BE NEWS

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The Save Construction Initiative

HOW TO MANAGE RISK AND AVOID PROJECT FAILURE

Senior figures from across the construction and built environment industry joined Freeths, The Save Construction Initiative and BE News to discuss one of the biggest challenges facing the sector

INDUSTRY GUESTS:

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Matt Butler, Strategic Adviser

James Gardener, Project Director – Head of Risk, Gleeds

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Li Yen Lim, Managing Associate, Building Safety Act Ambassador, Freeths

Chris Mackenzie-Grieve, NED, Strategic Programme & Procurement Leader

Ray O'Sullivan, Regional MD Midlands, Caddick Construction

John Powell, MD, Frankham Risk Management Services

Lizzie Rosewell, Technical Director, TSA Riley

Chandni Vora MBE, COO, Vascroft Contractors

Khaleda Wheeler, Senior Director, Alvarez & Marsal

Chantelle Williams, Land and Partnership Director, Vistry, South West Midlands

Liz Hamson, Founder and Editor-in-Chief, BE News (chair)

In a time of huge uncertainty for the construction industry, the issue of how to manage risk is more pressing than ever. Grappliing with myriad challenges including the Building Safety Act, constrained insurance markets, soaring costs, continuing fallout from the collapse of ISG and now the impact of war in the Middle East, many construction businesses are struggling to survive and some, such as FK Group's Facade and Construction businesses, have lost the battle.

So, what can the industry do to prevent further collapses? What signs of distress should we be looking out for? How do we mitigate the risks upstream to prevent the individual project failures and stop these leading to company failure?

These were some of the big questions debated by senior industry figures from across the construction and wider built environment industry during a feisty roundtable event at Freeths' Birmingham office, which was co-sponsored by Freeths and The Save Construction Initiative and moderated by BE News Co-Founder and Editor-in-Chief Liz Hamson.

QUESTION: What is the current outlook for the industry and how effective is it at


Chris Mackenzie-Grieve


Darren Bird


Mark Beirne

managing risks and avoiding project failure?

BIRD: It's pretty bleak. ISG has been mentioned, but we haven't learned the lesson from the liquidation in 2018 of Carillion. Currently, there are an estimated 6,000 to 7,000 construction companies in critical financial distress.

BEIRNE: Given the structure within the construction industry, we set ourselves up to fail; particularly our commercial arrangements and procurement. The issues are complex, but evidence shows they can be addressed and when they are, significantly better outcomes are achieved for all. The data is out there.

While risk aversion is understandable, risk can be managed and mitigated through collaborative working and by allocating to the party best able to handle risk and on value created, not by passing it around like a hot potato.

If you are a repeat client in construction, the minimum requirement for capability is understanding good and bad advice and 'what it should cost, not tender price', with the understanding that risk always comes back to the client, Carillion and Grenfell for example. So, understanding and mitigating risk isn't best done by 'risk dumping' as is the norm.

There are some excellent aids out there such as the Construction Playbook and Constructing the Gold Standard that have the potential to be game changing.

> ***"Given the structure within the construction industry, we set ourselves up to fail"***
>
> *Mark Beirne*

BIRD: It's a good point about the Construction Playbook and the frameworks, because Tarmac have around 40 frameworks, all public contracts. They're central government and local government, so fairly low risk in reality. Tarmac are risk averse anyway as a company, [but] we [as an industry] create our own risks and, unfortunately, I've not seen any of the 24 recommendations in Professor David Mosey's 2022 Constructing the Gold Standard yet come through.

MACKENZIE-GRIEVE: As an industry, we've only got ourselves to blame as we've failed

Matt Butler

Li Yen Lim

Chandni Vora MBE

to get the basics right. When we're trying to move forward, we look for new solutions, new technology, new ways of doing things, when what we really need to do is get back to the basics, start doing them right and stop creating problems for ourselves.

When we look at risk, there are those we've created because we haven't done something well. Then there are risks created through the likes of regulations and planning that also need looking at.

QUESTION: The UK government is implementing reforms to tackle late payments. What impact will they have?

BUTLER: Late payment isn't the cause of distress, it's often symptomatic of value being mismanaged much earlier in the project. A less discussed contributor to project distress is early-stage overvaluation - where costs are front-loaded within the tender and contract sum analysis and early applications are certified too generously. It creates a situation where value is effectively released before the corresponding work is delivered.

This is where funders and underwriters are particularly exposed. A scheme may appear viable at appraisal stage based on total cost, but if insufficient attention is paid to how that cost is distributed across the lifecycle of the project, the risk profile can change dramatically during delivery.

Extended planning timelines, [Building Safety Act] Gateway requirements and regulatory complexity mean developments are often held in pre-construction for prolonged periods.

This introduces pressure to funding structures and cash flow assumptions long before a contractor is appointed. By the time construction begins, that pressure hasn't disappeared, it has simply been transferred into the delivery phase.

QUESTION: What are the key signs of

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John Powell


Lizzie Rosewell

distress to look out for?

WHEELER: I get involved when the risks of loss are material and causing problems, so have led to disputes. It's the same type of issue we've seen consistently in the last 13 years of working in disputes. There are obviously strategies, which are great, but they're not being implemented, and we see that time and again, meaning even basic things are giving rise to disputes.

Take a statistic in terms of adjudications, in 2024, 63% were smash-and-grab adjudications. Now that tells me this is nothing to do with pricing, changes, claims or variations, but simply down to someone missing a payment notice.

It's poor contract administration. Theoretically, those are very easy fixes, through standard training and skills.

LIM: It goes back to the training history. At Freeths, we frequently see contracts negotiated intensely, and once signed, they're just placed in a box in a cold room somewhere and forgotten about a dispute arises, and then people will start looking at them.

We try to flip that. What we now do for clients is when the procurement or transactional team gets the signatures and everything needed, they loop us in. My disputes team will talk to the delivery team and walk them through how the contract works, what notices are required, what they need to look out for, how early they need to have a conversation with the client or others in the project team..

QUESTION: Is the Building Safety Act now starting to have the desired impact rather than just causing delays?

POWELL: As an industry, we haven't been good over the years with how we delivered product. We needed an intervention of that nature to put the industry back on track.. Over the last 12 months, it has recognised that and started to implement some controls.

There's been a lot of positive engagement from the Tier One firms and we're seeing that the industry recognises the need to sort itself out, despite issues around delays.

But look at feedback from the regulator regarding the submissions that have gone in through Gateway 2, which haven't been fit for purpose. I've got a team in my consultancy focusing on the Building Safety Act and working with contractors and clients and navigating the Gateway process. If it's done properly, it will go through.

ROSEWELL: Within our firm, we've got teams going through the pre-application process, and what they're finding is that it encourages everybody to bring the contractor on board a lot sooner, and for the whole project team to go through that process together. It wasn't

Khaleda Wheeler

James Gardener

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brought in with that intent, but it may help to get halfway through the project.

QUESTION: Looking ahead to the next 12 months, how optimistic are you compared with this time last year? And what is the most important step firms should be taking to manage risks, spot signs of distress and avoid project failure?

WILLIAMS: It is all about transparency and early engagement with all teams. It's not necessarily about culture. It is about leadership. If people can instil within their teams that they are open and that there is a safe space to say there is an issue, they can then start to combat that issue and identify and address the risks, which hopefully should minimise.

It's about ensuring you try and deal with the issues there and then. From a partnership perspective, if I were to look at which sites have more issues, they do not tend to be those run by our JV partnerships as we have an obligation to be transparent with our partners, so there is more governance throughout the process.

VORA: In terms of what the industry can do, the focus should be on due diligence in the supply chain, particularly given the current geopolitical issues.

Proper investment in training and in technology is another important factor, as is ensuring standards are embedded throughout all critical processes, so businesses can more easily identify risk management issues and take the necessary actions to address them.

QUESTION: What do you think will be the biggest challenges facing the industry over the next 12 months?

GARDENER: It's got to be supply chain

Tan Knowles

Ray O'Sullivan

resilience and how it is governed. But the top three risks today are geo economic conflict, state-based conflict and extreme weather. The others to look at are rising inflation and AI. The opposite to the positive potential AI has is the negative cyber security issues it raises and how that's going to work.

There are going to be pros and cons with AI, and you've got to do a lot of weeding out of start-up companies: some are good, others pose threats. It doesn't help organisations as they plan for the future that the unregulated advance of AI is cited as one of the major factors being the Doomsday Clock being set to 85 seconds (1 minute and 25 seconds) to midnight, the closest it has ever been to global catastrophe!

KNOWLES: Other major challenges are DE&I and the skills gap. It is well known the construction industry isn't diverse enouugh: around 15% of the construction workforce are women. Then we have the skill shortage. We have seen a reduction in uptake in terms of university and college courses that are construction industry related, and that further exacerbates the issues that we are currently seeing.

O'SULLIVAN: The biggest concern for us is the skills gap. We are deeply concerned about the capacity and depth within the supply chain to meet the skills requirements, such as the government target for 300,000 homes a year – which will not be hit.

Businesses need to consider how they approach this risk. We are now more focused on our future workload and how we manage this risk.

LIM: I don't know if I'm eternally optimistic, but hearing the issues here, many are being tackled and openly discussed, and that is good. I'm looking forward to more and clearer legislation. No doubt many new laws will be coming our way. Understanding the industry's culture and how people respond to them is important because we need more openness, transparency and a collaborative mindset to deal with these risks and issues.

A key takeaway is people are recognising what the problems are and some are dealing with them and having those collaborative relationships. I'm excited about that collaborative piece because it is the way to go as an industry. We cannot be dog eat dog. There is a place for everyone. □

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