

**Rural Economy and Connectivity Committee  
Inquiry into construction and procurement of ferry vessels in Scotland**

**Call for Evidence**



**Submission by Core Solutions Group**

1. We refer to these questions in the Call for Evidence:
  - 3. What actions can be taken, in particular with respect to improved contract management processes, to ensure future contracts of this type are delivered a) on time; and b) on budget?
  - 5. How might the experience of the procurement and fulfilment of the current hybrid ferries contract inform the development of an updated Ferries Plan?
2. This submission assumes that there were attempts to negotiate better outcomes at an earlier stage in the duration of the contract and that these failed to produce a satisfactory outcome – or that such attempts were not made or were declined.
3. It is clear that contractual relationships can break down in situations like this. It is equally clear that such breakdown is costly in time, public money and opportunity cost. The result is often a default to unresolved, prolonged impasse, with a zero sum, lose-lose outcome, characterised by delays, polarised positions and adversarial stances. This can result in a serious waste of public money and a serious detriment to all concerned, not least users of the services.
4. Fear may drive many public sector contractual disputes. Fear of failure, fear of loss of face, fear of being blamed. This can result in denial, cover up, protectionism, and a wistful hope that somehow it will all be resolved in the future. Not tackling problems in real time can stoke up worse difficulties in the future. Even when they are trying their best (and most of us are doing so, most of the time), people make mistakes. A blame culture tends to trigger the fight, flight or freeze response and is inimical to mature, constructive problem-solving where the underlying interests of all concerned are addressed. The airline industry discovered this in the nineteen-seventies and sought to change its culture from fault finding to continuous learning, with very substantial long-term benefits. Scottish public sector procurement could be enhanced

by adopting such an approach from initial procurement guidelines and requirements through to addressing serious problems when these arise.

5. It is almost inevitable in complex contracts that differences and disputes will exist. Procurement and management of contracts such as these must have provisions for collaborative management and resolution of disputes built in from the outset. This should include early recognition/warning of problems, dispute avoidance mechanisms, a nip-it-in-the-bud approach to (potential or actual) disagreements and effective communication of difficulties as they arise. This also requires competence in negotiation and communication skills that depart from the classic blame/fault-finding positional paradigm. Training of key staff and managers in these skills and processes – and how to use them - may be essential.
6. The availability of particular processes to address problems early in a non-confrontational, collaborative way could help to address these concerns. Mediation and facilitation already play a valuable role in many public sector contracts, from early intervention to help create an environment in which the project starts on a sound footing, through to providing the means by which serious disputes can be brought to a resolution speedily and cost effectively. There are many helpful examples in the public sector in Scotland in infrastructure, construction, engineering, property, services and other matters.
7. We submit that the provision of independent facilitators or mediators as a standard feature of contract management and dispute resolution should be a requirement in contracts such as these to help to ensure that they are delivered a) on time; and b) on budget. This should also inform the development of an updated Ferries Plan. At the very least, such processes will help to manage and reduce risk and enhance the prospect of cooperation and optimisation of outcomes among contracting parties.
8. We shall be pleased to expand on these submissions if that would assist the Committee in its Inquiry.

*Core Solutions is Scotland's leading provider of mediation and facilitation services in connection with high value and complex commercial, public sector and professional services disputes and differences. We have been involved in many hundreds of such situations in the past twenty years and draw on a wide range of experience in making this submission.*

John Sturrock QC  
Founder and Chief Executive  
Core Solutions Group  
10 York Place  
Edinburgh EH1 3EP  
[www.core-solutions.com](http://www.core-solutions.com)  
0131 524 5188