Thank you for your letter dated January 25 regarding your joint inquiry into the collapse of Carillion. Your joint inquiry is extremely welcome and I thank you for taking the time to gather the views of FSB members and small businesses.

You asked if Carillion followed best practice in paying its suppliers. Regrettably, Carillion were notorious for being late payers despite being a signatory of the Prompt Payment Code since 2013. As the firm headed towards failure back in July when I wrote to protest to the firm, some suppliers were being made to wait 126 days to be paid as normal practice.

These payment terms are far below the standards expected of a company signed up to the Prompt Payment Code, or any responsible business. They are an abuse of Carillion's dominant position, and have contributed to the perilous situation whereby many of Carillion's small business suppliers now face the prospect of next to no payment for four months’ work.

It is too early for me to be able give an estimate of the likely number of small businesses to be so severely affected by Carillion's collapse so as to fail – we believe it will hit most affected businesses in the months to come, as implications on cash flow and balances start to be seen. However, we will be gathering what data we can as the situation develops and individual firms assess whether they can cope. It is without doubt that the company’s payment practices, especially in the last four months, have contributed to the jeopardy many of its suppliers now find themselves in.

There are three broad groups of suppliers that have been affected by the collapse of Carillion: direct subcontractors, indirect subcontractors, and suppliers who may be unaware that they are participants in Carillion’s supply chain. It is vital that support reaches all three groups and its aim is wider than only direct contractors.
In terms of the liquidation process, our understanding is that neither the special manager nor PWC consider themselves to be in a position to change contracts, so many suppliers will remain on the 120 days + payment terms which they were on prior to the collapse. This is obviously an extremely concerning situation – especially since it means that some suppliers who have continuously worked on these projects now face the prospect of waiting over 240 days to receive any money at all, despite work being carried out, let alone be paid in full.

If the intention is for the payments going forward to meet the 30 days payment standard and be paid ASAP, FSB would welcome this wholeheartedly. However, if this is the case, it must be well communicated to smaller contractors and we would ask that PWC make a statement to this effect immediately. We have been contacted by a number of suppliers who are seriously concerned that existing payment terms will remain. It is my belief that if it cannot be PWC or the special manager who moves contracts onto reasonable payment terms, then the Government must intervene.

In terms of your inquiry, I thought it might be helpful if I set out below some of the questions which I know our members would like answers to. If there is any other help that I can provide, please do not hesitate to let me know. I will endeavour to keep you updated on the progress of our affected members as the situation develops, and thank you once again for your interest in this matter.

Questions for Carillion:

- Did Carillion’s business model, prior to its failure, rely on paying its suppliers late?
- What proportion of small suppliers were offered payment terms of 120 days or more? And what number?
- What were Carillion’s average payment terms prior to July 2017?
- Before or since July 2017, were suppliers asked for a discount, or retrospective discount, in return for prompt payment?
- Has Carillion ever asked suppliers to pay a fee to remain on its supplier list?
- Did Carillion’s executive team ever discuss how to use its market position so as to pay firms late and improve its own balance sheet?
- Did Carillion’s executive team have any knowledge as to the practice of deliberately paying suppliers later than terms, for instance through disputing spurious errors in invoices or date of receipt?
- Did Carillion at any point inform the Government that it would move to lengthen payment terms in order to improve its own finances?
- Are Carillion’s executive team aware of any attempt to reassure Carillion’s suppliers on the basis of the Government continuing to award Carillion significant public sector contracts?
- For Carillion, when did the payment clock for suppliers start ticking? Was it from when invoices were issued or when they were received?
- What is the total owed to suppliers in retention payments for work carried out pre 15 January 2018?
- Did banks slow payments from the early payment system in the run-up to the liquidation announcements?
- Were high fees a barrier to firms accessing the early payment system?
Government involvement:

- Did the Government ever discuss with Carillion the using of extended payment terms in order to improve its finances?
- Was awarding Carillion additional public sector contracts in 2017, as a means of reassuring suppliers and others about the viability of the firm, ever discussed in government?
- Did the Government ever consider the danger of mis-signalling Carillion’s viability to small suppliers in continuing to award public sector contracts to Carillion?
- Will the Government ensure all those who have worked on public sector projects will be paid for work already carried out?
- Will the Government intervene to ensure payment terms for work ongoing is reduced to 30 days?
- Will the Government intervene to help small businesses in the private sector owed money following Carillion’s collapse?
- What are the plans to make the Prompt Payment Code mandatory for larger firms and to attach a stiffer penalties regime?
- What are the Government’s plans to make the duty to report on payment terms for large firms to be easily and publically available for small businesses?
- Would the Government introduce a presumption in favour of project bank accounts on all public sector construction projects, in order to prevent a catastrophic domino effect in the case of another Carillion-style failure?
- Would the Government consider introducing an independent retention deposit scheme?
- Does the Government consider itself on track to meet its target of 33 per cent of procurement spend being with small or medium sized businesses? What steps is it taking to ensure that this is met? In the last year, the percentage fell from 27 to 24 per cent.
- What steps are the Government taking to ensure the further disaggregation of public sector contracts, which would help stop companies like Carillion dominating the public procurement landscape?
- What consideration was given to the suppliers who relied upon Carillion contracts when profit warnings were issued and commercial contingency plans were drawn up?

Once again, I hope these questions might be helpful and would like to thank you for making the experience of small suppliers a priority in your investigation into this serious matter.

Yours sincerely

Mike Cherry OBE AIMMM FRSA
FSB National Chairman