

Roadmap to Zero Retentions

Vision

Fair and transparent payment practices are essential for a thriving construction industry and a strong and sustainable supply chain.

In recognition of this, Build UK and its members are looking to realise the ambition set out in the Construction Supply Chain Payment Charter for zero retentions by 2025, by developing and implementing this roadmap.

Objectives

1. Wide scale adoption and implementation of the roadmap by Build UK members and the wider industry
2. Ensuring any forms of security used against defects are appropriate and proportionate
3. Effective and regular monitoring of progress against the roadmap, and in particular its implementation by Build UK members.

Background

Cash retention – the withholding of a percentage of payment on construction work until it is completed free of defects – is intended to provide security to the industry’s clients that any defects will be rectified appropriately. Retentions are problematic for all parties in the supply chain and the practice of ‘passing on’ retentions in order to secure cash flow, coupled with the loss of retentions due to insolvency, has a significant impact upon cash flow throughout the supply chain. As such, retentions generally do not provide an appropriate or proportionate mechanism for ensuring quality and fair payment.

The Construction Supply Chain Payment Charter, which was introduced by the Construction Leadership Council to create a more collaborative payment culture, sets out an ambition to move to zero retentions by 2025.

In 2017/18, the Government consulted on the issue of retentions to determine if and what further intervention by Government is needed. Build UK submitted a joint response with the Civil Engineering Contractors Association (CECA), supported by Construction Products Association (CPA), which called for a joint approach of Government legislation to abolish cash retention by no later than 2025, supported by the industry developing and implementing a phased roadmap.

This Build UK roadmap sets out the framework, including key milestones for implementation by the supply chain, to deliver zero cash retentions within construction between now and 2023. This is two years ahead of the ambition in the Payment Charter and the milestones will be kept under review to ensure that the transition to zero cash retentions takes place as quickly as practicably possible.

Challenges to Delivering the Roadmap

- Difference in quality delivered by the supply chain and inconsistency in returning to site to rectify defects
- Providing security when working with a supply chain where there is not an established relationship
- A perceived lack of viable alternatives to retentions that provide similar levels of security
- Ensuring that any use of cash retentions until 2023 and other forms of security are implemented ‘back to back’ through the supply chain to prevent any one party bearing the financial impact.

Intended Outcomes and Benefits

- Adoption and implementation of the Build UK roadmap by the construction supply chain to achieve wide scale change across the industry
- Improved quality of completed works on construction projects, and increased assurance that any defects that do occur will be rectified appropriately, without the threat of unfair payment
- An increase in working capital within the supply chain to support investment and growth
- Increased collaboration and transparency in the construction industry, ensuring that any forms of security used against defects are appropriate and proportionate
- Government recognition that the industry is stepping up to deliver change on this key issue and support for implementation of the roadmap within public sector procurement.

Key Milestones

2018	
Q2	Consult with members to establish current practice on retentions, including identifying organisations and projects which do not withhold retentions
Q2	With support of member task group, develop proposals for other forms of security and protecting retention monies
Q2	Develop minimum standards for practical implementation by industry
Q3	Seek the endorsement of the Construction Leadership Council for this roadmap
Q4	With support of member task group, agree process for monitoring members' progress on implementing the minimum retention standards
Q4	Build UK members to agree and commit to implementing this roadmap, including minimum standards on retentions from 2019
Q4	Seek commitment of central and local Government to implement the minimum standards on retentions from 2019
Q4	Seek commitment of other key clients to implement the minimum standards on retentions from 2019
2019	
	Build UK members to implement the minimum retention standards - maximum retention rate of no more than 1.5% and minimum contract value of £50,000
	Provide support for implementing other forms of security where appropriate
	Monitor members' progress on implementing the minimum retention standards
2020	
	Review this roadmap and in particular the key milestones and minimum retention standards
2021	
	Build UK members to implement enhanced minimum retention standards - maximum retention rate of no more than 1% and minimum contract value of £100,000
	Review this roadmap and in particular the key milestones and minimum retention standards
2023	
	Zero cash retentions

Minimum Standards on Retentions 2019

To help move towards zero cash retentions by 2023, it is intended that Build UK members will adopt the following minimum standards on retentions on new contracts from 2019. The aim of these minimum standards is to reduce the challenges associated with the existing use of cash retentions within the industry and they should not be viewed as best practice. In those sectors where the minimum standard is already not to accept cash retention, for example in the piling and lifts sectors, this must be maintained.

- Any arrangements for retention are no more onerous than those implemented by the client in the Tier 1 contract (*this is the commitment within the Construction Supply Chain Payment Charter*)
- No retention is deducted on elements that are not incorporated into the permanent works, such as demolition and scaffolding
- No retention is deducted on contracts with an original contract value of less than £50,000, increasing to £100,000 from 2021
- Retention is deducted as a single sum from the payment immediately following practical completion, or where milestones are used from the penultimate milestone payment, rather than from each interim payment
- Retention will be withheld at no more than 1.5% of the contract value at the time of practical completion, reducing to 1% from 2021
- Any retention withheld will be released on an agreed calendar date calculated, on a fair and reasonable basis, by reference to either:
 - the actual date of Practical Completion of the sub-contract; or
 - the anticipated date for Practical Completion of the main contract at the time the sub-contract is entered into, plus the Rectification Period under the main contract.

If there are defects in the works performed under the sub-contract, release is delayed until they have been rectified.