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Innovation & Skills

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16 November 2015

Dear Alastair,

RETENTIONS REVIEW

Cash retention (typically around 5 per cent of contract value) in the construction industry is common practice and its purpose is to ensure that the contractor properly completes the activities required by them under contract. At practical completion on site, half the retention is returned to the contractor. The remainder is retained for a period determined by the contract (commonly 12 months). However, as we are aware, there have been repeated complaints about the misuse of this payment practice.

At the Enterprise Bill Committee stage on Wednesday 28 October 2015 I promised to write to set out the Government's plans for taking forward a review of the practice of cash retention under construction contracts. I am pleased to attach terms of reference which I hope you find clear and self-explanatory.

We are delighted that the Construction Leadership Council (CLC), through its industry co-chair, Andrew Wolstenholme, Chief Executive of Crossrail, has agreed in principle to oversee the review. CLC oversight will help ensure that its recommendations have the best chance of achieving an enduring success and genuinely drive change across the construction industry. This is because any sustainable solution lies with the industry itself. As we discussed in Committee, the issues are very complex and while Government may be able to point the way, the industry will still need to do much if we are to significantly reduce the misuse of cash retention.

We have linked the review of retentions to a review of the effectiveness of the 2011 amendments to Part 2 of the Housing Grants, Construction and Regeneration Act 1996 (the "Construction Act"). That review was scheduled to take place in October 2016 as part of our commitment to better regulation, but we have brought it forward so that it can be considered as part of this work. The Construction Act is the key piece of legislation governing construction contracts.

For the sake of clarity, I am also happy to confirm the commitment I made to the House that this review will be completed within 9 months of the Enterprise Act coming into force.

I am placing a copy of this letter in the House libraries and copying it to Lord Stevenson and Lord Mendelsohn.

Best regards,

A handwritten signature in cursive script that reads "Lucy".

BARONESS NEVILLE-ROLFE DBE CMG