



12th March 2020

Ken Skates
Minister for Economy, Transport and North Wales
Welsh Government
5th Floor
Tŷ Hywel
Cardiff Bay CF99 1NA

Via post and email (Correspondence.Ken.Skates@gov.wales ;
Ken.Skates@assembly.wales)

Dear Minister

Retentions in the Welsh Construction Industry – request for a meeting with industry

As witnesses to the recent inquiry on retentions in the Welsh construction industry, organised jointly by the Welsh Assembly Committees for Finance & Economy, Infrastructure and Skills, we were made aware of the letter on 4th March from the Committees to you. We are extremely grateful for the Committees' time and effort in gathering their evidence. However, we are deeply concerned that this subject will continue to be discussed but not addressed.

We are seeking a meeting with you and representatives of our three organisations so we can explain that the status quo exposes our members, predominantly SMEs, to an unsustainable and risky business environment; especially as Welsh Government has an ambitious infrastructure programme which aims to generate economic and social growth for our local companies. We know that this is an issue also championed in the past by First Minister Mark Drakeford.

The Committees' summary of evidence shows the consistency of evidence on some key points:

- the current retention system is destructive of SME profitability
- there is inequality of insolvency protection along the supply chain
- adjudication costs deter SMEs from challenging the system
- the waiting time for return of retentions (if ever returned) has expanded
- the business model is dysfunctional
- payment issues also drive poor behaviours which can cause harm to people

Since the Committee held its evidence session, Scottish Government published research (by Pye Tait) which shows the impact of retentions on the Scottish economy and prompted the current consultation on retentions. It is worth noting that in their consultation paper the

Scottish Government accepts that the status quo is unsustainable and asks opinions on a retentions deposit scheme option; the latter is favoured in the Scottish Pye Tait research. As indicated in the Committees' summary, a pilot model for a retentions deposit scheme has been developed by a consortium of partners which includes a Tier 1 contractor, and experts in banking, insurance and software development. We can update you on this very important work at our meeting.

Moreover, two weeks ago, the Department of Business, Energy and Industrial Strategy published the summary of responses from their consultation which ended in January 2018, a couple of days after the collapse of Carillion. It shows that there was no doubt in the mind of respondents that retentions abuse was significant and detrimental to the industry. A Retentions Deposit Scheme (RDS) was the majority choice since it will eliminate the elements of retentions' abuse and there was also overwhelming support for a scheme that has statutory/legislative footing:

- *"69% of the 49 responses in Citizen Space believed all retentions held for a contract should be placed in a RDS."*
- *"82% of 55 responses in Citizen Space believed a RDS should be set up on a statutory footing. ... Of the 8 business representative organisations / trade bodies that responded to this question, 75% believed a RDS should be set up on a statutory footing."*

This echoes the support from the industry and the MPs in Westminster for the Peter Aldous Bill. We believe that the Bill offers a draft which Welsh Government and Welsh Assembly can build on for a solution that will address the risks and concerns of companies in the Welsh construction industry and deliver on the targets set by the Welsh Government's procurement plans.

We believe that this is a timely opportunity for the Welsh Government to tackle this issue with agility and precision and unlock the potential of our companies to grow their businesses.

We look forward to hearing from you.

Kind regards.

Peter Davies

Chairman of SEC Group Wales/Cymru
& Director, CMB West Ltd

Ifan Glyn

Senior Hub Director/wales Director
Federation Of Master Builders

Kyle Spiller on behalf of the CIOB

Cc

Mark Drakeford AM, First Minister (PS.FirstMinister@gov.wales)

Rebecca Evans AM Minister for Finance and Trefnydd
(Correspondence.Rebecca.Evans@gov.wales)

Llyr Gruffydd AM, Chair of Finance Committee (Llyr.Gruffydd@assembly.wales)

Russell George AM, Chair of Economy, Infrastructure and Skills Committee
(Russell.George@assembly.wales)

Robert Lloyd-Williams, Deputy Clerk, Economy, Infrastructure and Skills Committee, National Assembly for Wales (SeneddEIS@assembly.wales)

Catherine Griffith-Williams, National Executive Officer SEC Group Wales/Cymru
Rudi Klein, CEO, SEC Group