

27 February 2009

Committee for Finance and Personnel

Room 419

Parliament Buildings

BELFAST

BT4 3XX

Dear Sirs,

Re: Public Procurement Practice in Northern Ireland

We welcome the Committee for Finance and Personnel's Consultation Paper on public procurement policy. In our response we aim to brief the Committee from the perspective of a developing housing association.

Fold Housing Association is a not-for-profit association with charitable status, set up in 1976. We are registered with and regulated by the Department for Social Development and governed under the Housing (NI) Order 2005 and the Industrial and Provident Societies Act (NI) 1969. Whilst the views below are those of Fold, we believe they are broadly representative of the housing association movement.

Our response has been developed in the context of the Government's Achieving Excellence policy and its application to social housing.

1.0 Social Housing Procurement Strategy

Most recently the Department for Social Development (DSD) embarked on a Procurement Strategy for Housing Associations with the main objectives:

- **To meet the programme target of 10,000 units;**
- **To achieve a noticeable increase in efficiency, with a minimum target of 10% cost efficiency over the period;**
- **To achieve targets for environmental performance in line with the Code for Sustainable Homes;**
- **To embrace construction procurement best practice.**

Housing Associations in conjunction with their representative body NIFHA supported the strategy and its objectives in that they had already benefitted from collaborative working which has produced tangible savings and service improvements. The strategy provided an opportunity to expand collaborative working further.

However we have had concerns about the requirements within the strategy for housing associations to follow the Government's Achieving Excellence initiative. We enclose an exert from the strategy which explains DSD's position on this policy.

'Government policy on construction procurement has also changed during this period and through the Achieving Excellence initiative Government now seeks to introduce changes arising from Sir Michael Latham's report 'Constructing the Team' and the Egan report 'Rethinking Construction.'

The Achieving Excellence in Construction initiative was developed in England and Wales to improve the performance of Government as a construction client. It was recommended that a Northern Ireland version of the Achieving Excellence in Construction initiative be prepared. The Government Construction Clients Group undertook this task and Achieving Excellence for Northern Ireland was launched in May 2002.

The Achieving Excellence in Construction initiative initially applied to direct construction procurement of Northern Ireland Government Departments. The subsequent decision that the principles should apply to grant aided organisations where grant exceeded 50% of total cost was taken in late 2005. As a result of this decision DSD must now require Housing Associations to comply. Housing Associations will now play an important role in delivering the efficiencies and skills required in undertaking the procurement role with Achieving Excellence'.

Our concerns in relation to this policy are based on its practical implementation and the potential effect it may have on our delivery partners in the construction industry. These are summarised as:

- a) The disparate nature of the NI social housing programme
- b) The constraints of in-year funding
- c) The historical performance of delivery partners
- d) Evidence of efficiencies
- e) Complexity and added bureaucracy
- f) Contesting of framework contracts

a)The annual social housing development programme in Northern Ireland is made up of a large number of projects with a relatively small number of units. Only a small number of projects each year exceed 100 units. This reflects housing need. Projects have traditionally been delivered via a variety of means including traditional procurement, off-the-shelf and design and build. We understand the Achieving Excellence Policy requires that such

projects will in future be delivered via integrated supply teams, appointed to framework agreements. Therefore each housing association will have to call off a framework and appoint an integrated supply team for specific housing developments. We understand this approach has been adopted successfully for large housing projects in GB and for major capital contracts in other sectors. However we are not convinced this model transfers to the social housing model in Northern Ireland and will bring added complexity, slow the delivery process and increase costs.

b) We believe the ability to achieve efficiencies through partnering will not materialise whilst the social housing programme is funded in its current format. Housing associations are typically having to conclude negotiations with developers and contractors in the final quarter of a business year. At the same time the DSD is not able to make financial commitments outside of the current year. Housing associations need at least a 3-year funding commitment (as is the case in GB) in order for strategic partnerships to deliver any tangible efficiencies or long term benefits. We believe that housing associations deliver excellent value for money under current funding arrangements. However under the current arrangements with no longterm commitment to collaborative working, contractors and design partners will not be inclined to offer efficiencies or become involved in partnering.

c) The contractors who currently service the development programme are generally in the small to medium category which reflects the structure of the construction industry of Northern Ireland. Fold has had no difficulty in compiling select lists of competent contractors willing to submit tenders (the lists are generally well over subscribed). The tenders returned demonstrate keen competition – all the lowest tenders we received for projects in 2006/07 were within the pre-tender estimates. Furthermore we experience very few problems on site with cost overruns or claims; work is completed within time and within the specified quality. The new policy will direct Fold and other housing associations towards larger contractors, who are probably already committed to other public sector framework contracts. We believe these commitments will lead to larger contractors having to engage the small to medium sized contractors under sub-contract arrangements. In effect we will have added an extra layer of cost and complicated the engagement process. We are not convinced such an arrangement will deliver efficiencies or provide an environment for introducing modern methods of construction.

d) We believe that housing association construction costs when benchmarked with their GB counterparts confirm the current traditional procurement process is cost effective. We also believe that current tender prices are producing high levels of efficiencies. Efforts should be focussed at this time on maximising methods of procurement with streamlined tendering processes in order that best prices are achieved and jobs in the construction industry are protected.

e) We believe the move towards strategic partnerships has taken place without adequate programmes of training for locally based delivery partners. Notwithstanding our concerns over the application of integrated supply teams within our sector (see a) above) it is clear that small to medium sized businesses have a limited understanding of the practicalities of such partnering arrangements. The Committee should consider additional provision for assisting contractors, consultants and customers with practical guidance of how such partnerships can be operated and efficiencies achieved. Our experience suggests there is

limited appetite for engaging in practices such as 'open book' or 'profit sharing' arrangements.

f) We have recently seen a rise in the number of contractors and consultants contesting tendering decisions. This is despite employing expert procurement advice. We have concerns that complex framework agreements will further be subject to mis-understanding and will themselves be contested. Procurement cycles will be extended and ultimately our ability to deliver on time, will be curtailed. Such frameworks should be set aside whilst efficiencies are currently being delivered through market forces until such time as robust processes have been developed for use by all bodies in receipt of public funds. We strongly recommend that a central body take on the responsibility for designing such a procurement process and that they liaise closely with representative bodies of the construction industry.

In summary we support the efforts of the DSD and the Minister for Social Development in their pursuit of the objectives laid out in the Procurement Strategy for Housing Associations. However we call upon the Committee for Finance and Personnel to review the points raised above in relation to the Achieving Excellence Policy. We are concerned the policy requires the application of a method of procurement which is overly complex for our development needs. We feel it excludes small and medium businesses who have helped provide almost 20,000 homes across the province and who much to offer in terms of expertise and local employment. We have concerns that the procurement process by virtue of its complexity and timeframe will prevent housing associations from achieving efficiencies in the current economic climate. We do believe that with a 3-year funding platform and a robust procurement process, Fold and fellow associations would be better able to achieve the objectives of our Procurement Strategy.

Yours sincerely,

JohnMcLean

Chief Executive

Fold Housing Association