

Introduction

There's no doubt that the past year has been one of unprecedented change and uncertainty, bringing extraordinary challenges to society and the construction industry.

But while the UK navigates the roadmap out of lockdown, the construction market disruption won't end here. Both Brexit and the COVID-19 pandemic will cast long shadows, and few will be immune from the abiding market conditions.

The resulting commercial challenges will persist well beyond 2021 and construction will need to embrace further adaption with a shift in the way we procure goods, works and services.



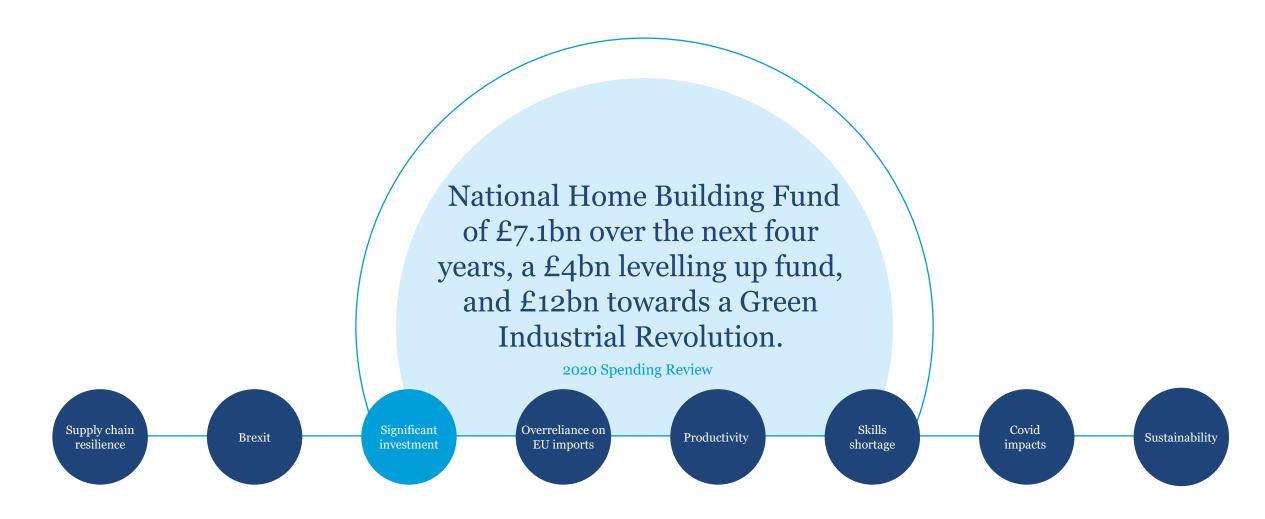


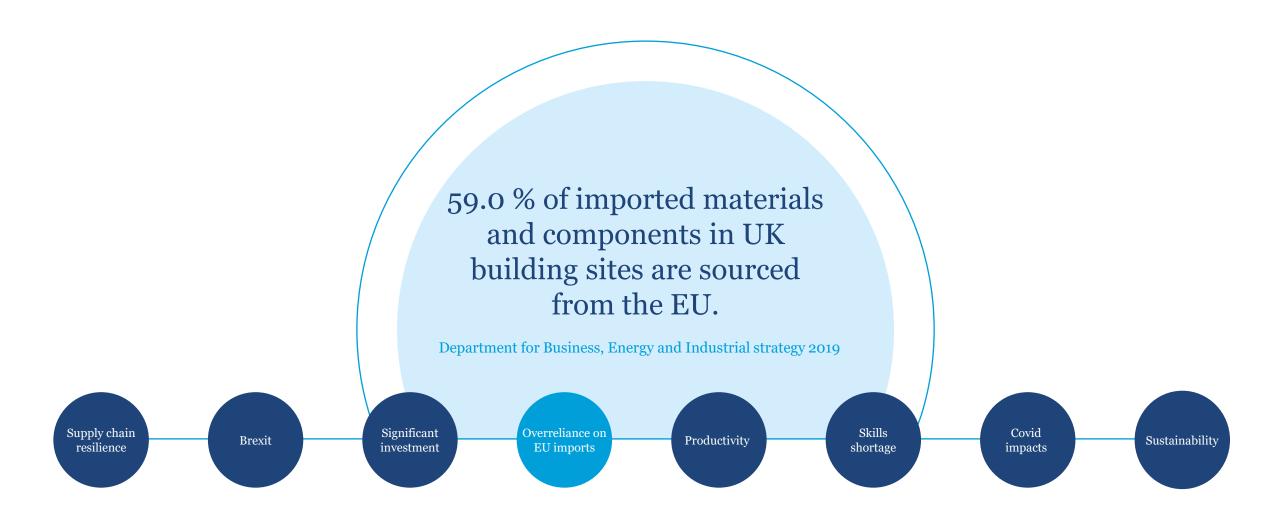




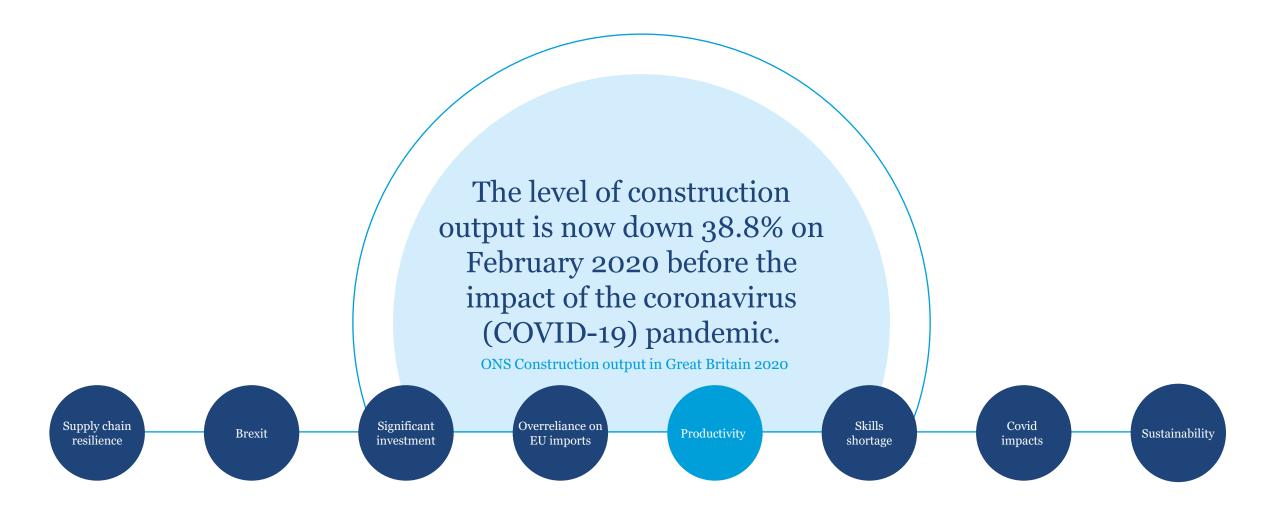




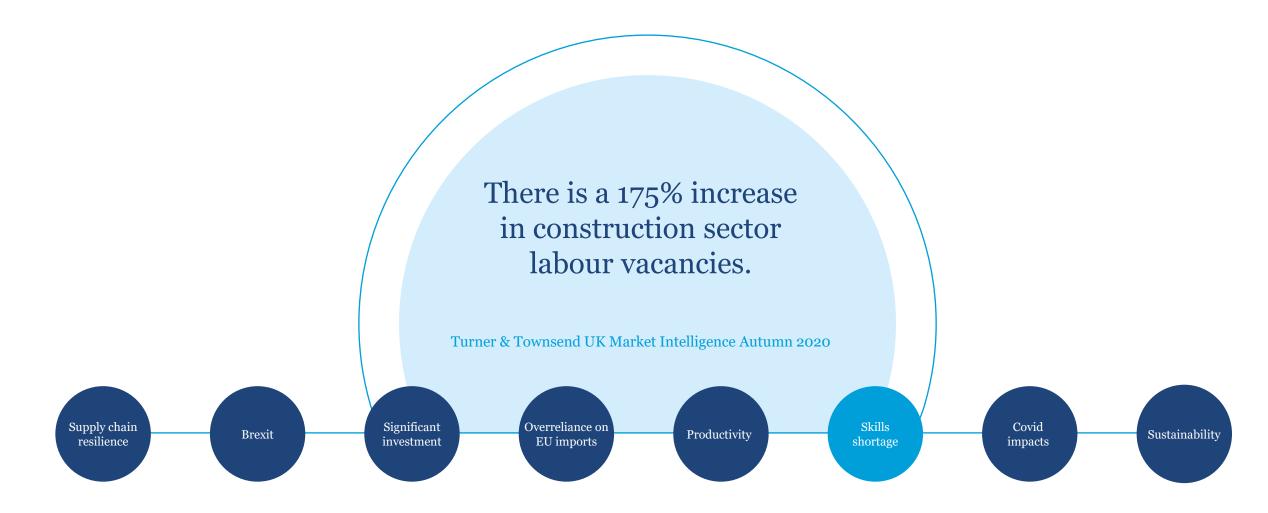




















Client risk: Critical supplier breakdown



Pre-contract

- Complex supply chains make it difficult to identify and assess supplier insolvency risks
- Procuring replacement for insolvent suppliers can be costly and time consuming
- Loss of key suppliers potentially undermines ability to delivery future pipeline
- Local supplier capability may be impacted by Brexit including ease of obtaining overseas labour and equipment
- Key suppliers may become insolvent, causing delay and additional costs
- Reduced pool of suppliers may result in a lack of competition, poor value for money, and inability to commit to client pipeline
- Local supplier capacity is undermined, potentially weakening social value benefits

- Mapping and auditing to understand supply chain resilience
- Developing supply chain risk mitigation strategies



Impact

Consequence

of inaction

Post-contract

- Establishing liabilities for delivered work
- Risk of procuring replacement causing delay and additional cost
- Inability to deliver future pipeline or full extent of programme

- Costs for meeting scope increase, lead to funding requests and further delay
- Overall programme loses confidence leading to further repercussions across portfolio
- Assets are stranded as suitable replacement not sourced to complete project or programme requirements
- Reviewing and assessing projects to understand the vulnerability of supply chain
- Undertaking contract review and interpretation to navigate uncertainty
- Advising on project recovery and re-procurement options



Supply chain resilience

Brexit

Significant investment

Overreliance on EU imports

Productivity

Skills shortage Covid impacts

Sustainability

Client risk: Failure to align to revised regulations or contracts



Pre-contract

- Complexity in managing change brought about by Brexit, including proposed public procurement reform
- Suppliers uncertain on how to comply with new regulations leading to increased costs and delay risks
- Equivalence of UK and European standards and qualifications may differ in future

- Increased risk of non-compliance to new regulations and hence legal challenge from aggrieved suppliers
- Increased supplier costs, passed onto clients, borne from uncertainty operating within a new regulated environment
- Potential difficultly in demonstrating compliance to UK industry standards if using EU suppliers
- Supporting implementation of agile processes to accommodate procurement policy changes
- Advising on latest procurement regulation developments
- Developing strategies to maintain channels of communication with your supply chain



- Enforced amendments on contracts
- Project costs are increasing exponentially due to new tariffs or levies imposed on requirements
- Equivalence of UK and European standards and qualifications may differ in future



Impact

- Revised approach to meet requirements results in variations to delivery scope driving uncertainty on schedule and costs to complete
- Project fails to manage or update specific compliance leading to delay or revision of terms





- Focusing change management and guidance to make sure all parties understand the revisions and impact
- Providing contract advice, interpretation and application
- Undertaking project review and recovery options to meet revised requirements



Client risk: Greater scrutiny on achieving value for money



Pre-contract

- Procured supply chain are not fully aligned to deliver the business case realisation of benefits for investment made
- Clients and suppliers are often uncertain how value is measured against investment
- Inability to demonstrate value for money can hamper securing future investment

- Project benefits are not fully realised and/or anticipated costs are exceeded
- Increased likelihood of disputes resulting from client not receiving proposed value from suppliers
- Inability to justify future business cases and secure pipeline

- Advising on procurement and contract strategies to align supply chain and client's objectives
- Digitalising supply chain data to objectively measure value and optimise decision making
- Developing commercial strategy aligned to Value for Money outcomes



- Focus of project delivery diverted given opportunities elsewhere
- Resource constraint as demand increases
- Concerns raised on funding for the project due to preference for investing elsewhere



- Assets are stranded as sufficient standards are not maintained to deliver overall requirements leading to schedule and cost claims
- Project requires increased resource costs or extensions to deliver
- Confidence in ability to meet full programme requirements



Impact

- Providing contract interpretation and application for delivery requirements
- Undertaking project review to understand options to reduce project impacts
- Advising on Contract escalation options



Client risk: Exposure to additional costs and delay from imports



Pre-contract

- Increased time and costs due to additional paperwork required to process EU imports
- Additional strain on supply chain due added complexity
- Incorrect paperwork impacting delivery of critical items delaying the project and/or increasing costs
- Additional compliance to the World Trade Organization (WTO) Agreement on Government Procurement (GPA) and the UK-EU Trade and Cooperation Agreement (TCA)
- Increased likelihood of non-compliance to import rules, requiring additional resource and money to resolve
- Suppliers who cannot readily adapt to the new environment are likely to be uncompetitive and at risk of failure
- Increased risk of delivery of critical supplies being late causing project / programme delay.
- Planning for additional import bureaucracy risk
- Advising on supply chain strategies to mitigate risk (e.g. optimising stockpiling, supply chain support)



Impact

Consequence

of inaction

Post-contract

- Project costs increase to cover additional charges
- Imported goods are not delivered on time
- Concerns raised on funding for the project due to volume of import requirements

- Time for completion at risk resulting in uncertainty around project or programme completion
- Stakeholders losing confidence in the delivery of the project within funding or time

- Contractual interpretation and application
- Developing processes to understand which projects are impacted
- Independently reviewing programme to understand if any efficiencies can be realised



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Sustainability

Client risk: Poor delivery performance



Pre-contract

- Unfavourable prices and delivery timescales against comparable projects worldwide
- Misaligned incentives between clients and suppliers to drive productivity
- Slow adoption of new technologies and innovation to increase productivity

- Continued poor productivity and value for money against comparable projects worldwide
- Poor performance and adversarial behaviors from suppliers due to differing views on incentives and priorities
- Continued high levels of client resource and time to manage supply chain productivity and performance
- Providing support to align intended outcomes to commercials, incentives and contracts
- Integrating technology and procurement to enhance supplier productivity



Expectations of delivery requirements not realised

Post-contract

- Concerns raised on likelihood of meeting milestones
- Poor records or monitoring of progress not diligently maintained



Impact

- Lack of understanding creates opportunity for unsubstantiated claim to be generated
- Disruption to the project leads to extensions in time / increase in costs
- Sets a precedent in reputation around ability to deliver



- Conducting a forensic review of programmes and plans to understand root cause of delay and/or disruption
- Recommending project recovery options
- Advising on claims escalation and/or resolution



Client risk: Inability to meet delivery requirements due to increased competition



Pre-contract

- Unable to secure requisite skills and resources to deliver
- Increased costs and reduced quality due to limited amount of supply and lack of competition
- Potential delays if not a priority for supplier to provide skills and resources

- Inability to deliver requirements without the right resources and skills
- Lack of competition will push up prices putting additional pressure on budgets
- Suppliers may be increasingly selective of their work, creating additional risk of non-commitment and delay
- Supporting on procurement with social value considerations including investment in people and the supply chain

Post-contract

- Ability to deliver projects or programme compromised due to lack of available resource.
- Project costs increasing exponentially due to new tariffs or levies imposed on requirements



- Time for completion changes, leading to doubts around the overall project or programme
- Continuity of supply chain in delivery leading to abortive work, poor delivery and programme / cost implications



Impact

- Assessing supply chain resilience and optimisation
- Developing an appropriate procurement strategy including early sourcing and identifying risk mitigation options (e.g. re-design)





- Providing an independent review of project or programme to identify overall impact or mitigation options
- Advising on contractual interpretation and application



Supply chain resilience

Brexit

Significant investment Overreliance on EU imports

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Skills shortage

Covid impacts

Sustainability

Client risk: Complexity of COVID impacts destablising projects



Pre-contract

- Insufficient contract controls to manage COVID impacts leading to additional costs, potential disputes, and supplier failure
- Delay due to slower delivery from reduced resources allowed on site

- Increased likelihood of COVID related disputes
- Suppliers unable to deal with COVID impacts leading to insolvency and a reduced supplier base for clients
- Contract performance adversely effected by COVID related rules (e.g. social distancing, workforce self-isolation)

- Supporting COVID risk allocation to the most appropriate party in the contract
- Testing and auditing scenarios and existing contracts to understand impact of COVID



- Delay and disruption on delivery requirements to comply with legislation
- COVID relied upon to mask historic schedule and cost overrun issues
- Supplier failure due to increased COVID costs



Impact

- Poor schedule and cost understanding provides opportunity to mask historic project issues
- Cost and time increases/claims on project to meet delivery requirements, bringing into question ability to deliver

- How
 - How we can help

- Providing contract interpretation and application
- Reviewing schedule and cost to understand prior baseline position
- Identifying the prevailing issues to understanding likely impacts
- Quantifying and assessing cost increases and/or claims
- Advising on project recovery options



Client risk: Failure to meet sustainability targets





- Compliance with net zero 2050 target legislation will require industry change and buy-in
- Potential fines for non-compliance may affect clients' and suppliers'
- Failure to demonstrate working towards compliance may lead to reputational damage
- Increased non-compliance to sustainability legislation and risk of legal challenge
- Potential payment of fines and damages for non-compliance
- Reputational damage may affect public and shareholders confidence

Supporting sustainable procurement to meet net zero 2050 targets – through development of sustainable procurement and supply chain strategies



Consequence

of inaction

Impact

Post-contract

- Developments in meeting sustainability requirements leads to complex / untested delivery options
- Increased project complexity leading to increased contractual
- Unfamiliar measures and milestones incorporated into the delivery

- Revised approach to meet requirements resulting in variations to delivery scope
- Stakeholders lose confidence in project or programme meeting the desired targets
- Project fails to meet desired / statutory requirements
- Undertaking contract review and testing with the relevant parties, to create a common understanding and delivery requirements
- Providing independent project reviews to give live appraisal of progress and forward look of delivery likelihood



We have a deep understanding of the challenges that COVID-19 and Brexit have brought to the industry, underpinned by:

A dedicated team of experts supporting our clients with live issues

On-demand recordings and webinars with industry experts Our dedicated Contract Services Help Desk

Regular knowledge shares

Thought leadership articles

Seeking direct feedback from clients and contractors as to their key challenges over the last year





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A dedicated team of experts supporting our clients with live issues, offering:

- Capability and capacity challenges
- Assessment of Supplier Relief applications
- Assessment of PPN20/2020 costs
- Contractual interpretation and application
- Forensic analysis of extension of time / disruption claims
- Assessment of prolongation and disruption costs
- Advice on claim strategies
- Knowledge sharing across sectors
- Reporting to senior stakeholders

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Adapting to disruption On-demand recordings and webinars with industry experts Top contract questions from clients during COVID-19 Procurement resilience in a post-Covid world Procuring in uncertainty The Reality of Brexit hosted by CIOB Brexit & Beyond: Complexity & Transparency hosted by Jaggaer

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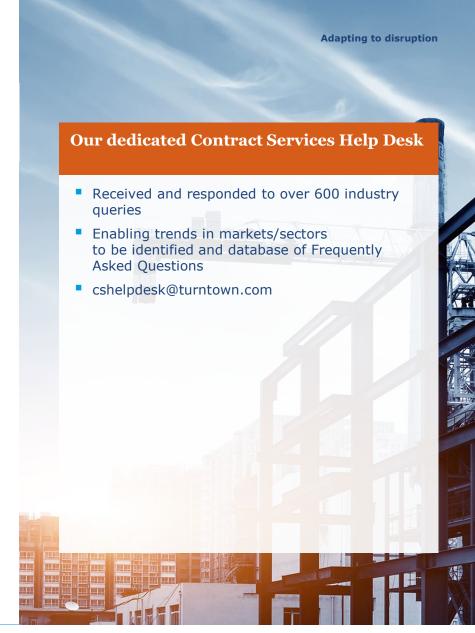
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Regular knowledge shares Responded to the Cabinet office Consultation on the Green Paper: Transforming Public Procurement Developing the IPA Routemap Supported with drafting of the Construction

Our CEO sits on the CLC

Playbook

- Our UK Infrastructure lead sits on Constructing Excellence
- 2 of our Directors are members of the Project 13 Panel

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Thought leadership articles

- Beyond Brexit the construction supply chain is crucial in a post-Brexit environment
- Collaboration is key to solving supply chain fragility
- NEC: navigating compensation events
- Impact of Brexit on Public Procurement Regulations
- Contractual Mechanisms for closing construction sites
- Sustaining the construction supply chain -Protecting skills and promoting growth through the Covid-19 pandemic
- What is Force Majeure?
- Frequently Asked Questions to our Helpdesk

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Seeking direct feedback from clients and contractors as to their key challenges over the last year

- Covid survey with over 90 construction clients responding we asked the market what were the impacts of COVID-19 on contracts. Revealing:
- One in three believed their contracts were not fit to address the effects of notifiable COVID-19 events, with Employers bearing responsibility for additional costs and time delays.
- Liability arising from COVID-19 events was also believed to be held by the Employer rather than the Contractor.
- 45% of those surveyed reported an increase in contractual disputes since the start of the pandemic, as contractors seek to recover productivity losses.

Contact our team

Should you require assistance then please contact our team.

We have a dedicated UK Contract Services Team that specialises in helping clients to tackle complex pre-contract procurement and contentious matters. Our service offering includes qualified procurement and legal professionals and expert witnesses to support with claims and dispute management, forensic delay and disruption, and quantum analysis. Please contact our team.



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