Editorial

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Welcome to another issue of *Management Procurement and Law*, which, as you might expect is a good mix of... management, procurement and law! I hope you will find some of the articles of particular interest to you and encourage you to respond with 'discussion' items to further the debate. You can do that via the formal discussion submissions to the journal office (as encouraged at the end of each paper) and/or, more radically you could do so on the official ICE LinkedIn group (<http://www.linkedin.com/groups?gid=103244&mostPopular=&trk=tyah>). Look out for a more specific MPL LinkedIn group – coming soon.

This issue contains one briefing, five full papers and a book review. The briefing, 'The value of professional accreditation for degree programmes' (Clarke and Prichard, 2013), is by a professor of civil engineering geotechnics and the chief executive of the Engineering Council, it explains the roles of the Engineering Council, the institutions, the Quality Assurance Agency and the Joint Board of Moderators in accrediting engineering degrees. The briefing sets out clearly the benefits of that internationally recognised accreditation to employers, students and academics and concludes with a concise summary of ways to demonstrate acquiring the required knowledge and understanding to become professionally qualified.

If your role takes you anywhere near projects that include (or perhaps should include) 'capacity building' then I recommend to you the first paper. This explains the potential of the compilation of capacity building good practice in the engineering environment published by the World Federation of Engineering Organisations (WFEO) (Wall *et al.*, 2013). After the World Summit for Sustainable Development in 2002, the WFEO established a Standing Committee on Engineering Capacity Building. The guidebook that is the subject of the paper was developed by multinational team of practitioners drawn from that committee. The paper starts with an explanation of the nature and role of capacity building and suggests that 'across the world, there is insufficient understanding of the need for infrastructure and services, and of how to develop, deliver, operate and care for that infrastructure and services'. There follows a high-level summary of the likely stakeholders in a capacity building initiative and recommends and explains a systematic approach to considering the sorts of issues that arise. The guidebook will be of use to anyone involved in the critical process of capability building. The paper explains that

the guidebook itself is a compilation of advice and case studies clustered around headings of

- researching needs
- defining and influencing public policy
- educating, training and developing skills
- participating
- building networks and support systems
- developing technical and business standards
- executing projects throughout their life cycle and
- obtaining and using external funding.

Pedagogical: of, relating to, or befitting a teacher or education. I admit I had to look that one up to help with my understanding of the second paper, 'Pedagogical imperatives in the teaching of project management' (Ojiako *et al.*, 2013). The paper, written by seven academics from six universities in the UK and South Africa, will be of most interest to those responsible for teaching project management. The paper includes a significant literature review of the subject and summarises the difficulties in teaching project management. It goes on to look at some of the ways that universities have responded to the challenges including the use of case studies and seeking opportunities for their students for 'work-based learning' – real experience. The paper goes on to explain how the authors collected and analysed data on the perception of their project management units from more than 400 students. Their main conclusion was the importance of so called 'generic skills' – those that are transferrable to a range of activities – over and above the specific 'analytical skills' relating to project management. As noted by the authors, the paper will contribute to the debate on the need to focus on 'alternative' learning and teaching approaches that are flexible enough to cater for the considerable differences that exist in students' learning styles.

The third paper addresses an aspect of a subject in which I have a particular interest, and one which affects us all: knowledge management. This is summarised by the authors as 'creation, capture, sharing and leveraging of knowledge'. Entitled 'Technical networks – the framework for disseminating knowledge' (Hendy *et al.*, 2013) the paper articulates the processes used by a major consultant to support its efforts at knowledge management and emphasises that 'learning' must not be just a matter of completing a 'project review' at the end of a project. First the formal project role of 'knowledge capture coordinator'

is described. He or she is responsible for encouraging the capturing of lessons learnt on the project in a 'lessons learned' database, keeping updated a 'lean review form' and maintaining a live 'experience sheet' for the project. Details of the three roles are provided. Examples are offered of instances where such lessons have been more widely disseminated through technical papers and guidance notes. The paper then moves on to a very useful summary of the features and roles of 'technical networks' for the various disciplines. Many organisations, including my own, operate similar technical networks and this paper will be of interest to all those already involved or who perhaps think their organisation could and should do more with its knowledge.

Following on in the 'lessons learnt' vein, the fourth paper, 'From projects into operations: lessons for data handover' (Whyte *et al.*, 2013) looks at the specific and critical issue of passing data from the construction phase of a project to those that will operate the asset created. For years that has meant requiring operating and maintenance manuals and as-built drawings from the construction contractor – ideally prior to completion. However, accelerated by the drive to building information modelling (BIM), clients are realising there is much more to it than just 'documentation': they want to receive useful and instantly usable 'integrated interoperable data' relating to their new asset. Data handover tends to be difficult as key people leave before project completion, and different data formats and structures are used in project delivery and operations. Importantly, the authors' research was carried out in close collaboration with industry, specifically the Institution of Civil Engineer's (ICE) Information Systems Panel. The data collection was in the form of 12 semi-structured interviews: six with major infrastructure clients in various sectors and six with engineers from well known organisations involved in the delivery of major projects. The paper looks at the value to clients of accurate and complete data, the sources and formats of that data and the challenges of transferring the data to the operational phase. There is useful guidance on what the interviewees considered most important: better defining the data requirements, why and how to start handover procedures early, how to set up interoperable standards and systems and how to develop handover processes. Whether your role focuses on delivery or operations, the paper has something for you.

Last but not one it's back to the L and the P in MPL with 'Nuclear decommissioning contracts: the legal and commercial issues (Lal, 2013). The paper sets the scene with a summary of the role of the Nuclear Decommissioning Agency (NDA) and the challenges it faces in decommissioning nuclear assets, producing power from the UK's two remaining operational reactors and processing of nuclear fuel; all while delivering efficiency gains. This paper first examines the concept and principles of incentives-based contracting and the mechanics of target cost

contracts. It notes some of the issues that arise – such as the need to define the 'painshare/gainshare' profile and to define if and when the costs of correcting defects should be reimbursed. A particular issue noted is the timing of the payment of the contractor's share: should the employer continue to pay the contractor's full costs after the target has been exceeded? And hope to get his share paid back later? Some of the features of the two main standard forms for target contracts, the NEC (2005) Engineering and Construction Contract (ECC) (option C) and the Institution of Chemical Engineers' (IChemE, 2003) *Burgundy Book* form are compared and contrasted. There is mention of the wider procurement strategies being used, like the use of a two stage procurement process with a (typically reimbursable) front end engineering design (FEED) preceding the development and agreement of the documentation and target cost for the detailed design and construction of the asset. The paper concludes with a look at some of the particular problem areas that might lead to disputes. These include whether or not the Housing Grants, Construction and Regeneration Act 1996 (1996) (and so statutory adjudication) applies to a particular contract, whether notice of a claim (compensation event in ECC) is really a condition precedent to entitlement and the very real problems of the technical characterisation of the waste that is being decommissioned.

The final paper is a very readable summary of 'The role and effect of technical review panels' (Spottiswoode and MacKellar, 2013). It discusses the history and current practice of independent technical review in South Africa. The paper covers the structure of the panels, the extent of their involvement in projects, their relationship with project teams and finally their perceived effect and benefit to the project. It is noted that the use of technical review panels started way back with the implementation of Phase IA of the multibillion US dollar Lesotho Highlands Water Project (LHWP) that commenced in the late 1980s. That brought back real memories for me as I was lucky enough to be there in the early 1990s (on the receiving end of advice from the 'panel of experts'). The authors suggest that the view of client bodies, the benefits that have accrued from the use of technical review panels have justified their cost. A review panel

- should bring wider overall engineering experience to the project
- can identify specific design issues where the consulting firm may benefit from augmenting its own resources
- can identify areas where an alternative approach in the planning or design may lead to improved efficiencies in construction, or in the ultimate performance of the project
- can also provide a check on the quality management procedures of consultants and
- can reassure the implementing authority that project design is in line with the 'state of the art'.

Perhaps there should be one on your next project?

Finally a short review of what appears to be a very different and thought provoking book at the boundaries of thought on risk management: *Tame, Messy and Wicked Risk Leadership*.

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