



CECA WALES/CYMRU
 Ty Ffederasiwn
 66 Cardiff Road/66 Heol Caerdydd
 Glan-y-Llyn
 Taff's Well/Ffynnon Taf
 Cardiff/Caerdydd
 CF15 7QE
 T: 029 2081 1116
www.ceca.co.uk

FAO Russell George AM

Dear Mr George,

25th April 2018

Cynulliad Cenedlaethol Cymru / National Assembly for Wales

Pwyllgor yr Economi, Seilwaith a Sgiliau/ Economy, Infrastructure and Skills Committee

Cyflwr y Ffyrdd yng Nghymru / State of Roads in Wales

Ymateb gan Gymdeithas Contractwyr Peirianeg Sifil Cymru / Evidence from the Civil Engineering Contractors Association (CECA) Wales

Thank you for the opportunity to provide evidence to the Economy, Infrastructure and Skills Committee on the State of Roads in Wales.

As a Chartered Civil Engineer and as Director for the Civil Engineering Contractors Association (CECA) Wales the state of roads in Wales has been a constant source of frustration for our sector and, therefore, I welcome your Inquiry. I also hope that it represents an opportunity to address the chronic under-investment in this sector and to explore ways of better utilising the investment that is made to deliver far greater value for money.

I note that your inquiry will focus on :

- The condition and approach to maintenance of the local road, trunk road and motorway network;
- Delivery of enhancement projects on the local road, trunk road and motorway network; and
- How far the approaches taken to highway maintenance and improvement are sustainable.

Accordingly, I have confined my response to these 3 areas.

1. The condition and approach to maintenance of the local road, trunk road and motorway network

The current condition of roads in Wales is plain for all to see but comes as no surprise given the lack of investment in roads maintenance despite increasing usage by motorists and the increasing regularity and severity of adverse winter weather conditions. Annual surveys of the network have highlighted the worsening condition of all categories of highway and, therefore, identification of the increasing problems is not the issue. Highway authorities receive regular reports from their highway engineers on road condition, relative priorities for action and the required levels of investment. However, proactive, planned maintenance programmes are rarely funded to anywhere

near reasonable levels as investment is diverted to other services such as health, social care and education. Whilst this is often understandable, given continuing public sector cuts, it is, nevertheless, an unsustainable situation and if left unchecked, will lead to critical failure in many areas. This will lead to detrimental effects on our economy and the ability of citizens to move around the country.

Whilst under-investment is the key factor it is exacerbated by funding mechanisms which further reduce value for money and impact the service to citizens. The limited investment which is available is often delivered in an ad hoc and haphazard way, largely as a result of annual under-spending within other departmental budgets which leads to the “mad-March” phenomenon. This occurs when “spikes” in investment are made in the highway network across Wales, largely during February and March, as Highway Authorities attempt to spend this money in a very small space of time to meet end of year budget timescales ie 31st March. This leads to 2 things :

1. A proliferation of traffic management schemes emerging across Wales for a short space of time impacting motorists and elongating journey times;
2. A poor use of funds as the civil engineering sector, particularly contractors and quarries, attempt to increase resources for a very short space of time to meet this “spike” in demand.

The first issue does nothing to minimise disruption to road users as the main objective is to spend this money as quickly as possible ie. improving the customer experience is not a prime objective.

The second issue of ad hoc and reactive funding and delivery of maintenance programmes for the local road, trunk road and motorway network in Wales does nothing to provide value for money as the private sector, largely comprising contractors and material suppliers such as quarries, cannot operate efficiently in dealing with such a huge demand over a short space of time. This leads to the workforce having to work longer hours than normal, with associated payment premiums for plant, labour and materials, and a consequential increase in costs to the public sector.

The solution to both the issues of poor value for money and motorist disruption will entail better programming of works and, hence, a need for investment over a much longer period. An ad hoc and reactive funding profile will never achieve this but the current annual funding profile, which is the best we have, still has severe limitations. A far more effective solution would be to provide funding over a minimum 3-year “rolling programme” so that Highway Authorities are able to programme works more effectively and the private sector has greater visibility of future work and can plan resources to make more efficient use of them. This will deliver greater value for money and a better experience for motorists. This is an approach adopted in a number of other countries.

2. The delivery of enhancement projects on the local road, trunk road and motorway network

The delivery of major enhancements and the ability to achieve value for money is affected by many factors, however, two factors, in particular, stand out :

- a. Procurement
- b. Speed of decision making.

I have also referred to the use of alternative forms of procurement in this section.

a. Procurement

Procurement in the public sector remains a contentious issue both for the procurer and the supplier. Welsh Government Procurement Policy is generally well accepted and we look forward to the outcomes of the current review of public sector procurement. The emphasis on social value is well accepted as is the focus on Welsh supply chains. However, implementation across Wales' Highway Authorities and their agents, particularly on smaller projects, remains highly variable with:

- i. “lowest price” tenders dominating along with an increase in open tenders;
- ii. a desire to transfer all-risks to the supply chains;
- iii. an increasingly bureaucratic process led by fewer people with relevant experience of the infrastructure sector; and
- iv. a diminishing level of engagement between suppliers and procurers.

i. Lowest price and “open” tendering

As public sector cuts continue to put pressure on budgets the drive for lowest price tenders has accelerated along with an increase in “open tenders”. This allows an unlimited number of suppliers to bid, rather than a restricted process which involves pre-qualification followed by tendering to a smaller number of “pre-qualified” suppliers. Whilst this may appear to be a good way of increasing access to work opportunities, in reality, it creates a “free for all” and increases bidding costs whilst reducing the odds of winning work. In a sector which has so many variables and risks associated with it lowest price tendering, apart from very simple and straightforward projects, rarely produces good value for money.

ii. All-risk transfer

Transferring all risks to a supplier may appear to deliver a “belt and braces” solution where the procurer passes all risks to the supplier to avoid any further “comeback” should certain risks materialise. However, suppliers need to make allowances for these risks and effectively build these into their price - regardless of whether the risks materialise. In reality, there are risks which suppliers are better placed to manage, there are risks which procurers should retain as they are best placed to manage them and there are other risks which are best shared. This sophisticated approach is best termed “risk management” as opposed to the more blunt “all-risk transfer”. Comparisons could be drawn with the holiday insurance sector where the insurance company offers to accept risks from the tourist who pays a premium. The more risk transferred to the company the higher the premium. If all risks are transferred then it's unlikely the tourist will travel as the premium will be too high. But if the premium is paid and no risks arise then the tourist receives no recompense - but has been reassured!

There are of course suppliers who will be prepared to take on all risks in an effort to win work (and keep workers in employment) and in some cases, if risks don't materialise, all is well. However, given the significant risks posed by major highway enhancements, this rarely happens with the potential for highly adversarial relationships, arbitration and, in some cases, liquidation and the loss of jobs. Is this the type of arrangement which should be advocated by the public sector?

iii. Bureaucratic processes

The complexity of tendering arrangements put in place by certain procurers is gradually transforming the process of obtaining infrastructure work in the public sector into an extremely expensive “artform” with the unintended consequences of increasing bidding costs (which will be passed back to the public sector in various forms) and gradually “shutting out” smaller and more local suppliers who are unable to deal with the complexity of these arrangements.

Whilst there clearly needs to be a process of differentiation this needs to be as simple as possible and certainly commensurate with the scale and value of work being offered. Expecting a supplier to put significant work into bidding for a small contract in competition with 10 or more other suppliers is unrealistic, does little to achieve value for money and even less to encourage smaller suppliers. It also reflects poorly on the capabilities of the procurer.

iv. Communication and Engagement

Communication and engagement during the early stages of a project ie pre-design/pre-tendering is essential to ensuring that all suppliers fully understand the requirements of a procurer and can ensure that their proposal or bid best meets those requirements. Clearly it needs to be done in a transparent way which respects the competitive nature of any future bidding but without this any procurer is at risk of receiving sub-standard bids which will effectively translate into poor value for money.

There are many examples in the public sector where this happens well. However, there are far too many occasions where it does not. This again reflects the highly variable nature of procurement practices across Wales where the better practices are not adopted more widely which impacts adversely on suppliers and the public purse.

For your information I have attached a copy of a report which CECA Wales produced in partnership with the Association of Consulting Engineers (ACE) and the County Surveyors Society (CSS) Cymru which comprises officers from Wales' Highway Authorities. Titled “Streamlining Public Procurement” it highlights a number of challenges and recommendations and proposes opportunities for the future.

b. Speed of decision making

Speed of decision making, or rather, the lack of it, is another factor in reducing our ability to achieve value for money through major highway enhancement projects. We can all appreciate the need for sufficient time to be given to consider the merits of any major infrastructure project, given that it impacts on the lives of so many either directly or indirectly. The infrastructure sector is well accustomed to the processes which need to be followed to take projects from concept to implementation and the associated statutory periods for consideration eg planning considerations, Public Inquiry, etc. However, the political process continues to stifle and hinder progress with consequent impacts on our economy and the lives of our citizens. The impacts on the infrastructure sector are significant as these delays :

- i. build more risk into projects which are inevitably passed on in the overall project cost;

- ii. affect continuity of employment, training and upskilling as contractors cannot indefinitely hold onto people as they await decisions; and
- iii. impact on business opportunities for local supply chains who may move elsewhere or simply collapse.

At a macro level studies by Arcadis (“The spiralling costs of indecision”) have demonstrated that an average delay of 1 month to a decision being made on a major highway enhancement in the UK National Infrastructure Investment Plan represents a £2bn loss in GDP to the economy equivalent to almost £50k for every minute of delay.

c. “Alternative” Forms of Procurement - in delivering major highway projects

Given the complexity and risks associated with major highway enhancement projects on the local road, trunk road and motorway network procurement practices have evolved over time to deliver greater value for money. The Welsh Government’s use of the **Early Contractor Involvement (ECI)** approach is an example of this and whilst it is unlikely that any approach will provide a perfect solution given the risks and complexities the use of ECI has been widely applauded by many as giving an optimum solution - as long as it is well understood and sensitively applied by competent people.

In essence this form of procurement allows procurers/clients to engage with a preferred supplier/contractor and designers at an early stage to help to develop a solution to a particular problem. This process recognises the complexity and risks associated with major infrastructure projects and allows all parties to “pool” their expertise to develop the “best/optimum” solution. Concerns are sometimes expressed that price competition can be lost as a main supplier is selected very early in the process although there are mechanisms such as target costs to help to regulate this.

The process can be frustrating for different parties if the target cost has to be adjusted to allow for unforeseen risks. However, if sufficient work is done early in the process to examine ground conditions, etc, then these risks can be mitigated. The upfront planning period, if used wisely, can also lead to better outcomes in terms of social value as support structures to facilitate employment and training can be established ahead of the commencement of construction.

The opportunities offered by the Welsh Government’s **Mutual Investment Model** need to be viewed in a different way as it has more to do with the means of financing a project or programme rather than as a method of procurement - although ECI may well feature as a means of delivering projects within this financing scheme.

3. How far the approaches taken to highway maintenance and improvement are sustainable.

Key Welsh legislation, such as the Well-being of Future Generations (Wales) Act 2015 and the Active Travel (Wales) Act 2013, have only relatively recently been introduced and it is too early to form a clear view of whether Wales is adopting a sustainable approach to the maintenance and enhancement of its road network. However, what is clear is that greater effort needs to be made to embed these pieces of legislation into the activities of those responsible for delivering highway services particularly into the processes for justifying and prioritising investment. Many will be

familiar with the economic-focus for justification and setting priorities and also the focus on motorised vehicles as being the primary beneficiaries of roads investment.

If the WFG Act is to be implemented in this sector then the 7 wellbeing goals and the 5 ways of working must be applied to any justification model and clear reasons set out for the decisions made. This would represent a significant departure from the traditional “cost-benefit” model where both costs and benefits are represented in monetary terms.

If the Active Travel Act is to start making an impact then the needs of cyclists and pedestrians need to be given a far higher priority in terms of any decision-making process.

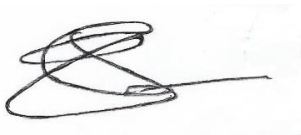
In both cases a significant culture shift will be needed amongst not only those who deliver the technical solutions but also those who deliver the investment needed to deliver the solutions.

If the sustainability of this sector is to develop in this way we would hope to see significant opportunities for Welsh suppliers in the infrastructure sector. We would hope to see a range of broader community benefits or social value accrue from the investment in infrastructure eg growing local supply chains, extending skills and training opportunities, direct benefits to local communities and employment opportunities for disadvantaged groups. Whilst the Welsh Government’s Procurement Policy Statements and associated guidance set out how much of this can be achieved there is an opportunity, via this new legislation, to develop multi-agency approaches to properly coordinate activities. This should be established in advance of any contract awards to proactively support those delivering infrastructure to maximise these wider benefits.

We would also expect to see greater engagement of the civil engineering contracting sector by procurers whilst assessing the implications for the procurement process from the Wellbeing of Future Generations Act. This could take the form of joint workshop involving highway authorities, the civil engineering contracting sector and the Future Generations Commissioner to test opportunities via the procurement process.

I trust that these views and observations are helpful to you and your Committee but please contact me should you wish to discuss these matters in greater detail.

Yours sincerely



Ed Evans
Director, CECA Wales/Cymru