

Welcome - from the man on the Hill

Welcome to another Traprain Newsletter. These are not coming out as quickly as we had hoped, but this is for the very good reason that we continue to secure new work and new clients for the business.

In this edition we look at two of Traprain's core staff members, East Linton PA Vanessa Rolph and Methil claims administrator Fiona Adamson. We also show how Traprain is helping new and existing clients, and look at the field of fuel poverty – the other side of the strong growth in one of our core markets. Traprain has a strong involvement in social housing in Scotland, and were approached to write a briefing paper on this subject, which is also posted on our website.

I hope you find this Newsletter useful – if you have any feedback, please contact me



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Traprain's main office in the village of East Linton.

STOP PRESS.....

New Client for Traprain

Major Norwegian supply base and logistics company Norse Group AS have retained Traprain to advise on contract documentation relating to a major international logistics project.

External counsel, John Harris-Christensen said, "We use many overseas counsel and advisers, but have never had as rapid a response as we received from Traprain."

Energy Prices — a Two-Way Street

Rising oil and gas prices have been beneficial for many areas of Traprain's business, where clients are involved in these markets, either directly or indirectly. However, the impact on consumers, particularly those on low incomes, is a negative one.

Traprain has recently written the response of the Scottish Federation of Housing Associations to the Scottish Government's Fuel Poverty Forum, as part of our policy of supporting Social Housing in Scotland.

This response has been well received and should shortly appear on the Scottish Government's website.

See it on the Traprain web site at <http://www.traprain.com/index.php/tc/news/>

Arbitration — a Scottish Perspective

Scotland has a legal system which is distinct from that of its larger neighbour, England, and which has included substantial differences in arbitration law and practice. As an example, Scotland has adopted the UNCITRAL provisions, but England has not done so. However, while this move would potentially have made Scotland an attractive venue for international arbitrations, in reality the general Scottish Law of arbitration is out-of-date and confusing.

A draft Arbitration Bill, produced by arbitration experts rather than the Government, has been in existence for a number of years, but has made no real progress. However, the Scottish Government has now brought forward a formal Arbitration (Scotland) Bill to modernise Scottish Arbitration Law. The Government has now announced that the Bill will be one of those to be discussed in the 2008/9 session of the Scottish Parliament.

Traprain has participated in the public consultation on this legislation, both directly and through the Chartered Institute of Arbitrators. In addition, Traprain has been asked to provide a member for the Government's Focus Group to discuss this law. Traprain is now involved in a number of consultation processes on new legislation, and is frequently one of the only consultancies being consulted.

If you are interested in using arbitration in Scotland (or elsewhere) as a method for dispute resolution, please contact Traprain by e mailing enquiries@traprain.com to learn how we can help manage and support the process.

Round the Globe Training for Traprain

Traprain provides a wide range of training solutions, both for public courses in Europe, the Middle East and South East Asia, working with partner companies based in Dubai, and in-house courses around the world for existing consultancy clients and others.

During August 2008, Traprain trainers Peter Foreman, Helen Payne and Dennis Brand delivered a range of public courses on contracts and related matters in Kuala Lumpur, Amsterdam and Cairo. During the rest of 2008, courses are planned in Dubai, Abu Dhabi, Muscat, Cairo, Prague, Kuala Lumpur and London, with further work secured through to the end of 2009. Traprain are also working with partners to secure in-house work in Indonesia, which would be a new market for the company.

Recent examples of in-house training include:

- Specialist course for Norwegian staff of client Aker Solutions relating to the offshore industry CRINE/LOGIC standard contracts in Bergen
- Working with local partners, Traprain has developed a course on writing Scope of Work documents delivered in Abu Dhabi to staff of state oil and gas company, ADNOC
- Contracts management training for Equate Petrochemicals in Kuwait

Traprain on Board for Carrier Vessel Programme

Support for clients Kellogg Brown & Root on the Royal Navy's Carrier Vessel Future programme continues. The British Government has confirmed the orders for the manufacture of H.M.S. *Queen Elizabeth* and *Prince of Wales*. At around 65,000 tonnes, these will be the largest warships ever to serve in the Royal Navy.

While Traprain's involvement in the project is drawing to an end, recent developments have led to the scope of supply being expanded. In addition to work by lead consultant Peter Foreman, Traprain has recently supplied Richard Lee to advise on quantity surveying issues, and Fiona McGregor to carry out a review of contract documentation.

Traprain continues to demonstrate its ability to respond quickly to meet a client's changing requirements. Traprain CEO, Peter Foreman commented: "The involvement of Traprain in what is the largest military shipbuilding project in Europe has been a testament to the team's professionalism and consistent with our policy of supporting complex major projects around the world with high-quality consulting advice, delivered in a timely and responsive fashion by experienced consultants.

"In addition to the general project support under the KBR contract, we have also provided services at KBR's request to the shipbuilding members of the construction Alliance, and will continue to offer additional services on an as-required basis."



The Tees Alliance shipyard at Haverton Hill (see page 4)

Meet a Member of the Traprain Team

Introducing Fiona Adamson

In the last issue of our newsletter we announced that fact that Traprain has opened its first branch office at Energy Park Fife in Methil, eastern Scotland. The opening of this office follows the decision by existing client Aker Kvaerner (now Aker Solutions) to outsource to Traprain the administration of personal injury and related insurance claims. At that time, Fiona Adamson joined Traprain as Claims Administrator based in the Methil Office.

Now well established within Traprain, Fiona shares just a taste of the work she does: "At any one time I can have around 100 claims going through this office. It's my job to ensure the insurance company and the lawyer dealing with the claims have all of the information they need to deal with each claim and to make sure that every step of the process runs smoothly.

"Cases can come from previous or existing employees and can be for a range of industrial illnesses – where the time limit on the claim only starts when the illness becomes apparent – or for injury through an industrial accident, which has a three year claim limit. For every claim I gather all employment details including wage information, health and safety records, accident records and so on, and pass these to the insurer. Where the person was a subcontractor this means also producing contract documentation. I also have to check back – sometimes over many years – to find if proper equipment and safety instructions were provided which could have prevented the injury or accident. Needless to say, it's not always straightforward!

"I then steer every claim through, liaising with the solicitor and the insurance company at every point. It's my job to make sure the case is moving as quickly as possible, but also that no claim is paid or goes to court that should not. So I work closely with the solicitor every step of the way, including checking the defences and all the documentation associated with the case. There are claims not always covered by insurance – these cases can come under general legal liability, when the company itself is liable. So it's my job to protect the company's interests.

"I've been working in this area for more than 12 years and I love it, though it's fair to say it is very taxing. I've built up a lot of knowledge of the law in this area, so I'm confident each claim is being dealt with in the best way possible. If I had my time again I think I'd work in the law: it's complex and challenging but very satisfying."

Big Service for Smaller Clients

In addition to work on major projects detailed in this Newsletter, Traprain also offers support on a day-to day basis for a number of smaller companies. Here Traprain's model is to provide these clients with the type of advice that larger companies receive from in-house counsel and legal directors, but which they cannot afford on a permanent basis.

One of these clients is Nexus Ltd – an Aberdeen based consultancy (see www.nexuscentral.co.uk) providing highly-specialised services for clients in the international oil and gas sector. Traprain also advises Nexus' main shareholder – Revita Consulting UK, the British arm of the Norwegian-based Revita Group.

Activities undertaken for Nexus include advice on specific contracts, corporate re-structuring, and assistance in establishment of operations and registrations in the United States, Kazakhstan and Azerbaijan.

Nexus MD, Francis Kiernan comments : "As a medium-sized company, with global ambitions, we need specialist advice available on tap from consultants who not only understand international legal issues, but also business and commercial drivers in different markets.

"We are able to obtain that level of support from Traprain, without the need to retain a full-time member of staff, who would only have limited work to do between major projects. This makes sure we identify and manage risk, while minimising overhead costs."

A Typical Day at the Hub — Meet Vanessa Rolph

Vanessa Rolph, Peter's secretary/PA is based at Traprain's main office in East Linton. The town has good road and rail access and is some three miles from Traprain Law, an highly visible outcrop of volcanic rock with an extremely interesting historical background, from which Traprain Consultants take their name.

Vanessa has been working with Peter for nearly two years and, she says, finds the job continually interesting and varied: "From my viewpoint the office represents an international communications hub," says Vanessa. A typical day at the hub includes responding to email and phone messages as a top priority, updating Peter's diary plus dealing with day to day correspondence and maintaining client files."

Her main role is to manage the continual flow of business information to and from Traprain. Vanessa is often first point of contact: she regards dealing with the demands of intercontinental business travel arrangements as one of the most challenging aspects of her work, but with the benefits of a cheerful disposition, good communication skills and modern technology views it as all in a day's work.

She also has an active social life with an interest in the arts. She turns her hand to many things, from acting in drama productions, to finding sponsors for the Pantomime. It all adds up to a busy, varied and challenging life.

New Remedies for Breach of Public Procurement Rules

Public procurement within the European Union has, for many years, been governed by complex regulations intended to ensure that all EU businesses have an equal chance in bidding for public sector work. Indeed, the definition of "public" is wide, including utilities and other bodies which are regulated and/or funded by the state (e.g. providers of social housing).

Until now, the remedy for breach of the regulations has tended to be a fine on the body concerned. However, a recent EU Directive will require all member states to add a remedy of "ineffectiveness" by not later than 19th December 2009. This will mean that, in some circumstances, courts will have power to declare a contract that has been signed, and where work has commenced, "ineffective" (though the precise meaning of this term is for national governments to decide). Traprain has been involved in the consultation process in the United Kingdom and Scotland (where the issue is devolved).

The changes, however they are implemented, will have a significant impact on clients and bidders since both will be at commercial risk if an award is ruled to be ineffective. Traprain has argued that an ineffectiveness remedy should not be retrospective unless the bidder had colluded with the client to evade the Regulations. Further, we have pressed for the period within which an award can be challenged to be as short as permitted by the Directive, so as to reduce the inevitable period of uncertainty.

All businesses involved in the public sector (within the wider definition used in this field) should monitor progress, and ensure that their processes will meet the new requirements when the Directive is transposed into local law. It is currently unclear whether the rules in Scotland will differ from the rest of the United Kingdom, but this is very possible.

If this is a concern for your business, please contact Peter Foreman on peter.foreman@traprain.com for further discussion.

Tees Alliance Group Commission Secured



An artist's impression of the Sea Dragon drilling rig being converted by Tees Alliance

Traprain has secured a new contract to support clients Tees Alliance Group Ltd. ("TAG"), providing assistance in the drafting of complex legal and commercial documentation on projects in which TAG is currently involved.

These include an important project to convert Russian-built hulls to offshore drilling rigs for use in Mexican waters, and a number of other complex international construction and engineering projects.

Based at Middlesbrough in the North East of England, TAG is revitalising shipyard facilities on the River Tees and providing opportunities for companies in the area to access the currently buoyant world oil & gas market.

TAG managing director, Alex Dawson said: "Having established TAG to convert and construct rigs for the offshore market, we needed the best quality support at a reasonable price. Traprain gives us access to fast, responsive advice and drafting from consultants who know their way around the industry, and who can help us through complicated construction and financing documentation in an international context."

(www.teesag.com).