

Digital technology in construction: an opportunity for change

Risk experts on insurance and construction respectively, **Graham De Roy** and **Stephen Woodward** consider how digital working offers opportunities to correct the loss of appetite by the insurance industry for insuring construction industry risk.

An insurance risk management perspective

The construction industry gets the insurance industry it deserves and vice versa. The relationship between the two has always been uneasy but has declined markedly in recent years. As a result, around 30 construction 'all risks', liability and professional Indemnity (PI) insurers exited the market between 2018 and 2020. Massive insurance losses are, principally, the result of traditional construction/infrastructure procurement processes driven by an adversarial, lowest price culture.

PI insurance is symbolic of the wider malaise within the construction industry; it is another corrosive barrier to sensible, equitable apportionment of risk, collaboration and profitability. Many clients and funders misguidedly believe PI is a benefit to them. It is not. It is a defence mechanism for contractors and consultants. PI is a liability – based cover and insurers, aiming to deny liability wherever possible will, armed with powerful legal representation, defend their position to the hilt.

Some years ago, a leading specialist construction insurance broker revealed that 80% of all construction PI claims were for legal and forensic costs rather than putting matters right. Delays and cost overruns are accepted as 'par for the course'. The insurance industry has been approached over the years to provide cover which protects against cost overruns, delayed project completion and their impacts. Rather than look at the root causes behind the problem, it recoils in horror and slams the

door shut. The insurance industry reacts to all of this by ramping up premiums, withdrawing or reducing cover and applying onerous conditions. Construction (or contractors) 'All Risks' policy wordings are very difficult to follow; some are virtually unintelligible. Rather than simplify wordings, they have become more draconian and unfathomable in recent years. Take for example, the clauses dealing with defective design, workmanship and materials during the project. Many construction insurance professionals do not understand it; what chance for a reasonable, fair and intelligent policyholder. Consequently, in a construction industry where risk 'dumping' is endemic, the insurance solutions designed to underpin it are flawed.

Huge water damage claims – usually occurring just before handover – are frequently caused by use of substandard materials and poor workmanship. This is invariably the result of the cynically – termed 'value engineering' and payment abuse. This inevitably leads to poor whole – life outcomes and sustainability. So, insurers have acquiesced to a broken system rather than drive change that can benefit all participants.

Insurers and particularly reinsurers (those that take the bulk of the risk) are keenly embracing digital technology in its application of pricing methodology and claims assessment but appear to have no focus on the powerful benefits that cutting-edge data analytics can bring to customers and investors in construction and

the wider built environment. Depressingly, there are signs PI insurers are railing against it. For example, they are nervous about the development of BIM as – shock, horror – it actually encourages collaboration and sharing of information – absolute anathema to insurers.

The construction industry cannot operate without funding, legal advice or insurance. However, the industry is controlled by funders and lawyers who have a huge responsibility for the sorry state we see today. Insurers have been benign followers when, in fact, they have a massive opportunity to influence change. Indeed, they have the power to effect positive disruption if they have the vision and passion to do so.

The insurance industry must focus on the use of genuinely collaborative alliancing-type contracts aligned with state-of-the-art digital technology. Such technology must not focus exclusively on the build process; it must drive whole life approaches in construction projects. This will enable insurers to provide much more robust risk transfer products that complement an improved, digitally savvy construction industry. Change is coming to the construction industry and insurance must be a pivotal player.

A construction risk management perspective

Nothing better illustrates the crisis in the UK construction industry caused by its broken contracting model highlighted in *Global Construction Success* by Charles O'Neil and others than the industry's attitude to risk management. The message from insurers unwilling to exert their influence on the construction industry's poor risk management and instead turning their backs on the industry says it all. The root problem is the construction industry's flawed mechanism for risk transference reinforced by outdated procurement processes and adversarial contracts. Instead of 'pain-gain share' from genuine collaboration the industry norm is the supply chain taking the pain. Now insurers are giving their verdict on the broken contracting model by reacting to the construction industry's endemic problems. More and more the insurance market is offering less and less in terms of attempting to cover up the construction industry's poor track record on risk management. Not wanting to engage,

insurers are walking away. This is hardly a good advert for a healthy 21st century industry delivering the nation's infrastructure. There is much time and effort spent talking about outcomes and not enough time spent on looking at the journey. Post Covid pandemic the strapline 'Modernise or Die' of Mark Farmer's Review looks hauntingly prophetic.

The digital opportunity for change

Data driven digital tools ranging from risk register technology to tracking and collaboratively generated data solutions offer a radical approach to quality assurance that ensures quality through 'golden thread' transparency and accountability. The buyer of a construction product - because that what the built environment is offering - needs assurance that what is being bought is what is specified - a single project mark assurance that what is designed is actually delivered. Such assurance starts with the paramount need to change the industry culture from denial, optimism bias and burying of risks to exposing risks, bringing together fragmented and disparate teams and managing risks collaboratively to create assets worthy of a quality mark. Only when construction risk management is given the priority required to do this, will genuine collaboration supported by alliancing contracts and team incentivisation deliver their true benefits. Everyone wants collaboration and no one is interested in risk management.

To move forward into the 21st century the UK construction industry must accept that collaboration and innovative risk management are not binary choices. They require each other. Then and only then will the insurance sector have the confidence to offer the construction industry the better products the construction industry is looking for. **CL**

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