Stephen suggested that it might be worth putting together an FPS presentation to share with insurers to give them a better understanding of the piling industry. Ciaran reported that this has been attempted previously but resulted in a dead end.</p> <p>iii. Promoting Commercial Function to Graduates</p> <p>Ciaran stated that the main avenue we need explore is utilising the FPS Early Careers Group to help promote the Commercial functions of the industry to graduates. Currently they have been sending in members to Universities to present on piling and Geotechnical engineering.</p>	<p>T Allen</p> <p>D Bell/ALL</p>
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	<p>Malcolm suggested that we should advertise piling as a great introduction into construction because you get see a little bit of everything, which can provide a fantastic learning curve and the ability to progress quickly.</p> <p>Andy agreed that we do not covey the broad range of experience you can gain from the piling industry that may help to draw graduates into the industry. Ciaran will arrange a meeting between Julia Hill [ECG Chair], Stephen, Tom, and Malcolm to discuss further.</p> <p>iv. Build UK Breakfast Briefings</p> <p>Ciaran reported that as an industry we struggle to communicate with main contractors about our issues, so he has had discussion with Build UK about improving communication using breakfast briefings.</p> <p>This would also be a prime opportunity to put our issues and agendas on the table and use the briefings to promote our messages on quality, the three main points that we have discussed raising are Risk Management (stating the quality an FPS member can offer), Safety and Sustainability which would be more a workshop and putting the FPS at the forefront of those discussions. This is mostly an update, but we may need some members of this committee to produce presentations in the near future.</p> <p>v. Build UK-Common Assessment Standard</p> <p>Ciaran reported that Build UK are trying to push this matter and wanted to pose to the group how many committee members are using the CAS, and has it made a difference or are you still running multiple subscriptions to accreditation bodies. The general consensus from the committee was that everyone is still using multiple accreditation bodies as everyone wants something different. Ciaran will feedback to Build UK and update the committee at the next meeting.</p>	<p>C Jennings</p>
<p>4.</p>	<p>COMMERCIAL COMMITTEE MISSION STATEMENT</p>	

	<p>Tom stated that he felt as a committee we should a mission statement to capture the Commercial Committees goals. The below statement was read to the group: -</p> <p><i>“To improve commercial practices within the specialist piling sector of the construction industry. Providing a forum for stakeholders’ commercial representatives to collaborate, support, innovate and address common issues to the benefit of the cohort”</i></p> <p>Daniel questioned the use of the words ‘stakeholders’ and ‘cohort’ and felt that clients should be mentioned with the statement. Stephen suggested the addition of the word ‘all’ before stakeholders would then cover clients as well. Tom proposed that we could add to the end ‘to the benefit of the cohort, clients and the supply chain’. Ciaran suggested that you could exchange the word ‘stakeholders’ to members instead. Daniel agreed and added that you could change ‘cohort’ to stakeholders which would cover everything.</p> <p>Revised version: - <i>“To improve commercial practices within the specialist piling sector of the construction industry. Providing a forum for members’ commercial representatives to collaborate, support, innovate and address common issues to the benefit of the stakeholders”</i></p> <p>Stephen requested that if anyone has any further comments/amendments to send them to him and Tom.</p>	<p>ALL</p>
<p>5.</p>	<p>QUARTERLY ORDER STATS-Q4 2021</p>	
	<p>Ciaran presented the Q4 Statistics for 2021 and advised the for anyone who attended the last Quarterly Committee meeting the numbers have since been revised as Power BI had double counted total infrastructure as well as the individual infrastructure.</p> <p>Ciaran highlighted the total order value by quarter which has seen a significant peak last year due to HS2. You can see the overall pattern from 2010 onwards when we had the financial crisis and then the up and downs the Brexit created in more recent years. Malcolm raised that there had been discussions about singling out the HS2 figure to give a more accurate picture of the figures and questioned if this had been progressed.</p> <p>Ciaran stated that steps have been taken to try and get that data, but he need to speak to Daniel Ball [accountant] to get an update. Ciaran asked the committee if they have seen anything come out about the hospital building program, as it is meant to have about 4 billion worth of investment. Malcolm stated that he has not received any, Ciaran will contact Vanessa Bold to discuss. Tom added that there has been slow down in the housing sector. Ciaran suggested that maybe in part due to the political issues in the Ukraine.</p>	<p>C Jennings</p> <p>C Jennings</p>
<p>6.</p>	<p>MATERIALS PRICE VOLATILITY-FPS RESPONSE</p>	

	<p>Stephen suggested that the committee should think about what the FPS response to price increases and the general volatility of the market should be. Stephen also shared that Foundation Piling have stopped agreeing to fixed price arrangements about three weeks ago, and have a fluctuation clause to accommodate the ever-changing market. This has not been met with the level of complaint that was anticipated as clients are aware of the problems we face as an industry.</p> <p>Malcolm reported that this has been discussed amount the Executive members and currently no one knows how we can manage the situation and assist the members. Is there a statement or position paper that we can put in place?</p> <p>John raise concerns that if the FPS take a stance or position on something like this then we may be accused of ‘acting like a cartel’. Ciaran suggested that this could be an article talking about not over designing a pile and encouraging better ground investigations to reduce the amount of concrete and steel being used, whilst also being more sustainable. Daniel highlighted that we should already be doing this, the FPS could offer to share the risk.</p> <p>Malcolm concluded that seems each Member is handling the issue in their own way, and he will feed that back to the Executive members. Stephen added that it is not just the prices that are the issue but the level of production of the materials, such as concrete.</p>	
7.	SCHEDULE OF ATTENDANCE CHANGES	
	<ul style="list-style-type: none"> • Fuel storage clause <p>Stephen reporting that will the change from red diesel to white there was concern over the security of sites, so there was a discussion during the executive meeting about changing the Schedule of Attendance in order reflect this security risk. Stephen added to the schedule that ‘secure storage facilities for fuels, or for the provision of fuels, at a location convenient to the works’.</p> <p>Committee all agreed and approved the wording.</p> <p>Stephen stated that the wording has already been approved by the Quarterly so the amended version can now be uploaded to the FPS website.</p>	K de Rochefort
8.	PROBLEMATIC CONTRACT CLAUSES	
	<p>Stephen stated that he feels as an industry we are expected to take responsibility for a lot of commercial risk. This is a difficult issue to approach as it would mean sharing contracts between members that most members would be unwilling to share.</p> <p>John highlighted that we need to be very careful with members confidentiality of their clauses. Ciaran added that Build UK looked at this issue a few years ago and concluded that you cannot discuss specific clauses for competition reasons, but you can talk about problematic contractual behaviours, which shouldn’t breach confidentiality or anti competition laws. John added that it may be difficult to take such a broad-brush approach with this matter and it may still be difficult to maintain confidentiality. Stephen suggested that this could be added as agenda item to discuss when new clauses come into play but not necessarily say who has produced them but just be aware that this is what they are asking for, if it leads to no</p>	

	<p>discussions then it can be removed. Malcolm added if we do add this as an agenda idea then we need to group them e.g., caps on liability, retention etc. However, it may be difficult to have these discussions without being too specific.</p> <p>Stephen reported that he has seen a rise in the use of electronically sign contracts which often differs greatly from the one that our QSs have previously revised which may also be a matter to discuss.</p>	
9.	CONSTRUCTION LEADERSHIP COUNCIL-CONSTRUCT ZERO FRAMEWORK	
	<p>Ciaran reported that the document lays out a framework for measuring performance using Transport, Buildings and Construction Activity. This is relevant as they are going to start requiring carbon counting on projects as well as low carbon alternatives in tenders.</p> <p>The EFFC and DFI jointly created a carbon calculator for foundation projects which allows you to produce alternative carbon footprints for different materials which could be used to help support this framework.</p> <p>This document can be discussed in greater details at the next meeting, Stephen asked if the document can be circulated with the meeting minutes.</p> <p>Malcolm questioned if we could provide training sessions on how to use the carbon calculator. Ciaran highlighted that there is a webinar on how to use the calculator on the FPS website that may be helpful.</p>	K de Rochefort
10.	FPS AUDIT UPDATE	
	<p>Ciaran reported that the audit is currently being updated, we have added sections around sustainability for bench marking, and we have been focusing on the quality section comparing against ISO9001 accreditation to remove duplicates. We have found that roughly 95% of the FPS audit has criteria that has already been covered by ISO9001.</p> <p>We are now looking to define what quality criteria the FPS want to set to stand above other piling contractor that are not members.</p>	
11.	ANY OTHER BUISNESS	
	No other business.	
12.	2022 Meetings (10:00-13:00)	
	<ul style="list-style-type: none"> • 16th June • 27th September • 24th November 	