

Minister for Local Government and Housing
Kevin Stewart MSP



Scottish Government
Riaghaltas na h-Alba
gov.scot

T: 0300 244 4000
E: scottish.ministers@gov.scot

James Dornan MSP
Convener
Education and Skills Committee
Scottish Parliament

By email to: es.committee@parliament.scot

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Dear James,

Thank you for your letter of 30 May 2017 inviting me to give evidence to the Education and Skills Committee on 28 June 2017 regarding school infrastructure. I look forward to attending the meeting and discussing this important matter.

In advance of the meeting, I have attached written evidence from the Scottish Government and Scottish Futures Trust.

I hope the committee finds this helpful.

Yours aye,

KEVIN STEWART

**Written evidence provided by the Scottish Government and Scottish Futures Trust
Education and Skills Committee
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1. Introduction

We understand that the Committee's Inquiry follows the publication of the Report of the Independent Inquiry into the Construction of Edinburgh Schools by Professor John Cole in February this year.

Firstly, we would like to commend Professor Cole on the thoroughness of his Inquiry and Report. The recommendations he has made are carefully considered and relevant for the construction and related industries and all asset procurers and managers, not just public authorities in Scotland. The report is very clear that the prime issue was construction quality and its supervision and management by the construction contractor and sub-contractors and that this issue was unlikely to apply just to PFI buildings or just in the schools estate.

Secondly, we would like to endorse the Report's commendation of City of Edinburgh Council's (CEC) handling of the relocation of 8,371 pupils and the minimisation of the impact on their education. The Report finds that "The evidence suggests that it was an excellent example of collaboration by many diverse organisations, groups and individuals working towards an immensely difficult but shared goal. To succeed, as it did, required clear leadership, rapid but effective decision-making and a total commitment on the part of all involved." All the Council staff, partner organisation staff, contractors, parents and pupils involved and affected deserve commendation for their handling of the situation.

2. Background

On Saturday 9 April 2016, following the decision on 8 April to close all 17 PPP1 schools in Edinburgh, the First Minister chaired a meeting of Scottish Government's Resilience Committee and offered all possible support to the CEC in its response to keep disruption to children's education at an absolute minimum. Scottish Futures Trust (SFT) was present and agreed to lead a coordination effort, sharing technical information between Local Authorities and other public bodies to help inform their own response to the issues emerging from Edinburgh. SFT's infrastructure specialist team mobilised quickly having senior professionally qualified Engineers and Architects in-house, supplemented with specialist structural engineering skills.

Responsibility for the quality and safety of buildings lies with the building owners and managers which the case of schools is Local Authorities. The central effort therefore focussed on information sharing. SFT continued in that role until the publication of the Cole Inquiry report. Following the publication of the report SFT wrote to all relevant public bodies highlighting the report's findings. Shortly afterwards SFT handed over the response to the Scottish Government to coordinate policy going forward.

3. Inspection and Remedial Work on the Current Estate

In the days after the closure of the Edinburgh Schools in April 2016, Local Authorities and others sought a technical understanding of the issues identified in order to properly focus their own assurance activity. The CEC team dealing directly with the issue was rightly focussed on their own estate and SFT provided a single point for sharing of relevant information. The CEC team made time to pass a technical understanding to SFT which was then communicated by SFT to all Local Authorities and Public Bodies on 19 April.

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Local Authorities took the information shared and used that to plan and undertake their own assurance activities. The assurance activities varied between Authorities and SFT received responses from all (except Edinburgh which was clearly engaged with the issues) acknowledging that they had considered the information provided to undertake assurance they considered necessary given their own circumstances. Many offered more detailed feedback to SFT in order that a fuller technical picture of what was emerging as a wider issue could be built and shared. SFT did not seek information on a school-by-school basis across Scotland as the objective was to build and share a technical picture. On 2 June SFT's proactive approach allowed us to share further information, including that intrusive survey is the most reliable approach to identifying masonry defects of the type identified in Edinburgh. This has since been validated by the Inquiry Report (paragraph 9.3.15).

In summary, Scottish Government and SFT's role has been to offer support to CEC in the aftermath of the school closures and, through SFT in particular, to coordinate the collection and dissemination of relevant technical information to Local Authorities and Public Bodies. Responses have been collected in order to further understand and share technical information which has shown that, whilst no issues as widespread and serious as those identified in Edinburgh Schools have been identified, quality issues in masonry walls are not limited to PFI buildings or to the schools estate. Local Authorities and Public Bodies have been encouraged, in a letter from SFT following publication of the Inquiry Report, to consider its findings in respect of their own risk assessment and assurance processes for masonry wall construction, and wider quality issues including in particular those associated with fire stopping.

The responsibility for school estates and for undertaking assurance activities lies with Local Government. So, whilst we are aware that schools have been inspected, faults have been identified, and remedial works have been undertaken, it would be for Local Government representatives themselves to inform the Committee as to the full extent of those activities.

4. Quality Assurance Practices

The project development approaches and construction methodologies adopted in schools delivered through the more recent Scotland's Schools for the Future (SSF) Programme managed by SFT are significantly different from those adopted at the time the Edinburgh PPP1 schools were built.

The recent approach has been to develop schools individually or in small groups, whether they be capially funded or developed through Design, Build, Finance and Maintain contracts. This contrasts with the 17 schools eventually delivered through Edinburgh's PPP1 programme and the general practice at the time for "bundling" large groups of schools for delivery through PFI. Individual project development allows a greater focus from limited Council teams and avoids the complex sub-contracting web of Edinburgh PPP1. This approach, combined with SFT's leadership on exemplar school designs, life cycle costing and sharing best practice can improve the focus on school briefing, specification and quality.

There is a much-reduced use of "brick and block" construction in recent school projects, with most now largely comprising quick, accurate and energy efficient Steel Framing Systems (SFS). This modern method of construction removes the brick to block wall tie which was found to have quality issues in Edinburgh and instead uses ties held in to a steel rail system on the inner wall leaf. SFS is an example of the industry continually evolving to design out potential quality weaknesses and gives increased confidence in the quality of recent school buildings in this area.

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SFT has sought responses from all of the 5 regional hub companies which have delivered many schools in the SSF programme and all have undertaken their own assurance activities including reviewing quality systems and procedures, increasing photographic records of construction and inspecting recently completed buildings. These actions gave confidence in the quality of recent school building. SFT takes the quality of construction extremely seriously, and mindful of the emerging evidence that intrusive survey is the best approach to identifying similar defects in completed buildings, ordered a sample of independent intrusive surveys to be undertaken. All of these surveys are now complete, and whilst the detailed reports are still being analysed the findings, including recent schools in the SSF programme delivered through hub and one through a different procurement approach, have not identified any wall or header tie defects.

SFT has undertaken a re-assessment of quality assurance approaches since 2016 and will continue to do so as part of a programme of continuous improvement. Independent quality monitoring is used across the hub programme but improvements are always possible and the team is developing further detailed guidance. More generally, Scottish Government and SFT are working with public sector and industry stakeholders to develop guidance aimed at giving greater assurance of construction quality, and are convening industry groupings to address the wider recommendations made in the Inquiry Report.

The Committee remit asks whether there were particular issues depending on the funding model. The Inquiry Report identified that the issues in Edinburgh were primarily of construction quality. The Report includes that “It is the view of the Inquiry that while the financing method was not responsible for the defective construction, aspects of the way in which the PPP methodology was implemented on these projects did increase the risk of poor quality design and construction.” Any procurement and financing methodology must be well implemented to deliver a quality outcome. The evidence above shows that SFT and Local Authorities have introduced a series of significant changes in approach from those widely adopted in PFI projects at the time of the Edinburgh Schools PPP1 contract. This gives an enhanced confidence in the quality of construction outcomes but there is no room for complacency. SFT’s programmes represent a small proportion of overall works procurement by the public sector in Scotland and all procuring authorities, whether using client designed, design and build, or design, build finance and maintain approaches have a responsibility to develop and implement quality processes and monitoring regimes appropriate to the procurement route being used. Scottish Government and SFT will continue to evolve guidance (see Section 6) taking on board the detailed recommendations of the Inquiry Report, for which we are grateful.

5. Building Standards – Verification and Certification

The Scottish Government is considering the direction of travel reflecting the actions identified below:

- Undertake research to underpin a review of the current method of undertaking ‘reasonable inquiry’ by Local Authorities. This will clarify the intent and planning of site inspections by building standards surveyors and build on the risk assessed approach currently adopted.

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- Local authorities must undertake 'reasonable inquiry' checking before they accept a completion certificate for building work. This in effect starts from when they grant the building warrant. In 2012, the performance framework was introduced. This included KPO2 Increased quality of compliance during the construction process and as part of this, the Construction, Compliance and Notification Plan (CCNP) was developed in conjunction with Local Authorities. The Local Authority issues the CCNP with the building warrant which sets out the Local Authority risk-based inspection regime.
- Officials commissioned research in 2015 to 'Investigate the impact of the introduction of CCNPs on building standards compliance levels. The research made a number of recommendations and identified inconsistent approaches by some Local Authorities. Actions were put on hold awaiting the outcomes from the Cole inquiry and will be taken forward as part of this workstream.
- Further research will build on the CCNP methodology in order to clarify the intent and planning of risk-based site inspection regimes by building standards surveyors.
- This is expected to require changes to the CCNP methodology and possibly changes to the Building (Procedure) (Scotland) Regulations.
- As with all the building standards related recommendations, we must be mindful of the possible future outcomes from the Local Government and Communities Committee recent work into 'Building regulations in Scotland'.
- Consider the role of third party certification by suitably qualified persons to provide assurance for building owners or developers when they confirm compliance of new buildings at completion stage.
 - The relevant person, usually the owner or developer, is responsible for certifying their building work complies with building regulations. There are third party certification schemes already in existence in the UK for the installation and certification of construction products.
 - Schemes include the installation of passive fire precautions (e.g. fire stopping of walls and floors, fire doors etc) and active fire precautions (e.g. automatic fire detection and automatic fire suppression systems).
 - It is proposed to reference these in the Building Standards Technical Handbooks to recognise their importance to building owners and developers. Independent schemes of certification and accreditation can ensure product conformity and that installers and maintenance firms provide assurance that the appropriate standards (including workmanship) have been met for the installation.
 - There are no equivalent third party certification schemes relating to the building structure e.g. cavity walls. Structural Engineers Registration Ltd (SER) had a preliminary meeting with the Minister in Summer 2016 but proposals are in the very early stages and any such scheme could take a number of years to develop, if at all.

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- The need for building owners to use competent people for all aspects of building work will be reviewed and reinforced where necessary in building standards guidance.
- Consideration will be given to the practicality of extending the current role of certification by approved certifiers to entire buildings or elements of the building.
 - The Building (Scotland) Act 2003 (the Act) provides a framework for aspects of a building to be certified at design stage, or at completion stage. Since the Act came into force on 1 May 2005, Ministers have approved three design schemes (Building Structure, Energy (Domestic) and Energy (Non domestic)) and approved two construction schemes (Electrical and Heating, plumbing and drainage).
 - Officials will continue working with scheme providers to increase the take-up of current schemes. Also consider the practicalities of further certification schemes and work with industry on their viability.
 - There have been various calls over the years for mandatory certification, however, there are strong reasons against it. Mandatory certification is likely to fall under the regulation of the supply of services to consumers (Scotland Act 1998 Schedule 5, Section G, reservation C7 consumer protection) which is reserved to the UK Parliament. Also, mandatory certification may infringe the EU Services Directive, EU Procurement Directives, EU competition rules and general rules or other trade agreements involving the movement of people and services across national and international boundaries.
- Review the operational delivery of local authority building standards services in respect of statutory procedures, enforcement and best practice to ensure the appropriate checks and interventions are in place and undertaken. For example, the requirement for and acceptance of completion certificates and permission for temporary use. Also, the role of specific design drawings and details at the building warrant stage and as-built drawings at completion certificate stage.
 - The Minister recently appointed all 32 local authorities as building standards verifiers for their own geographical area. Appointments included the condition that local authorities must meet the terms of the Performance Framework 2017, updated for the new appointment term, and the newly introduced Operating Framework 2017.
 - The Operating Framework 2017 sets out the key functions of the verifier and requires that 'Verifiers must adhere to legislative procedures and deadlines, appeals processes and complaints processes.' This includes having:
 - processes and controls in place to meet legislative procedures and deadlines;
 - measures in place for managing decisions and non-compliance; and
 - pro-active communication with applicants regarding key decisions.

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- The framework sets out the key legislative procedures. Officials will audit local authorities over the term of the appointments which will include adherence to the legislative processes. This includes the managing permissions allowing the occupation or use of a new building.
- Officials will also work with local authorities on building standards procedural requirements to consider the role of specific design drawings and details at the building warrant stage and as-built drawings at completion certificate stage. This may require changes to the Building (Procedure) (Scotland) Regulations.

6. Commercial, Procurement and Investment

- The Scottish Government is taking forward a series of actions that review and where appropriate update current Scottish Government policy and guidance in relation to the commissioning and procurement of public works:
 - The Construction Procurement Manual is currently undergoing a refresh that is due to complete in Autumn 2017. This work was planned as part of the ongoing Review of Construction Procurement.
 - In parallel, officials are working to review and update the baseline client skillset guidance and toolkit, including roles relating to design team. This piece of work was underway as part of the review of construction procurement. The scheduled completion date has still to be confirmed, though at the latest it will form part of the Autumn refresh.
 - Following the publication of the Cole report, draft interim guidance on supervision has been circulated to those responsible for the procurement of construction across the public sector.
 - Also following the publication of the Cole report a Construction Procurement Strategic Forum will be established. This forum will maintain a regular channel for strategic communication across all sectors of the public sector relating to the procurement of infrastructure.
- The Construction Procurement Manual is mandatory for public bodies operating under the Scottish Public Finance Manual. It is considered as guidance by other public bodies, such as local authorities. Officials will consider additional mechanisms to extend the uptake of policy and guidance in these matters, potentially on a project by project basis. This will be progressed once the manual has been refreshed in the Autumn.
- A meeting with Local Authorities is taking place on 15 June to progress aspects of Procurement and Building Standards, informed by the Cole report.

7. Training and Industry

Officials facilitated a workshop with a wide range of Industry representatives on 1 June, including the Construction Industry Training Board.

The workshop was held in partnership with Construction Scotland, who are co-ordinating the agreement of a consolidated set of actions that the construction industry will take in response to the finding of the report.

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Construction Scotland will keep officials informed on progress, and will support a Ministerial Construction Summit to take place late summer / early autumn. At the summit contracting authorities and the industry will provide updates on actions to address findings that have a bearing nationally.

8. Condition Core Fact guidance

Officials are currently engaging with the Scottish Heads of Properties forum, the relevant Local Authority grouping, regarding a more comprehensive review of the school condition core fact guidance.

We hope this written submission is useful for the Committee and look forward to a discussion of the issues raised on 28 June. We are committed to continuous improvement, and the quality of school buildings which are clearly essential for the safety of our young people. We will consider the findings of the Committee's Inquiry in detail and incorporate into the planned further guidance and evolution of practices as appropriate.

Scottish Government and Scottish Futures Trust
June 2017