

Modern methods of construction and modular buildings

17 January 2024

We have observed a trend of more projects being carried out either wholly or using some element of off-site fabrication of modular buildings or other modern methods of construction. Some commentators have suggested they expect the market for modular buildings to grow in excess of 6% year on year.

It is easy to see why it is proving popular and this approach and utilising modern techniques and processes can enhance efficiency, quality and sustainability.

We anticipate this trend will continue into and throughout 2024 for a number of reasons:

- The comparative speed with which modular buildings are normally carried could assist in reducing both parties' exposure to the risk of high levels of inflation.
- Modular buildings will likely provide the most cost effective and efficient long-term solution to the RAAC crisis.
- The use of modular buildings is considered a more sustainable approach to building.
- Modular residential buildings are seen by many as the only realistic way to resolve the housing crisis and it may be particularly relevant in an election year or a year in which a new government comes into power.

Modular building contractors: Employer considerations

In terms of the effect this could have from a legal perspective, a significant increase in popularity for modular buildings could see demand outpacing supply and lead to stock issues and more projects falling into delay.

As modular building companies appear more susceptible to cash flow issues and external economic forces, a potentially volatile economic climate may see more modular building companies cease trading.

It is therefore as important as ever for employers to ensure that they are adequately protected in the event that their modular building contractor ceases trading after it has paid for pre-fabricated buildings that are stored off site.

Employers will want to ensure vesting certificates and, if appropriate and available, bonds are in place to offer protection in the event of contractor insolvency.

One of the downsides of modular construction is that if a defect is caused during the construction process in the factory, it is likely that the same defect could be repeated on every single property produced by that factory using the same methods.

Although the JCT is releasing a new suite of contracts it is not anticipated that this will include a new specific contract for modular buildings or any specific clauses in a nod to modern methods of construction.

We understand the JCT feel that their current suite of contracts already facilitates modern methods of construction and it is therefore unlikely the new suite will depart too greatly with concessions for modern methods of construction.

We also anticipate that the Department for Levelling Up, Housing and Communities (DLUHC) will continue to take steps to standardise modular buildings and other modern methods of construction through their ongoing 'Modern Methods of Construction Standardisation Research and Kit of Parts' project to develop an open-source kit of parts that will encourage the uptake of Modern Methods of Construction.

We understand the DLUHC feels standardisation is necessary to speed up research and integrate modern methods of construction deeper into the industry, believing that a collective move towards standardisation and learning collectively will speed up research, speed up construction programmes and allow us to harness the potential of modern methods of construction quicker.

This view is not held by everyone however, with at least one major firm expressing extreme concern that the move towards standardisation will greatly reduce the potential for innovation.

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