



CIOB

THE CHARTERED INSTITUTE OF BUILDING



a report exploring
corruption
in the UK Construction Industry

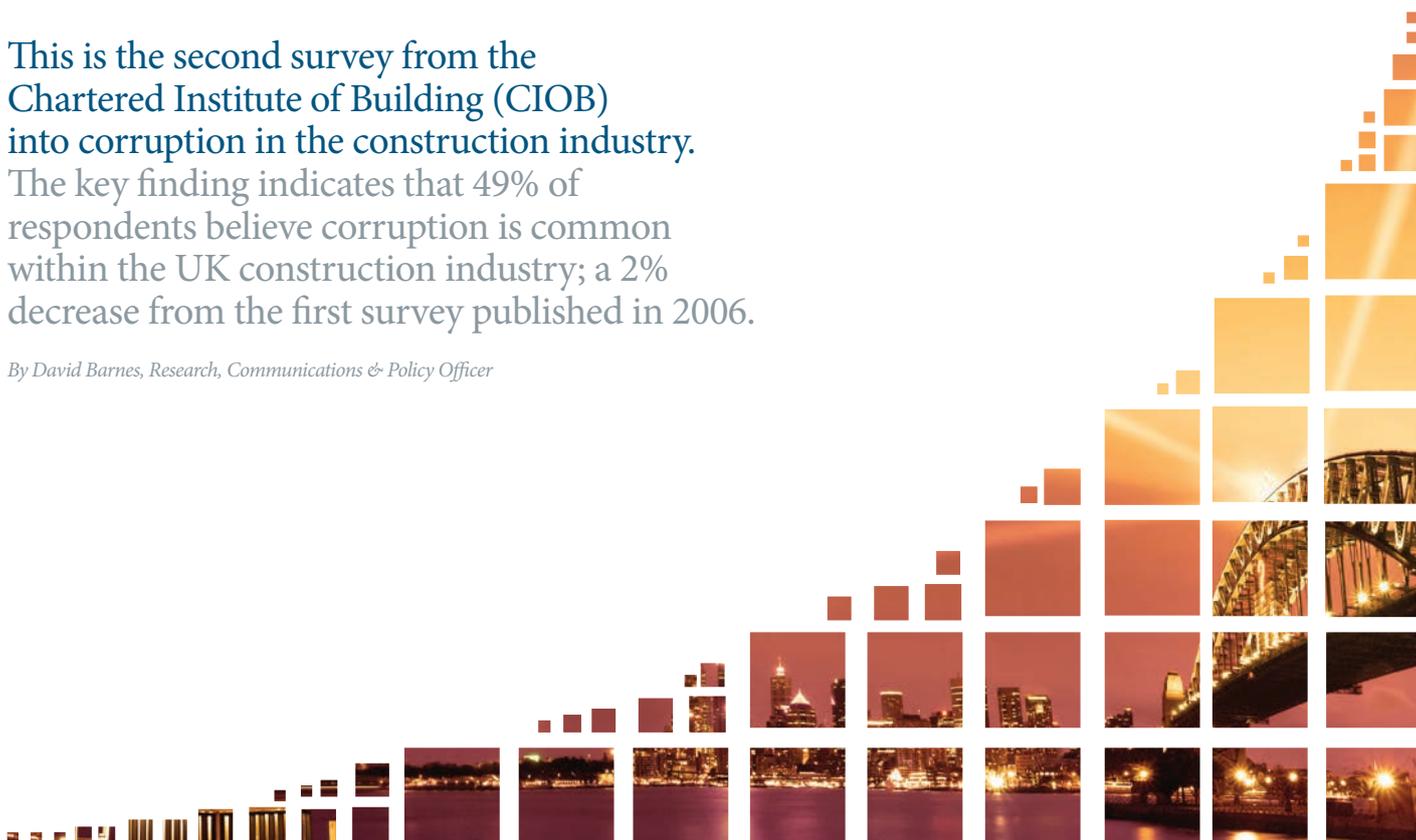
September 2013

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This is the second survey from the Chartered Institute of Building (CIOB) into corruption in the construction industry. The key finding indicates that 49% of respondents believe corruption is common within the UK construction industry; a 2% decrease from the first survey published in 2006.

By David Barnes, Research, Communications & Policy Officer



Respondents suggest that embedded cultural practices and the economic climate are the main reasons for the prevalence of corruption, noting squeezed tender margins and reduced workloads have pressurised some professionals into engaging in corruption as a means to survive.

This research examines the stance of construction industry professionals on the current state of corruption within the UK construction industry. This report centres on whether corruption is perceived to be a problem within the UK construction industry, what practices are deemed to be corrupt, and which parts of the construction process may be susceptible to corruption.

The report also seeks to gauge awareness of anti-corruption legislation and training, as well as gather views on whether industry and government are doing enough to tackle corruption.

The findings from this research indicate that the majority believes that corrupt practices exist in the UK construction industry, particularly in relation to fraud and bribery. However, 20% of respondents note that the practice of cover pricing is not corrupt. Of those,

most comments suggest the practice is often adopted as a necessity, since it allows contractors to remain on tender lists and ensure future work opportunities. Furthermore, the majority believes the practice should not be confused with cartel activity, such as bid-rigging and price fixing.

43% of the sample feel that corruption can occur at all stages of the construction process, whilst 35% suggest that the pre-qualification and tendering phase is the most susceptible to corruption. Comments indicate that bribery and collusion are the most likely to occur here, particularly when selecting favoured contractors.

Over half of respondents are unable to estimate the annual cost of fraud or corruption to their organisation, while almost 10% estimate it costs more than £1 million a year. Both figures present worrying challenges. Firstly, a proportion of the industry may not be implementing adequate measures to predict and prevent fraud before it happens, running the risk of making substantial losses without contingency planning. Furthermore, there must be concern about the business practices

of the near- 10% predicting annual losses of over £1 million, and about the sustainability of their operational environment.

Quality and access to anti-corruption training varies across the industry, with just over half of respondents indicating that their company has measures in place. However, over a third of respondents state that they have been offered a bribe or incentive on at least one occasion. Increased training provisions would help raise awareness of what constitutes bribery, corruption and fraud, boosting the long term image of the industry.

Lastly, there is near unanimous agreement from the sample that corruption needs to be tackled. 50% of respondents indicate that the UK construction industry is not doing enough to prevent corruption, while 55% make a similar claim about the UK Government. Comments strongly suggest that the majority of those working in the UK construction industry are unhappy with the current situation and would like to see more measures in place to prevent corruption occurring.

The Chartered Institute of Building is at the heart of a management career in construction. Our aim is to advance construction management education, underpinned by science and a wealth of experience of the development, conservation and improvement of the built environment.

The purpose of this research is to investigate whether industry professionals see corruption as a problem for the UK construction industry. The CIOB will use this research to raise awareness about the issues surrounding corruption with industry, government, the public and our members.

The construction industry has always been susceptible to corruption. The CIOB's research in 2006 found that 51% of respondents thought that corruption was either fairly or extremely common in the UK construction industry¹.

The research identified a highly sensitive issue within the industry. Three years later, the Office of Fair Trading (OFT) published its findings on an investigation into cover pricing. The investigation led to imposed penalties of £129 million for 103 construction firms in England that were found to have colluded with competitors on building contracts. However in March 2011, following an appeal by six organisations, the Competition Appeal Tribunal considered the OFT's fines to be excessive and disproportionate. The Tribunal reduced the sum imposed upon the six appellants from around £42 million to £4.4 million². But did this case signify a change in attitudes towards corrupt behaviour in the industry? And what, if any, progress has been made since?

Defining corruption

Various definitions of corrupt practice exist, making it difficult to underpin. Essentially, what is corrupt to one person might be considered common practice to another. For example, the 2006 CIOB Corruption survey found that around 25% of respondents felt that accepting or concealing bribes was either not very corrupt or not corrupt at all³.

Transparency International's Bribe Payers Index report from 2011 indicates that the construction industry is the most corrupt sector around the world⁴. The complex and fragmented nature of the industry provides an environment for corruption, with numerous participants in the supply chain competing for high value contracts. Corruption can take many shapes and forms within the industry, with cases of bribery to obtain planning permission, the overstating of budgets, the manipulation of payment applications, and collusion to share and divide the market. Furthermore, issues in tracking payments and varying legal regulations can facilitate corrupt behaviour internationally. With this repertoire of issues, it is unsurprising that corruption continues to be difficult to define, and that corrupt practices remains prevalent.

Costs of corruption

Corruption affects all levels of social and economic development. The European Commission estimates the economic costs incurred by corruption in the EU amount to EUR 120 billion per year, representing around 1% of total EU GDP⁵. Globally, the economic cost of corruption is estimated

to be around US \$2.6 trillion, which is more than 5% of total global GDP⁶. Clearly, there are disparities between various regions, with many European countries having stricter anti-corruption legislation and enforcement techniques in place than regions such as Africa, Asia and the Middle East.

But it would be narrow-minded to stereotype regional anti-corruption laws. For example, Botswana has worked hard to educate its citizens about corruption, as well as prosecute those found guilty of corrupt activity. The creation of the Africa Anti-Corruption Centre in Botswana's capital of Gaborone⁷ is testament to the country's anti-corruption commitment and warrants Botswana's ranking of 30th place in the Transparency International Corruption Perception Index of 2012⁸.

Consequences for the vulnerable

Regardless of the ranking of each nation, corruption can be said to be part of human nature. This cynical view is often justified when looking across the globe at corrupt activities in the construction industry, some with more devastating effects than others. The recent collapse of the Dhaka Rana Plaza in Bangladesh, which led to the deaths of 1,127 people, is just the latest case to become embroiled in the issue of corruption. The Construction Sector Transparency Initiative (CoST) states that this is not an isolated issue. A similar story emerged in Dar es Salaam, Tanzania, where it is claimed that the client and contractor both ignored the issue of planning permission for a 10-storey building. It was 16 storeys high when it collapsed⁹. These examples of unsuitable or dangerous construction tend to be more of an issue in the developing world than in the developed world.

Rockson Dogbegah, a CIOB Ambassador and Chair of CIOB's Ghana Centre, reported a number of issues affecting the construction industry in Ghana. He highlights the operation of a huge and dominant informal sector, with a large number of individuals engaging in construction activity. The majority do not have the necessary certification and qualifications, jeopardising the health and safety of workers and citizens. Much of this is blamed upon the lack of effective Government regulation and poor quality construction service delivery; an absence of leadership that hinders confidence in the construction industry in Ghana¹⁰.

1. CIOB, *Corruption in the UK Construction Industry*, 2006
 2. Building, *OFT reduced fines: A vindication for construction?*, 15 March 2011
 3. CIOB, *Corruption in the UK Construction Industry*, 2006
 4. Transparency International, *Bribe Payers Index 2011*, 2011
 5. The European Commission, *Corruption*, February 2012
 6. International Chamber of Commerce, Transparency International,

United Nations Global Compact & WEF-PACI, *Clean Business is Good Business – The Business Case against Corruption*
 7. The Commonwealth, *Commonwealth launches Africa Anti-Corruption Centre*, 21 February 2013
 8. Transparency International, *Corruption Perceptions Index 2012*, 2012
 9. The Construction Index, *Anti-corruption body calls for inquiry into Dhaka collapse*, 30 April 2013
 10. Rockson Dogbegah, *Report on Activities in Ghana*, 20 March 2013

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“In the developing world, trust in the construction industry has been hampered as a result of a broken regulatory system. Transparency remains one of the key drivers for restoring faith to the industry and improving the image of construction as a whole.”

Rockson Dogbegah, CIOB Ambassador

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Western Perspectives

Corruption in the construction industry takes many shapes and forms when exploring the western world. Canada, a country that is not often associated with ‘corrupt behaviour’ given its placing of 9th in the Corruption Perception Index of 2012, is currently embroiled in an inquiry into collusion in the construction industry. A mixture of political parties and criminal groups like the Mafia have been found to have colluded, resulting in cost overruns on public works contracts and the sharing of profits between those involved.

It must be noted that corruption can occur at all levels of an organisation. It is not just the high profile cases, such as that of the OFT investigation into bid rigging, that damage the image and the integrity of the industry. At ‘ground level’, corruption occurs through numerous practices such as the forgery of Construction Skills Certification Scheme (CSCS) certificates, which falsely demonstrates that the holder has National Vocational Qualifications (NVQ)¹¹. A frequent complaint identified in our 2006 research was the employment of illegal labour, allowing contractors to undercut prices or to make a profit by underpaying workers while charging full labour rates. This has also been identified as a serious issue in terms of lax health and safety and in undermining the skills base. Other issues included the theft of materials from sites, self-employed workers engaging in tax evasion and the blurred lines surrounding the use of corporate entertainment and gifts.

UK Legislation

UK Competition Law

Over the last two decades, UK measures have focused on the limitation and prevention of anti-competitive behaviour, cartel activity and the abuse of market power. Firstly, the Competition Act 1998 prohibits agreements and practices that restrict UK competition, as well as the abuse of a dominant market position. If found to be engaging in anti-competitive behaviour, an organisation can be fined up to a maximum level of 10% of worldwide turnover for each year of the infringement.

The Enterprise Act 2002 went further, introducing tougher sanctions on those found to be involved in cartel activities. In fact, dishonest participation by an individual in price-fixing, bid-rigging, market sharing or limitation of output or supply may be met with unlimited fines and the imposition of a prison sentence of up to 5 years¹². The OFT is responsible for the implementation of this legislation, which forms the bedrock for UK competition law.

However, it became evident that the legislation did not go far enough in tackling domestic bribery and corruption. In 2008, the Organisation for Economic Co-operation and Development (OECD) criticised the UK’s failure to upgrade its anti-bribery laws, in line with its international obligations under the OECD Anti-Bribery Convention¹³.

UK Bribery Act 2010

Following this criticism, the UK delivered the Bribery Act 2010 after numerous draft bills and reports spanning several decades. The intention was to simplify existing law on bribery and update vague and outdated anti-corruption legislation from the early 1900s.

The 2010 act made it an offence for a UK citizen or resident to pay or receive a bribe, either directly or indirectly. A new ‘corporate offence’ was introduced under section 7, which holds commercial organisations under ‘strict liability’ where there has been a failure to prevent a bribery offence by employees, agents, or subsidiaries¹⁴. In the event of fraudulent activity, organisations may defend themselves on the basis they can prove ‘adequate measures’ and codes of conduct are in place to prevent bribery.

The act formally came into force on 1 July 2011 and sanctions for non-compliance include:

- unlimited fines for companies;
- up to 10 years’ imprisonment;
- the disqualification of company directors for a period of up to 15 years;
- the confiscation of property under the Proceeds of Crime Act 2002.

Referred to by the media as one of the toughest anti-corruption laws in the world, the act has broad extra-territorial effect. It applies to any UK incorporated companies, to UK-formed partnerships, and to any companies that carry out business within the UK.

11. Mike Murray and Andrew Dainty (eds), *Corporate Social Responsibility in the Construction Industry*, 2009

12. Slaughter and May, *An Overview of the UK Competition Rules*, January 2011

13. OECD, *OECD Group demands rapid UK action to enact adequate anti-bribery laws*, 16 October 2008

14. Ministry of Justice, *Bribery Act 2010 Guidance*, March 2011



To date, there has only been one prosecution under the Bribery Act. An administrative officer at Redbridge Magistrates' Court was found to have taken £500 by way of a bribe to avoid putting details of a traffic summons on a court database. The person was believed to have earned at least £20,000 by assisting 53 offenders.

The distinct lack of prosecutions under the act has raised questions from some industry figures about how it is enforced by the Serious Fraud Office (SFO). Interestingly, in a poll of over 2,000 individuals from various industries by Deloitte LLP, 57% of respondents were not worried about the possibility of enforcement action against their company. In addition, one-third of respondents lacked any knowledge of the act¹⁵.

Further concerns were raised by the Parliamentary Select Committee on Small and Medium Sized Enterprises. Its report stated that the Bribery Act had been met with "confusion and uncertainty" by a number of SMEs, and that the act is having a detrimental impact on the trading opportunities of British businesses. In light of these findings, the Committee has called for the act to be the subject of post-legislative scrutiny¹⁶, although it is currently unknown whether the act will be subject to a review or not.

What are we doing about corruption?

In 2012, corruption moved from 13th to 9th place in the World Economic Forum's ranking of risks affecting global supply chains¹⁷ – an indication of its ever-present threat to society. The purpose of our research in 2006 was to highlight the threats posed in a traditionally insular industry. Given today's tough economic climate – with construction output at its lowest levels since 1998 – the industry can ill afford to find itself embroiled in scandals involving bribery, corruption and unethical activity.

Since our research in 2006, the construction industry has responded – most notably with the launch of the Construction Sector Transparency Initiative (CoST). The CIOB has continued to be involved in the debate too, working with CoST as well as other organisations, such as the Anti-Corruption Forum, to promote best practice and emphasise the need for an ethical and transparent industry.

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In 2012, corruption moved from 13th to 9th place in the World Economic Forum's ranking of risks affecting global supply chains.

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15. The Wall Street Journal blog, *Companies Show Little Concern about UK Bribery Act Enforcement*, 25 June 2012

16. Select Committee on Small and Medium Sized Enterprises, *Report of Session 2012-13 Roads to Success: SME Exports*, 8 March 2013

17. World Economic Forum, *Building Resilience in Supply Chains*, January 2013

The survey was conducted using an internet-based questionnaire, which respondents could access through the CIOB website (www.ciob.org.uk).

Respondents were asked general demographic questions regarding their age, gender, location, job level, job sector, and the number of employees within their organisation. An email was sent to 23,478 UK-based CIOB members informing them that the survey was online. The survey was also opened up to wider participation through the use of social media channels.

There were both qualitative and quantitative questions in the survey, allowing respondents the opportunity to openly express their opinions.

A potential difficulty in conducting this survey was in defining corruption and what is meant by certain practices. For this reason, we added definitions where appropriate and these can be found in Appendix 1.

The sample

The sample consists of 701 construction professionals, the majority of whom describe themselves as working at a senior management level (Fig. 4) within contracting, project management, and construction management (Fig. 5). 42% of respondents work for organisations employing over 501 staff, while 46% work for organisations that employ fewer than 200 staff (Fig. 6). The majority of respondents are based in London and South East England (Fig. 1).

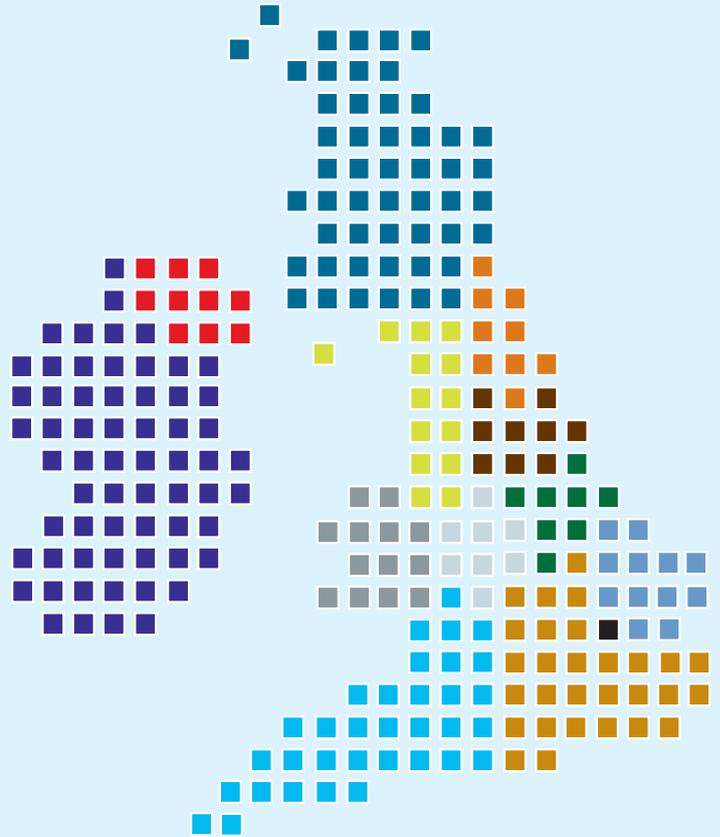


Fig.1

Location:

- Scotland (5.20%)
- Northern Ireland (2.18%)
- Republic of Ireland (2.30%)
- Wales (3.99%)
- North East England (4.35%)
- North West England (8.59%)
- Yorkshire (3.51%)
- East Midlands (5.08%)
- West Midlands (9.31%)
- East England (6.17%)
- London (19.95%)
- South East England (18.50%)
- South West England (7.98%)
- Other (2.90%)



Fig.2
Age

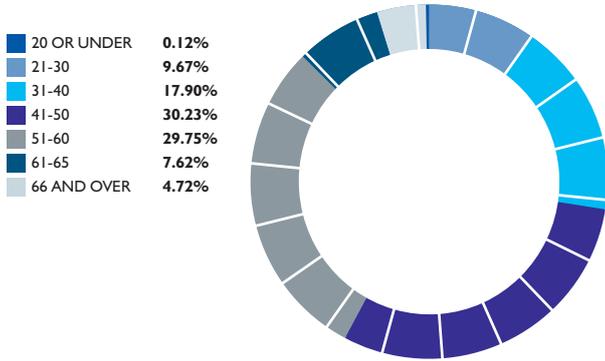


Fig.3
Gender

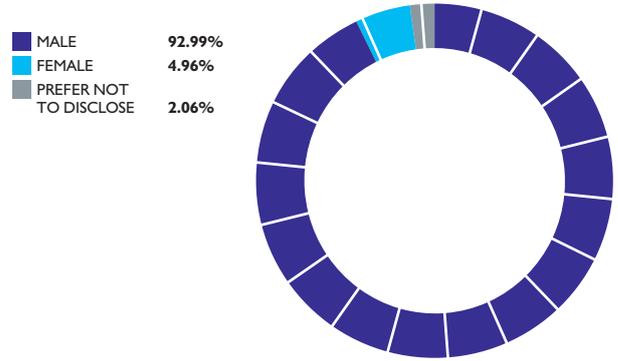


Fig.4
Job Level

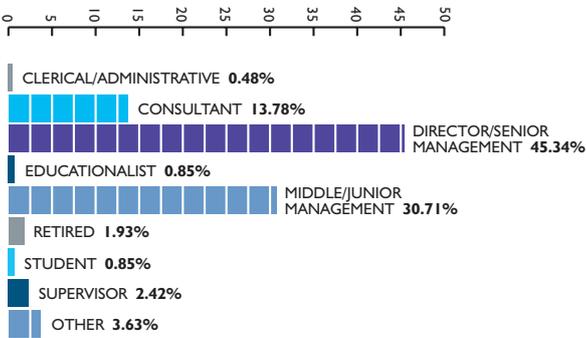


Fig.5
Job Sector

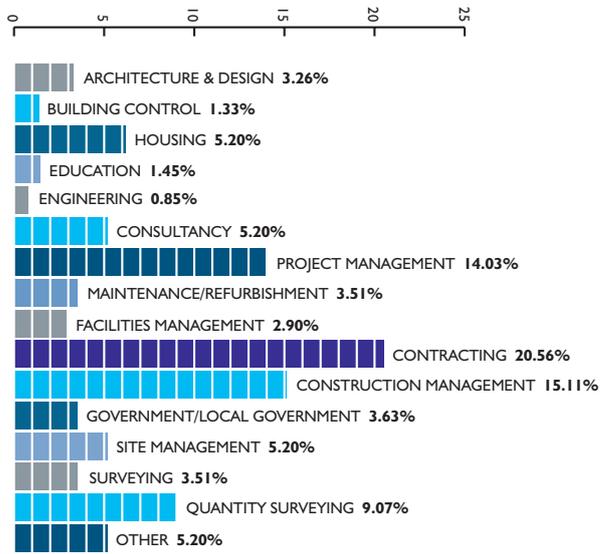


Fig.6
Number of employees in your organisation

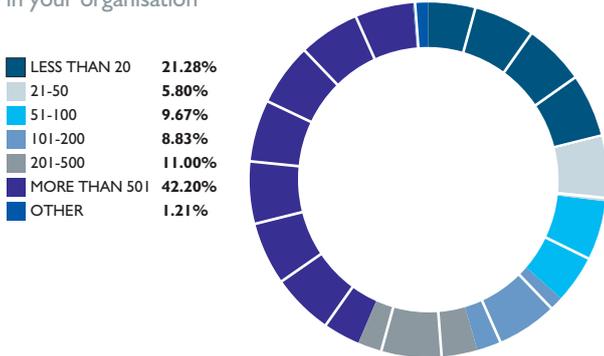


Fig.7: 49% of respondents believe that corruption in the UK construction industry is either fairly or extremely common, a 2% decrease compared to the results of the 2006 CIOB corruption survey. Although corruption in the UK construction industry has decreased since 2006, Transparency International's Global Corruption Barometer 2013 suggests that 65% of respondents feel that the levels of corruption more generally have increased in the UK over the last two years¹⁸.

Fig.7
How common do you think corruption is within the UK construction industry?

EXTREMELY COMMON	10.40%
FAIRLY COMMON	38.46%
NOT VERY COMMON	36.75%
NOT COMMON AT ALL	10.11%
DON'T KNOW	4.27%

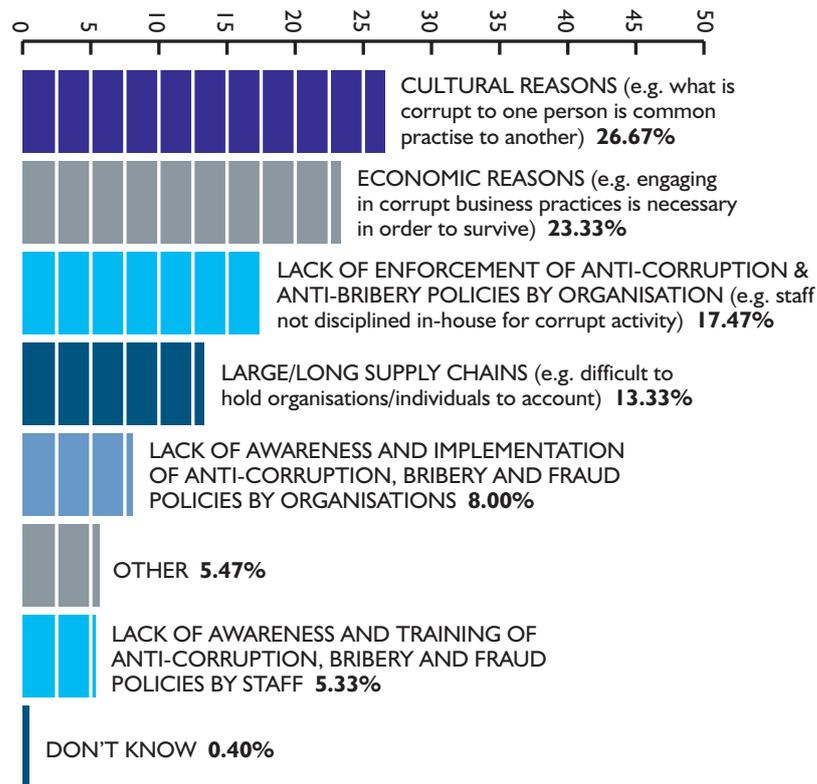


Fig.7.1
Why do you think that corruption is either fairly or extremely common in the construction industry? (select up to 3)

18. Transparency International, *Global Corruption Barometer*, July 2013

Fig.7.1: Of the 49% that felt that corruption was either fairly or extremely common in the UK, the majority cites cultural and economic factors as the primary reasons for this. Each factor presents unique challenges to the industry.

Firstly, it could be argued that economic reasons are a more recent occurrence. Construction is one of the industries worst affected by the recession, with construction output in the first quarter of 2013 said to be at its lowest level for nearly 15 years¹⁹. The lack of a stable pipeline of work has had a severe impact on the industry and the ability of construction companies to survive. Figures from accountancy firm PwC reflect this, indicating that there have been 5,580 construction insolvencies across the UK since the start of 2011 – a rate of 53 a week²⁰. With the increase in the number of companies folding, it could be argued that some may engage in certain practices as a necessity for survival, regardless of whether they are corrupt, ethical, or legal. For example, some self-employed workers and SMEs may engage in tax evasion or the employment of illegal labour in order to undercut competitors and make vital savings. Larger companies could collude with one another, pricing competitors out of projects to maintain market share, believing this was the only way to survive.

The fact that 23% of respondents believe that the economic climate is to blame for corruption in the industry is worrying indeed. One possible remedy would be to increase the accuracy, stability and visibility of the Government's central construction pipeline. Although the Government has been publishing and updating its pipeline of work, research by Glenigan found that some 119 public sector construction projects worth over £1.1 billion in total are currently on hold²¹. These stalled projects hamper the ability of construction companies to plan work and can lead to cash flow problems. They may also drain the industry of new workers entering the industry and lead to cost cutting in areas such as health and safety.

In the CIOB's research on procurement in 2010, 64% of respondents thought that a transparent public sector procurement process would benefit the construction industry. It was felt this would facilitate communication, build trust, and increase information sharing between all stakeholders. The report also found that 58% of respondents felt SMEs are at a disadvantage in the public sector procurement process, due to preferential bidders, framework agreements and the partnering process²². Research by the Federation of Master Builders (FMB) has called for the implementation of a simpler procurement process to encourage more SME engagement. Given that at least 80% of the construction industry consists of SMEs, the creation of an open and competitive environment could benefit companies that currently resort to corrupt practices to compete²³.

Additionally, reforming payment terms could prevent companies engaging in corruption to survive. Late payment by large contractors has been cited by some respondents as a serious threat to growth in the construction industry, forcing many sub-contractors out of business.

A cross-party parliamentary inquiry into late payment suggested that enforceable penalties should be implemented. This would apply if main contractors failed to pay their supply chain within 30 days on all public sector jobs and within 60 days for private sector clients. The UK Government's Construction 2025 strategy also includes plans to create a supplier payment charter.

27% of respondents to this year's survey also believe that cultural aspects are part of the reason for corruption within the industry. These may be in the form of business practices embedded over time and which are now the norm for how business is done. These cultural aspects are difficult to pinpoint, harking back to the idea that what is corrupt to one person might be common practice to another. For example, the 2006 CIOB corruption survey found that 32% of respondents felt that cover pricing was not very corrupt, and 5% found it not corrupt at all. This may indicate that 32% of respondents understood the practice of cover pricing to be regarded as corrupt by the majority, but chose to engage in it anyway because, culturally, business was conducted that way.

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With the increase in the number of companies folding, it could be argued that some may engage in certain practices as a necessity for survival, regardless of whether they are corrupt, ethical, or legal.

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19. Office for National Statistics, *Output in the Construction Industry, March and Q1 2013*, 10 May 2013

20. Construction Enquirer, *Fifty three construction firms going bust every week*, 31 January 2013

21. Glenigan, *Central Government Construction Pipeline*, May 2013

22. CIOB, *Procurement in the Construction Industry*, December 2010

23. Federation of Master Builders (FMB), *Improving public procurement for construction SMEs*, June 2013

Fig.8
What are your perceptions of the following practices?

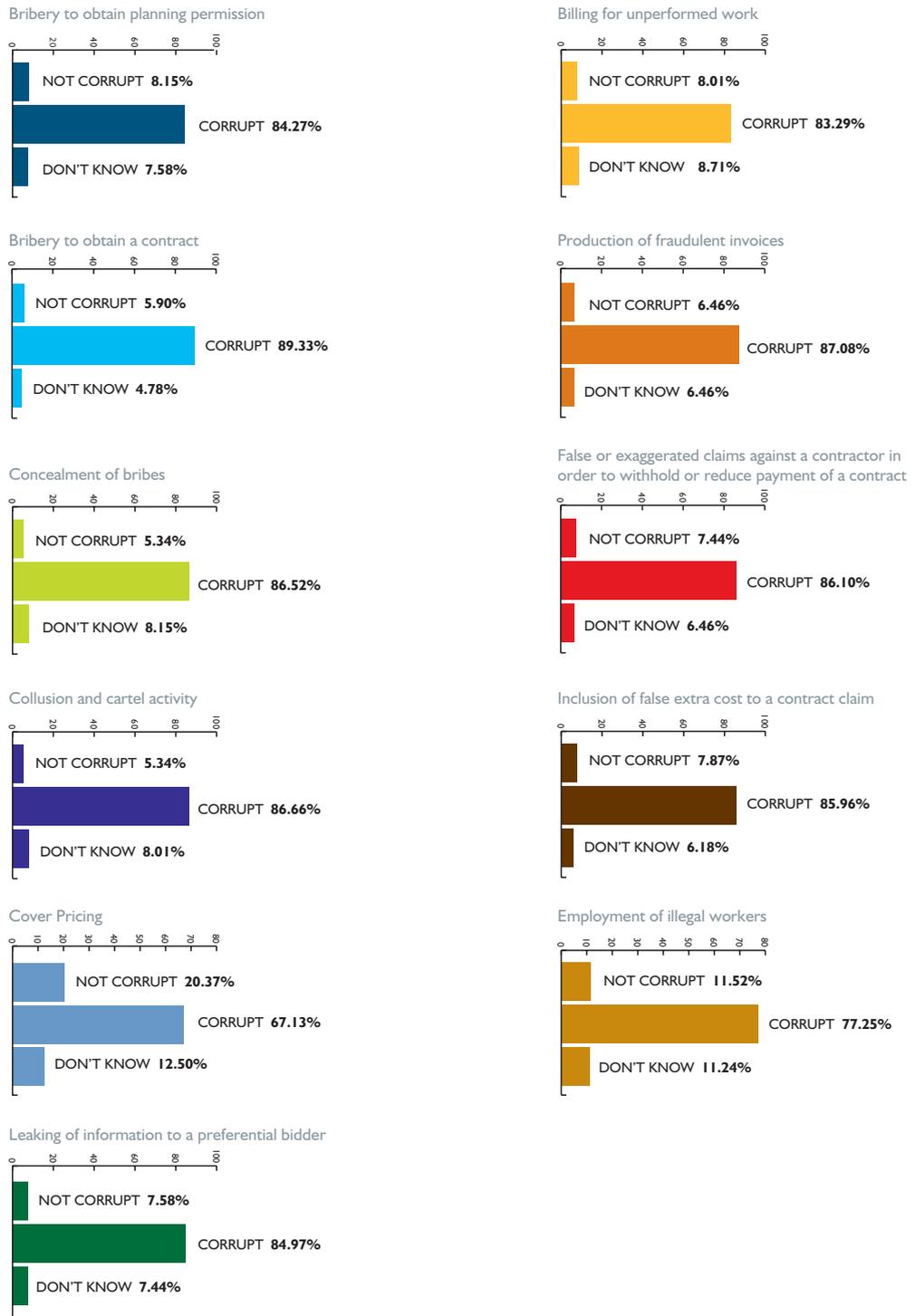


Fig.8: Respondents were asked to rate their perceptions of a number of practices associated with the construction industry. Predominantly, respondents acknowledged that all the practices listed are corrupt, with practices involving fraud and bribery seen to be the most corrupt.

Despite this, 20% of respondents feel that cover pricing is not corrupt. In a similar question posed in the 2006 CIOB corruption survey, it was found that 5% thought cover pricing was 'not at all corrupt' whilst 32% found it to be 'not very corrupt'. The idea that something is 'not very corrupt' can be interpreted in a number of ways and may be taken as acceptable depending on the environment that it is used in.

Of the 20% that feel cover pricing is not corrupt, the majority of comments indicate that cover pricing is undertaken out of necessity. It is done because contractors feel it is the only way to remain on tender lists and ensure future work opportunities. Declining to submit a tender for a respected client when invited is considered to count against contractors, even when their workload is full to capacity. In these situations, where the contractor is conscious of the reputational risk of apparently not wanting to undertake work, they may tender an artificially high price for a contract on the assumption it will not be accepted.

Some respondents suggest that contractors would not need to engage in this practice if clients could assure them that saying 'no' would not hamper their relationships. Clearly, there is a perception that it is better to engage in the practice and show an interest to tender. This is because of the belief that not tendering may lead to a restriction in the number of invitations – and opportunities for work – in the future. There were also calls for a greater definition of terms from the OFT. Some respondents want to draw a distinction between cover pricing to maintain working relationships and price fixing, through collusion, to set artificially high prices for work.

12% also note that the employment of illegal labour should not be seen as corrupt. Generally, respondents agree that the practice is a breach of legislation rather than an example of corrupt behaviour. These respondents note that companies may employ labour in good faith, on the assumption that they have the correct documentation. However, the practice should be seen as unethical if illegal workers are knowingly employed on reduced wages to gain a commercial advantage.

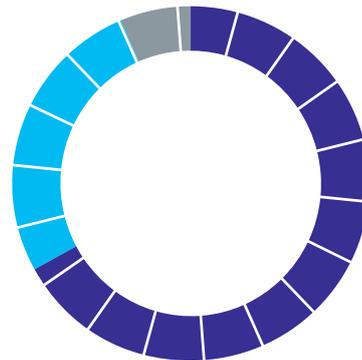
Fig.9: Corporate hospitality can be defined as the entertaining of clients by companies in order to promote business, especially at sporting or other public events. The use of gifts or hospitality can be an important part of maintaining a good working relationship. Companies normally have procedures and guidance in place to inform employees what may be considered acceptable and unacceptable forms of gifts, entertainment, and hospitality.

The majority of respondents felt that the use of gifts and corporate hospitality can be treated as bribery. This is despite the Bribery Act, in part, being introduced to prevent corporate hospitality being used as a mechanism for exerting proper influence on business decisions. On further analysis,

Fig.9

Do you believe that the use of gifts and corporate hospitality can be treated as bribery?

■ YES	67.00%
■ NO	26.86%
■ DON'T KNOW	6.14%



respondents indicate that the issue of hospitality is subjective, and that each instance of hospitality should be considered in isolation, with thought given to the manner in which hospitality was offered and accepted.

The subjective nature of corporate hospitality is clearly a cause for concern – and a difficulty for many individuals and companies alike. A number of respondents comment that corporate hospitality and gifts are acceptable, so long as they are 'reasonable' and not 'overly extravagant'. They should also be 'infrequent', occurring only once or twice a year. However, these must not interfere with the tendering or negotiation phases of a project, and they are more appropriate at the end of a contract, upon completion of all works, and when the accounts have been finalised.

A number of respondents feel that gifts and corporate hospitality have led to the blurring of boundaries. They believe these issues create confusion and an environment for shady business practices that should be avoided at all costs. Some respondents even suggest that practices often seen as common courtesies, such as refreshments at meetings or business lunches, can be interpreted as a possible bribe or a way to influence a decision.

Overall, there is consensus that the use of gifts and corporate hospitality is a grey area. Trends were apparent when analysing the responses and a large proportion of respondents state that any corporate hospitality and gifts should be declared in a hospitality register. Transparency, accountability and the spirit of openness should be part of the ethos of every company, regardless of size. Gifts and hospitality should be used at appropriate times and not targeted at key decision makers. They must also be proportionate in value to the size of the company and never be in the form of cash gifts. Of course, all these elements must be made public and enforced from the top down.

Fig.10

At what stage of the construction process do you believe corruption is most susceptible?

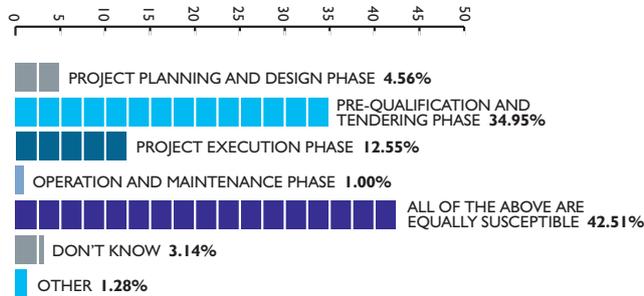


Fig.10: The majority of respondents suggest that all the 'typical' stages of the construction process are susceptible to corruption', with 35% specifying that the pre-qualification and tendering phase is the most at risk. The pre-qualification phase usually involves the process of evaluating and determining the competencies of contractors that wish to perform work on a specific project. Following this, shortlisted contractors are then invited to participate in what should be a fair and open tender process.

There are numerous corrupt practices that can occur during this stage, involving various parties. These can include the client and contractors, and even the consultants evaluating the bids. Practices may occur through companies colluding to cheat or deceive others and share the market. Price fixing is one such method, where companies agree to tender an artificially high price for a contract, on the assumption that the client will not accept the tender. They are submitted as if they are genuine bids, with the intention of misleading the client about the extent of competition. As a result, companies likely to charge less will be less likely to be invited to tender and a pre-selected winner may have been agreed between those parties who have colluded.

Other corrupt practices that may occur during this phase include tender assessment procedures being leaked to favoured parties, and tender evaluation forms being manipulated to discredit honest bidders. Bids may be rejected as a result of bribes being paid to clients, project owners and governmental officials. Furthermore, suppliers of materials and goods may collude to agree and/or maintain high prices.

Understanding where corruption may occur within the construction process should be viewed as important. The Global Infrastructure Anti-Corruption Centre (GIACC), a not-for-profit organisation, provides a useful resource to help understand and identify corrupt practices that may exist within the infrastructure, construction, and engineering sectors. The resource covers the whole spectrum of the procurement process²³.

23. GIACC, www.giaccentre.org



The majority of respondents suggest that all the ‘typical’ stages of the construction process are susceptible to corruption, with 35% specifying that the pre-qualification and tendering phase is the most at risk.

Fig.11

How much would you estimate that fraud or corruption costs your organisation each year?

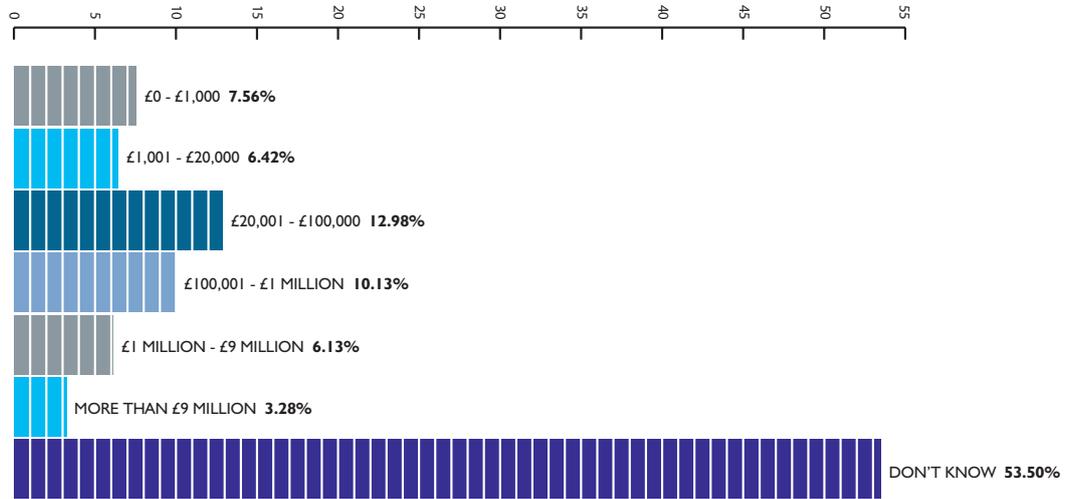


Fig.11: 54% of respondents are unable to estimate the annual cost of fraud or corruption to their organisation. Although the costs of fraud are difficult to predict, the figure is worrying. The statistics also indicate that almost 10% of respondents estimate that fraud or corruption has cost their organisation more than £1 million a year, with 1.6% of these respondents working in SMEs.

A report by the National Fraud Authority (NFA) estimates that fraud costs the UK around £73 billion per year, with the construction industry suffering £3 billion in losses²⁴. The figure of £73 billion per year needs to be treated with care, given that fraud was estimated to cost the UK £38 billion in the year before. However, this figure may be an indicator of the difficulties in tracing the true cost of fraud.

The economic climate has led to a number of companies operating with significantly reduced profits. In turn, this may lead to companies bidding for work at considerably lower values than their competitors, just to ensure they have work. In doing so, companies may only break-even on these projects or, in some cases, make a loss. To achieve savings, they may choose to ignore costing for risks such as fraud, error, and debt.

This point is raised in research by PKF (UK) LLP and the Centre for Counter Fraud Studies (CCFS) at the University of Portsmouth. The research indicates that companies have been measuring and reducing business costs for decades, but they have not been doing this in respect to the cost of fraud. This lack of acknowledgment (and possibly of understanding, too) suggests that companies may have a reactive approach to fraud. In other words, they act primarily after fraud has taken place and losses have been incurred²⁵.

Upon further analysis, 49% of those who indicate they operate at either a Director or Senior Management level state they do not know the annual cost of fraud or corruption to their company. Once again, this may be an example of how difficult fraud is to identify and predict, and it may also reaffirm the concept that companies are not attempting to predict the potential costs of fraud. Overall, the benefits of taking measures to anticipate the size and scope of fraud should not be underestimated – especially since such measures can lead to increased profitability and potential for investment. In addition, these measures could help to encourage greater trust and transparency throughout the company and industry as a whole.

The benefits of taking measures to anticipate the size and scope of fraud should not be underestimated.

24. NFA, Annual Fraud Indicator, March 2012

25. PKF (UK) LLP & CCFS, Minimising Fraud and Maximising Results in the UK Property Sector, June 2012

Fig.12

Have you personally ever come across cartel activity in the UK construction industry?

YES, ONCE	10.27%
YES, ON MORE THAN ONE OCCASION	27.25%
NO	51.93%
RATHER NOT COMMENT	10.56%

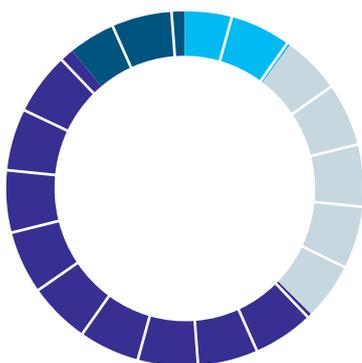


Fig.12.1

If yes, when was the last time you came across cartel activity in the UK construction industry?

IN THE LAST 12 MONTHS	28.90%
13-23 MONTHS	9.13%
2-4 YEARS	14.83%
4-6 YEARS	11.79%
OVER 6 YEARS	33.08%
DON'T KNOW	2.28%

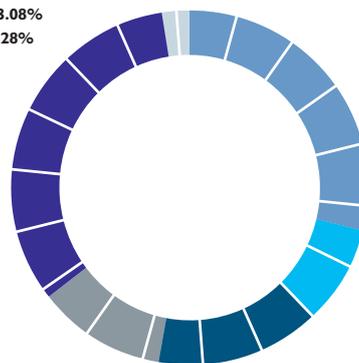


Fig.12 & 12.1: Over a third of respondents state that they have encountered cartel activity in the UK construction industry. This represents a 4% increase in comparison to the 2006 CIOB corruption survey. At its most simplistic level, a cartel is an agreement between companies not to compete with each other. This can be achieved through agreements on prices, market allocation and production levels for example. Cartel activity can lead to financial loss for consumers, competitors, and suppliers, and can also damage the wider economy by forcing organisations to exit the market as well as deterring new ones from entering.

Of the 38% that note they have come across cartel activity in the UK construction industry, 33% inform us that it was over 6 years ago. 29% have witnessed activity over the last 12 months, potentially indicating a resurgence of cartel activity in the industry.

Fig.13: 35% of respondents indicate that they have been offered a bribe or incentive on at least one occasion, representing a 6% decrease from the 2006 CIOB corruption survey. This could imply that the Bribery Act is working as a deterrent. However, these figures may only indicate 'direct' acts of bribery and may not take into account facilitation payments, which may be based on common practice or customs.

Fig.13

Have you personally ever been offered a bribe or incentive to engage in corrupt practices?

YES, ONCE	13.84%
YES, ON MORE THAN ONE OCCASION	21.54%
NO	59.91%
RATHER NOT COMMENT	4.71%

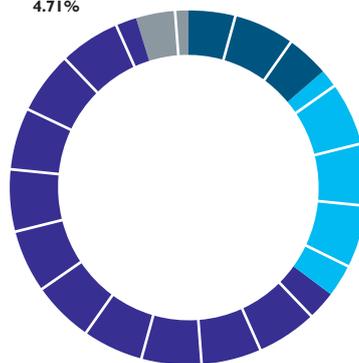


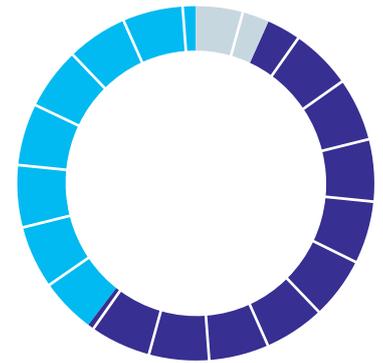
Fig.14: Whistle-blowing policies are normally established in order for employees to feel confident when raising concerns about certain business practices. Importantly, the policy should serve to reassure the employee that they will be protected from victimisation if the disclosure is made in the public interest.

Whistle-blowing has always been a subject of much controversy. Some suggest that whistle-blowers are noble characters, willing to sacrifice themselves in order to expose undesirable business practices. Others are more cynical, suggesting that whistle-blowing arises out of greed, or the desire to taint a certain individual or company. Despite these disparities, whistle-blowing is often seen as one of the only methods available for disclosing illegal, unethical or otherwise disagreeable practices.

While the majority of respondents are aware that their company has a whistle-blowing policy, 40% are not. 7% of the respondents state that they have used their company's whistle-blowing policy, reporting a variety of outcomes. Some indicate that the matter in hand was dealt with in a professional and coherent manner by the company. Others cite cases where the employer ignored or covered up concerns, and in some instances suggested that the employee was 'troublemaking'. In research of 1,000 workers who approached a whistle-blowing helpline for advice, Public Concern at Work (PCAW) found that three out of four whistle-blowers who raise concerns with their managers about wrongdoing at work have their claims ignored; the research also indicates that 15% of the whistle-blowers were eventually sacked from their jobs²⁶.

Fig.14
Are you aware if your company has a whistle-blowing policy?

YES AND I HAVE USED IT	6.70%
YES BUT I HAVE NOT USED IT	53.70%
NO	39.60%



54% specify that they have heard of their company's whistle-blowing policy, but have not used it. However, the data from figure 13 indicates that – at some stage – 35% of respondents have been offered a bribe, or an incentive to engage in corrupt practices. It could be speculated that some of these respondents considered 'blowing the whistle', but believed the risks too great to warrant doing so.

The effectiveness of whistle-blowing policies under the Public Interest Disclosure Act 1998 could be called into question, when looking into the research conducted by PCAW. A perceived failure to protect those who speak out from being victimised, harassed, and even sacked by their employers. Successful whistle-blowing policies involve a commitment by employers to promote the message throughout all levels of the company. This ensures that employees have the relevant training, information and protection, and that they feel secure and confident enough to disclose dishonest practices.

26. Public Concern at Work, *Whistleblowing: The Inside Story*, May 2013

27. HR Magazine, *Many British business unaware of Bribery Act, reveals Ernst and Young*, 3 January 2013

Fig.15

Are you aware of the following UK legislation aimed at combating corruption and anti-competitive behaviour?

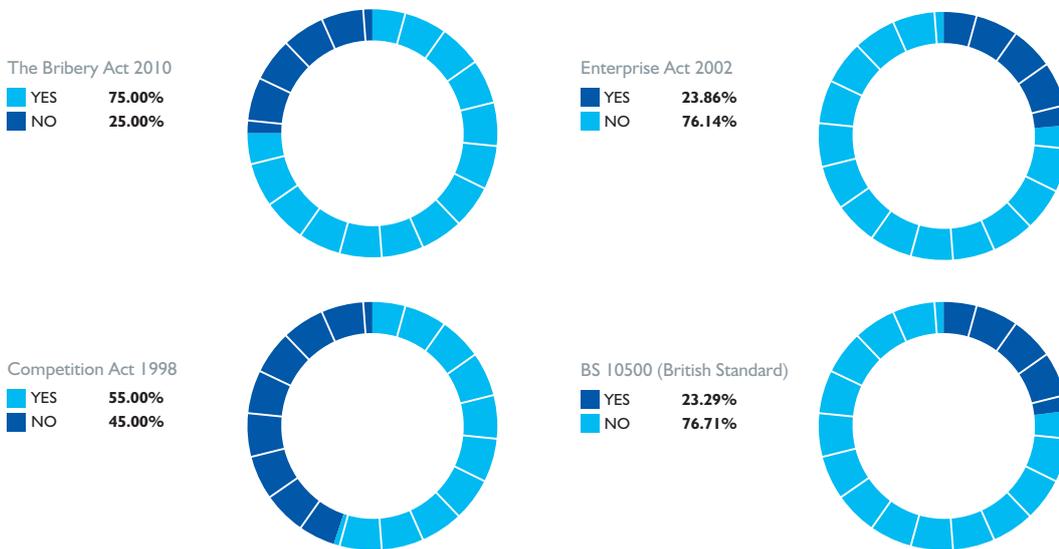


Fig.15: Among the respondents surveyed, three quarters indicate an awareness of the Bribery Act 2010. Upon further analysis, it should be noted that the majority of these operate within larger companies. Of the 46% of respondents in the survey that employ 200 or fewer people, only around half of respondents state that they are aware of the act.

These figures highlight a similar problem to what professional services firm Ernst & Young discovered in a poll of 50 procurement managers and directors across the UK. The research found that larger firms with a turnover of more than £50 million are ahead of mid-market companies – with a turnover of £5m-£50m – in terms of their awareness of the act (76% versus 36%, with 64% of the smaller companies still unaware of the legislation²⁷). Generally speaking, research has shown a steady growth in awareness although disparities still exist between industries, particularly when comparing company size and regional differences.

Examining further UK legislation, 55% of respondents indicate an awareness of the Competition Act 1998. This covers concerted efforts with the objective or effect of preventing and limiting UK competition. The Enterprise Act 2002, which made significant changes to UK laws and introduced tougher sanctions on those found guilty of cartel activity, was only acknowledged by 24% of respondents.

7% of the respondents state that they have used their company's whistle-blowing policy.

Although the British Standard Anti-bribery Management System (BS 10500) is not legislation, our findings indicate that 23% of respondents are aware of it. The majority of these respondents represent larger companies. The Standard provides a guidance programme for:

- managing bribery risk;
- ensuring adequate procedures and systems are in place;
- demonstrating a commitment to compliance and ethical behaviour that takes into account the requirements of the Bribery Act.

The Standard goes into more specific details that are applicable for the construction industry, such as gifts, corporate hospitality, and procurement.

Balfour Beatty, a multinational infrastructure company, has adopted BS 10500. A case study indicates that it has implemented the standard because of its business in numerous medium and high corruption risk territories. The company has developed adequate procedures to prevent it becoming involved in corrupt transactions. The CIOB promotes such standards and we are currently working closely with the British Standards Institute (BSI) to develop new standards for the prevention of procurement fraud.

Fig.15.1
Do you feel the Bribery Act 2010 is a benefit or a disadvantage to business?

BENEFIT	40.30%
DISADVANTAGE	3.01%
NEITHER A BENEFIT OR DISADVANTAGE	31.10%
DON'T KNOW	18.73%

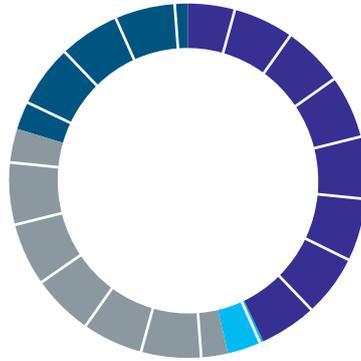


Fig.15.1: The Bribery Act aims to toughen up the UK’s stance against corruption, yet its arrival has been met with mixed opinion. Some commentators commend the UK’s efforts to tackle corruption, whilst others have criticised the act, indicating that it damages UK competitiveness nationally and internationally. SMEs are said to be at a particular disadvantage, having to try and cut through excessive red tape and being limited in their ability to entertain clients and trade overseas.

Most respondents believe that the act serves as a benefit to business. Comments suggest that the act has helped raise awareness, which in turn has led to an open discussion on the implications of bribery and corruption, and their damaging effects on the industry. The act has regulated standards, attempting to place companies on a fair and level playing field, as well as led to many examining their own business practices to check that they are acting in a professional and ethical manner.

A minority feels that although the act discourages illegal practices, it has also inhibited networking opportunities and created confusion about the acceptable and unacceptable use of hospitality. Comments call for clearer definitions of bribery in relation to hospitality and for the creation of new guidance with a focus on the construction industry. This would replace the existing ‘one size fits all’ approach.

Only a few respondents suggest that the act has hampered their ability to compete overseas, particularly in regions where facilitation payments are seen as common practice rather than a bribe. The UK Government’s Construction 2025 strategy commits to identifying global trade opportunities, and closing the trade gap by 50% between total exports and total imports for construction products and materials. If the UK construction industry is to succeed in this commitment, the UK Government may wish to review the case for facilitation payments, or put in effective measures to ensure compliance. Ignoring this risk could lead to a failure in reaching the goal.

Fig.16
Are you aware whether your company has training and procedures in place to prevent bribery and corrupt activity?

YES	52.12%
NO	37.24%
DON'T KNOW	10.64%

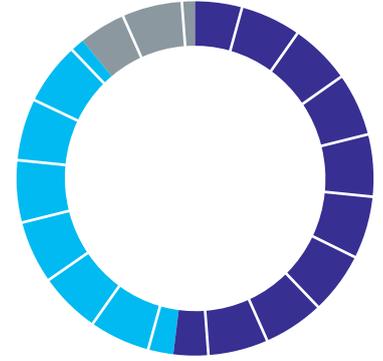


Fig.16: A slight majority is aware that their company has training and procedures in place to prevent bribery and corrupt activity. Worryingly, the rest of the respondents indicate that there are no training or procedures in place, or they are not aware of any.

Upon further analysis, 33% of respondents in companies with 200 or fewer employees indicate that they are aware of training and procedures. This compares to 69% from organisations with 200 or more employees and represents a gap in training of 36% between respondents from large and small companies. This is possibly a result of the cost implications of providing such training, or a decision about the relevance of such training to operations.

Respondents were asked what training – if any – they have undertaken within their organisation. Comments suggest that training programmes in relation to anti-corruption and anti-bribery differ vastly from company to company. The forms of training that feature frequently amongst respondents are:

- E-learning and online modules;
- company policy and procedure briefings;
- in-house training performed by human resources, auditing and contract teams;
- seminars and lectures presented by external speakers (predominantly by law firms);
- personal Continuing Professional Development (CPD) training provided by a professional body.

E-learning appears to be the preferred choice amongst larger employers, covering mandatory assessed modules encompassing bribery, corruption and fraud. A number of respondents who had received more than one form of training felt that training through seminars, lectures and CPD was often the most engaging, in-depth and beneficial form of learning. A number of respondents from SMEs indicated that their business activities were far too small to warrant training, and that their companies are self-regulated.

Fig.17
How important do you believe
it is to tackle the issue of corruption?

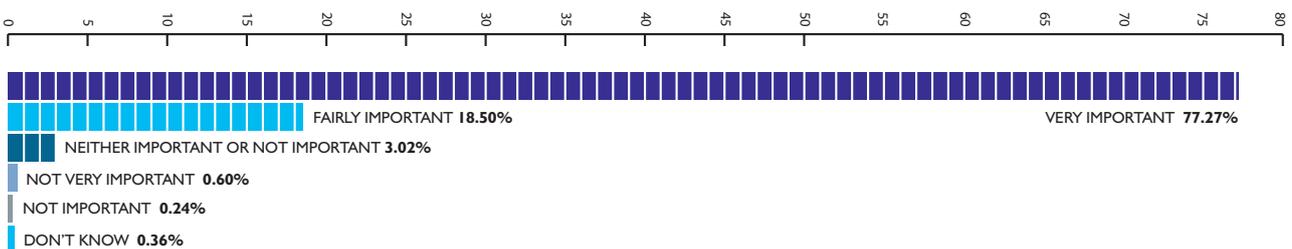


Fig.17: The overwhelming majority believes that it is very important to tackle the issue of corruption. Whether in developing or developed countries, corruption threatens the integrity of markets and hampers economic growth. Although the combination of political and public will exists to put an end to corruption, there is no panacea. Each nation and industry faces its own set of unique challenges, requiring a tailored and individual approach in each instance.

Within the UK, the Bribery Act proved a welcome addition to the anti-corruption effort, but some critics have stated that it does not go far enough. They believe the act merely seeks to reaffirm

that corruption and bribery are prosecutable offences, rather than addressing the underlying causes of corruption and developing and enforcing preventative measures. Although there is an appetite to progress the anti-corruption agenda, it is often a reactive cause triggered by scandals in the media. For example, recent events include big businesses avoiding corporation tax and the parliamentary expenses affair. Having said that, the results strongly suggest that those working in the UK construction industry seek change.

Fig.18
Over the last 5 years, have the levels of fraud and corruption in the construction industry changed in your view?

INCREASED	20.68%
DECREASED	24.79%
STAYED THE SAME	30.47%
DON'T KNOW	24.06%

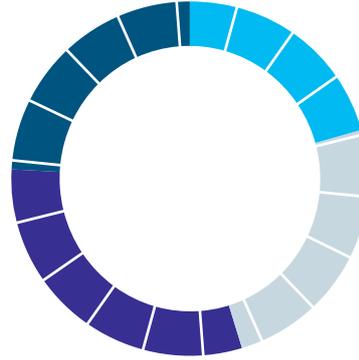


Fig.18: 21% of respondents feel that the levels of fraud and corruption have increased within the construction industry over the last 5 years. This represents a 5% increase from the 2006 CIOB corruption survey. However, our statistics indicate that the majority believe there has been no change in the levels of activity.

RESULTS & DISCUSSION CONTINUED

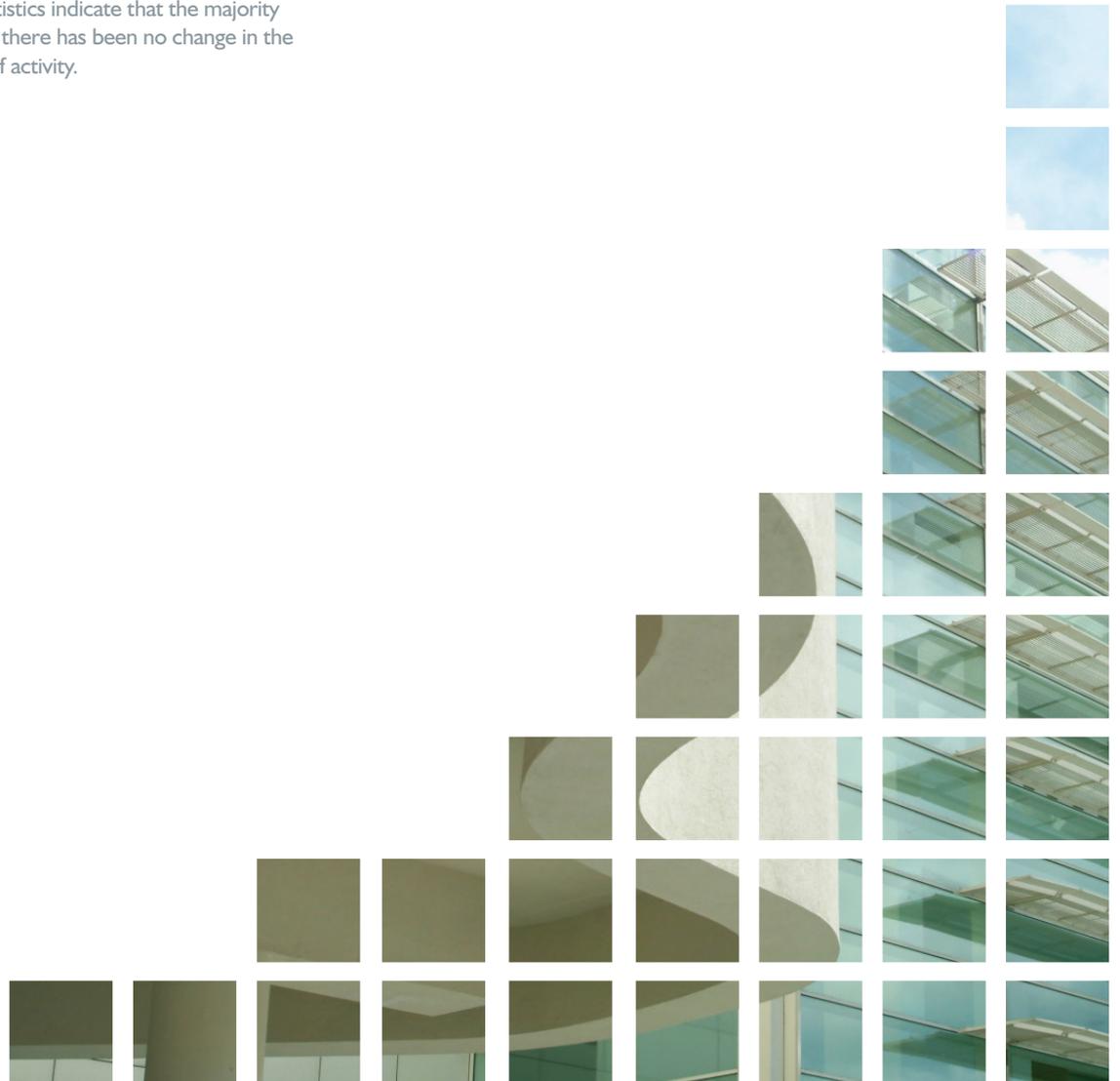


Fig.19

Do you think that the UK construction industry is doing enough to prevent corruption?

YES	21.16%
NO	49.82%
DONT KNOW	29.02%

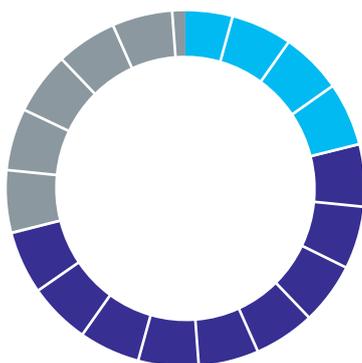


Fig.20

Do you think that the UK Government is doing enough to prevent corruption?

YES	19.59%
NO	55.38%
DONT KNOW	25.03%

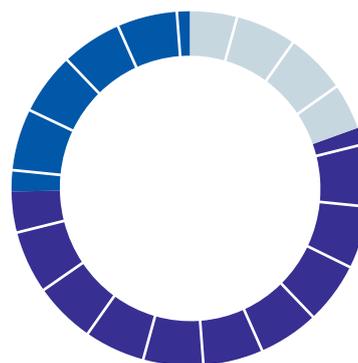


Fig.19 & 20: As highlighted in figure 17, there is an overwhelming consensus that the issue of corruption needs to be tackled within the UK. Accordingly, respondents acknowledge that the UK construction industry and the UK Government are not doing enough to prevent corruption.

Comments suggest that the highest levels of business should lead by example and promote a culture of honesty and transparency. In addition, a zero tolerance to bribery and corruption should be clearly enforced, rather than just stated in company policy. What's more, whistle-blowing policies should be written to ensure openness without the fear of retribution. Respondents suggest that more must be done to ensure that companies employ the 'right people', as well as provide them with adequate training. The focus should be on understanding what constitutes corruption, with the use of up-to-date and relevant case studies.

55% indicate that the UK Government needs to step up its anti-corruption effort. Some comments state that the Bribery Act is useful as a deterrent, but that more needs to be done to enforce the act, regardless of business size. This would encourage individuals and companies to move away from awareness to a position of understanding and enforcement. However, it can be argued that robust legislation is already in place and that implementation has suffered because of law enforcement agencies having insufficient resources to operate effectively.

Research by Transparency International indicates that a lack of information on corruption across a variety of industries hampers the ability of Government and companies to assess and address its prevalence. The lack of data available also indicates that there is a sense of complacency about the UK's efforts to tackle the issue. Programmes such as CoST make use of this data through the disclosure of information on public investment in infrastructure. Pilot studies of the initiative revealed a mixture of financial cost savings and institutional reforms, improving the value for money spent on public infrastructure by increasing transparency.

However, as the industry moves forward, the advent of new digital technologies such as Building Information Modelling (BIM) could present new legal challenges – and potentially open up avenues for corruption. Level 3 BIM, a fully integrated and collaborative technology, may create difficulties in the safeguarding of intellectual property rights on shared data. Issues such as individual liability, risk and project ownership will need to be addressed by the correct training and documentation. This will ensure they do not overshadow this technology or undermine its aim of increasing efficiencies.

Digital platforms are inherently susceptible to data loss, corruption, and manipulation. The risks involved are significant because even a small data loss or minor error can result in significant design mistakes. Consequently data protection and backup strategies are essential, as is clear responsibility for data integrity, for the tracking of changes in the data, and for the additional steps needed to ensure data accuracy.

Fig.21
At what level do you think corruption is most likely to occur? (select all that apply)

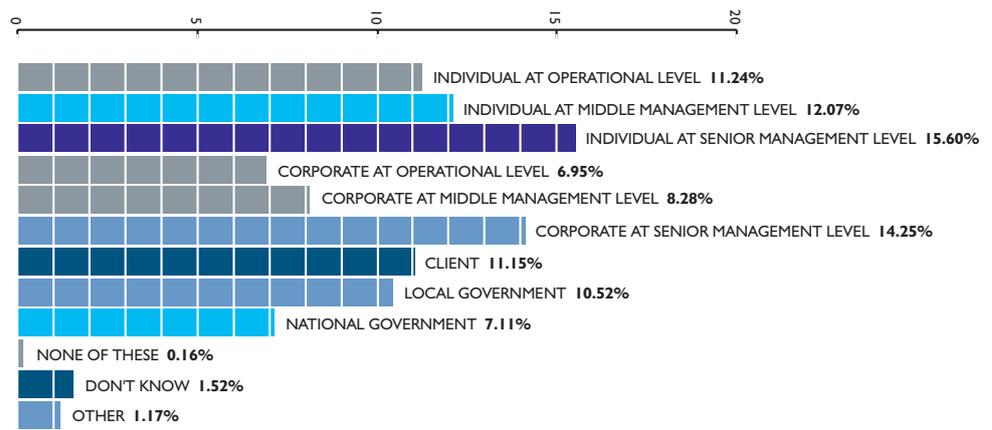


Fig.21: The results indicate that respondents feel that corruption is more likely to occur on an individual rather than a corporate level. 30% also suggest that corruption is most likely to occur at a senior management level, both at an individual and corporate level.

The CIOB's research into corruption in 2006 found that over half of all respondents indicated that corruption was either fairly or extremely common in the UK construction industry. Seven years on, the figures present a similar case and many respondents highlight the cultural and economic environment as being the primary causes.

These views become apparent when examining the responses provided in the free text box at the end of the survey. Some respondents suggest that squeezed tender margins and reduced workloads may have led to many contractors engaging in corruption as a survival mechanism. However, it can be argued that engaging in corruption increased the cost of business more generally.

Another notable perception concerns cover pricing and whether it should be deemed as a corrupt practice or not. There is concern amongst some respondents that failure to bid on certain works, when a client expects a tender, can harm relationships and future opportunities.

Many of the complaints received in the open-ended question involve the manipulation of tenders to favour (and issue work to) a preferred bidder. Respondents mentioned that project management teams are sometimes informed who the sub-contractor will be before the tenders are received. Further examples include collusion between companies to divide work out regionally, and financial models being manipulated to allow price changes at future trigger dates of a project.

•

...squeezed tender margins and reduced workloads may have led to many contractors engaging in corruption as a survival mechanism.

•

Other themes - on site - include the practice of ignoring what was termed 'snagging' issues near the end of a project, resulting in incomplete, poorly constructed and potentially dangerous buildings. Respondents note instances of site operatives taking payments to speed up progress on parts of work, the theft of scrap materials, and instances of staff exaggerating the amount of materials required on site and the number of workers needed to put them into place.

Another issue facing the industry is blacklisting. Although this research did not generate much notable evidence, it must be acknowledged that extensive investigations are underway examining the issue in further detail.

Most respondents are unhappy at the prospect of being undermined by dishonesty. This is particularly the case when the person has worked hard for many years to gain the necessary experience, qualifications and competence to operate at the highest levels of the industry. There is clearly an appetite to stamp out corruption generally, as well as the construction industry specifically, although many feel that there is no single voice to represent them on the issue.

Although this research critiques certain practices, a large proportion of respondents indicate that the UK construction industry is often perceived to be more corrupt than it actually is. Corruption, regardless of where it happens, remains one of the biggest challenges facing the world today and transparency and openness must be seen as the first steps to tackling it.



This research indicates, as it did in 2006, that the construction industry and UK Government are not doing enough to tackle corruption.

The lack of co-ordination, understanding and agreement on what constitutes corruption may have hampered progress in this respect. Furthermore, our research indicates that bribery and corruption has, in part, risen as a result of the economic downturn. Despite this, measures aimed at tackling corruption, such as the Bribery Act, appear to have had limited effect, with no prosecutions against businesses taking place. If the UK is going to live up to its rhetoric of being tough on corruption, the Government and industry must do more to show proof of progress.

Support the development and implementation of industry-wide anti-corruption mechanisms:

The CIOB recognises that initiatives such as CoST can help tackle mismanagement and corruption in publicly financed construction projects. However, initiatives need industry-wide backing if they are to succeed. By getting behind CoST and similar initiatives, the industry can show leadership on its intent to tackle corruption, both nationally and internationally.

A co-ordinated approach from the Government to tackling corruption:

Currently, an abundance of Government bodies and agencies include tackling corruption within their remit. Research by Transparency International argued that there is no institutional focal point to provide leadership, which damages the ability to create a coherent strategy for tackling corruption²⁸. This lack of leadership may hamper the abilities of agencies to tackle industry-specific challenges in relation to bribery, corruption and fraud.

Equip industry with relevant anti-corruption training:

As indicated in the research, the level and quality of anti-corruption training differs across the industry. Engaging in training and compliance should not be seen as a burdensome and costly process; there are a number of benefits in ensuring effective anti-corruption programmes and controls are in place. A visible commitment to anti-corruption can lead to better profitability and new business, as well as enhance the image of the industry.

Increase awareness of corruption and measures to report it:

A lack of publically available data may not show the extent of corruption and the practices associated with it. Furthermore, Trade Associations and Professional Bodies have a role in actively raising awareness of corruption. Mechanisms should be in place to ensure the public have access to advice lines, reporting tools, and guidance in respect to anti-corruption.

28. Transparency International, *Corruption in the UK: Overview and Policy Recommendations*, June 2011

Definition of terms

Bribery

A representative of one party directly or indirectly pays a bribe to a representative of another party. This may be cash or a non-cash advantage. Bribes may be paid or received with or without the full approval of the organisations involved.

Cartels

An agreement between businesses not to compete with each other. The agreement is usually secret, verbal and often informal.

Concealment of bribes

Bribes are often paid through intermediaries to conceal the identity of parties directly involved, as well as the purpose of the payment. This often happens with the knowledge (including wilful blindness) of the contractor. Examples include the use of agents, or disguised sub-contract arrangements.

Collusion

Secret or illegal cooperation or conspiracy to cheat or deceive others.

Cover pricing

The act of tendering an artificially high price for a contract, on the assumption that the tender will not be accepted.

Corrupt practices during planning and design phase

Examples include bribing a local official to obtain approval or planning permission; and the improper favouring of one bidder over another, possibly as the result of a bribe.

Corrupt practices during pre-qualification and tendering phase

Examples include the leaking of information, such as the tender assessment procedure; collusion between bidders in order to share the market; or collusion between suppliers of materials in order to keep prices high.

Corrupt practices during project execution phase

Examples include bribes offered to the works inspector for approving defective work; the production of fraudulent timesheets or invoices; false or exaggerated claims against a contractor, or the inclusion of false extra cost to a contract claim.

Corrupt practices during operation and maintenance phase

Examples include bribes paid to win operation or maintenance contracts; and inflated costs due to monopoly over operation and maintenance (e.g. if the contractor that builds the project is the only one capable of maintaining it).

Fraud

A representative of one party tries to deceive a representative of another party. For example, contractors may secretly collude during bidding to increase contract price, or a client may accuse the contractor of project defects in order to withhold payment.

Whistle-blowing

This occurs when a worker reports suspected wrongdoing at work. Officially, it is called 'making a disclosure in the public interest'.

The Chartered Institute of Building

The Chartered Institute of Building (CIOB) represents for the public benefit the most diverse set of construction management professionals.

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To contribute to the creation of a modern, progressive, and responsible construction industry; able to meet the economic, environmental and social challenges faced in the 21st century.

Our Values:

- Creating extraordinary people through professional learning and continuous professional development.
- Promoting the built environment as central to quality of life for everyone, everywhere.
- Achieving a sustainable future worldwide.
- Being socially responsible and advocating exemplary ethical practice, behavior, integrity and transparency.
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