



07.07.21 Dear Colleagues

**A MESSAGE TO THE CONSTRUCTION INDUSTRY**

The construction industry continues to play a leading role in the economic recovery of the UK.

In the early stages of the COVID crisis, CLC and Government issued advice and guidance intended to encourage and enable collaborative solutions to be found to the contractual impacts of COVID-19 and thereby minimise disputes. This guidance was warmly welcomed and widely utilised.

The challenges we faced initially related to matters such as site closures, reductions in productivity and increased costs of compliance, and we asked all parties to use the guidance to find collaborative and sustainable ways to deal with these issues.

The industry can be proud of the way it has dealt with these issues to date; however, we recognise that there are more challenges ahead for us to navigate.

One such challenge relates to the availability and pricing volatility of labour and materials. The following factors all play a role in creating the escalating challenge for industry:

- Rapidly rising freight costs, container availability and global transportation challenges
- A shortage in global raw materials
- A shortage of available haulier staff and capacity
- Transitioning from CE to UKCA marking with insufficient product testing capacity
- Establishment of new cross-border systems and processes
- New EU related immigration rules.

This volatility is likely to be something we must live with for a while to come and could have a significant impact on the timeframes and delivery costs of many projects.

Most forms of construction contract have standard provisions for managing volatility, without the need to make contract amendments. These provisions, such as fluctuations provisions in JCT and NEC 4 Secondary X1, provide a means of collaboratively sharing the risks associated with this volatility.

We have been fortunate enough to operate in a stable environment for a long time and these clauses have been seldom used. However, they are ideally suited to providing a means for managing the volatile period we are now entering and therefore CLC strongly urge those responsible for developing, agreeing and managing contracts, existing and new, to consider adopting these provisions in their contracts.

In addition, the contractual challenges created by lack of product availability and inability to access approved products are likely to mean design changes are necessary. Therefore, again, the CLC would encourage a collaborative approach to be taken to managing these risks by considering actions such as allowing longer mobilisation and lead-in periods for contracts and including up-front ordering and payment to suppliers in order to secure manufacture and delivery slots for critical material resources.

We know that we perform better as an industry when a collaborative and team-based approach is adopted. We also know that our industry is strong and is growing right now. We would therefore encourage you to consider this message and find ways to work together so that this growth opportunity is maximised, and a sustainable industry supply chain is maintained.

A handwritten signature in blue ink that reads 'Andy Mitchell'.

**Andy Mitchell**  
Co-Chair Construction Leadership Council