

# Sector focus

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Higher Education Special Bulletin

## Facing up to the funding squeeze

**With the UK economy in turmoil and an uncertain outlook for higher education (HE) funding post-2011, university estates departments are looking for new ways to work more efficiently.**

The recent budget established university funding allocations until 2011. The second round of a programme to accelerate capital spending for university projects that are likely to have the greatest economic impact was approved in May – with a further £60 million of capital funding released to support 47 new projects.

However, the Government has capped student numbers for 2010 and 2011 and future funding policy is uncertain. The Department for Innovation, Universities and Skills told universities in April that they will be expected to save £50 million next year through improved procurement and better estates management.

The 160 UK universities represent a very significant estate, estimated at 25 million square metres of space (source: Estates Management Statistics). Effective estates strategies will be vital to the efficient operation of the HE sector as universities are forced to make the money they do have, work harder for them.

Key objectives will be to:

- define long-term strategic priorities;
- establish effective long-term capital maintenance plans;
- ensure robust and effective benchmarking; and
- pay particular attention to effective space planning.

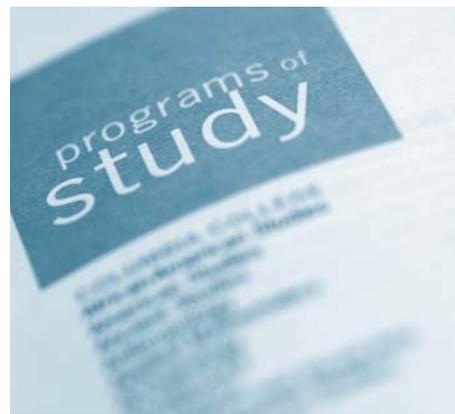
Estates directors will be expected to take a fresh look at the way in which their property is both acquired and managed to ensure premises are operated as efficiently and cost-effectively as possible. For some years, many universities have been taking a non-traditional approach to property provision, particularly for student accommodation, by outsourcing to private sector providers such as Unite and Liberty Living, or entering into partnering arrangements such as those offered by University Partnerships Programme (UPP). UPP is now extending its reach from student accommodation into

academic facilities, whereby universities enter into a long-term design, build and operate contract that provides them with premises at no, or very little risk or cost. However, in the current market, with land and property prices low, some HE institutions are returning to traditional provision. The University of Glasgow has just bought a 400-bed student residence from Unite, because the cost of acquiring property is currently lower than construction if the location is right.

Procurement too is under scrutiny. Now is the time to tighten up tender procedures; improving on tender rates where possible and scrutinising approved supplier lists to ensure best value.

The pressure on Directors of Estates has never been greater, as they strive to deliver greater efficiencies with less money and fewer resources. However, the economic climate is creating rare opportunities for those institutions with a robust real estate strategy and cash in the bank, to capitalise on depressed asset values and greatly reduced construction prices.

For more information call Mark Few, Director of Watts' Public Sector Team on 020 7280 8000.



## Editorial

*Welcome to the latest Higher Education Special Bulletin from Watts Group PLC, which looks at some of the future challenges facing estates departments. On the following pages, we consider the impact of the recession on a sector that has enjoyed considerable support from Government in recent years and which has been successful in attracting private investment at a time when other markets have remained stagnant.*

*While there are increasing signs that the eye of the economic storm may have passed, the legacy of the downturn – a tighter funding regime and the cap on student numbers - will have a considerable ongoing effect on higher education institution estates. Restricted budgets will force many institutions to re-consider some of their larger capital schemes in favour of consolidation and refurbishment of their existing space. This will involve some tough property decision-making, particularly as departments face increasing pressure to meet sustainability targets and achieve greater energy efficiency.*

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## Sustainability: looking at the bigger picture

We all think we know what we mean by 'sustainable development' but is meeting the right environmental standards really enough?

Proposed new environmental legislation calls for the 'flower labelling' of buildings. This is a new EU standard creating a single set of environmental criteria, indicating that the life-cycle of a building will cause the minimum possible environmental impact. Given the problems that owners and occupiers have had in complying with energy certification of buildings, flower labelling may be a regulation too far. But it does raise questions as to the genuine environmental credentials of many of our apparently 'sustainable' buildings.

Energy efficient design has moved on dramatically in the last decade. The Department for Trade and Industry claims that even a building constructed in 2006 was 40% more energy efficient than premises built in 2001. But sustainability is not limited to energy use. Responsible sourcing, re-use and recycling of products have a major part to play, as does the calculation of embedded energy in building materials and the carbon footprint of the supply chain. In October 2008, BRE Global launched the BES 6001 framework standard for the responsible sourcing of construction products, which offers a way to objectively compare products from the source of raw materials through the supply chain to delivery, use, re-use and recycling. However, all this ignores the rogue element that is the building user. Even a Building Research Establishment Environmental Assessment Method (BREEAM) excellent rated building cannot claim to be 'sustainable' if, for example, the occupiers continually override heating and lighting controls. It is here that the higher education community has a major role to play, not only by taking the opportunity to pioneer sustainable development within their own estates but by educating students – effectively a captive audience of occupiers – to both understand sustainable design and to maximise the benefits it provides in use.

For more information call Mark Rabbett, Director in Watts' London Office, on 020 7280 8000.

## How energy efficient is your estate?

The Government is calling for a link to be established between carbon reduction and future capital allocations to universities, placing new emphasis on energy management.

Wasting energy is about to become not only unacceptable but unaffordable for the higher education (HE) sector. If Government is to meet its target of reducing carbon emissions by at least 26% by 2020, then universities, which emitted 1.8 million tonnes of carbon dioxide in 2006-07 (source: Higher Education Funding Council for England (HEFCE)) must put their house in order.

Post-2011, the HE sector will be operating in an increasingly testing environment. HE funding – which until now has been a Government priority – will be tighter than in recent years with the UK's national debt forcing a cap on student numbers. Add to this the fact that in future HEFCE funding is likely to be linked to environmental targets, and universities will be under increasing pressure to keep a tight rein on costs. Effective energy management will be vital. John Denham, Secretary of State for Innovation, Universities and Skills, has told HEFCE that by April 2011, "all institutions in receipt of capital funding should have plans to reduce carbon emissions, and performance against these plans should be a factor in future capital allocations".

The Carbon Reduction Commitment (CRC), to be introduced in April 2010, will also impact on universities. The CRC will be mandatory for organisations that spent more than £1 million a year on electricity – which equates to 6,000 megawatt hours – during 2008. HE sector environmental body, Higher Education Environmental Performance Improvement (HEEPI) anticipates that once the CRC comes into effect, around 100 of the UK's universities will be affected by the new regime. They will have to buy allowances at an expected initial rate of £12/tonne for the energy they are likely to use during the year. If they use too much they will have to buy more allowances but if they use less than expected, they will be able to trade the surplus. According to Vaughan Williams, Director of Estates and Facilities at St George's, University of London, on average, universities spend around a quarter of their total annual property operations expenditure on energy. HEEPI believes universities that take a proactive approach by taking early action to reduce their energy use could reap considerable financial advantages by selling their surplus capacity.

There are a range of initiatives already underway to help the HE sector manage energy more effectively. In August 2008 HEFCE launched the Revolving Green Fund, a partnership between HEFCE and Salix Finance Limited. £30 million is available by 2011 to provide recoverable grants for projects that reduce greenhouse gas emissions. The fund has two strands. The institutional small projects (ISP) fund provides ring-fenced money for carbon saving projects and the transformational fund offer finance to HE institutions enabling them to tackle larger projects capable of high level change to an institution's energy consumption and emissions.

The Carbon Trust has also developed a carbon management programme tailored to the HE sector, which aims to achieve significant reductions in energy costs. More than 60 universities have so far taken part in the programme which takes the form of a year-long five-step process during which participants receive support from expert consultants in areas such as provision of analysis software and tools, training and workshops for staff and senior management, and identifying carbon saving projects. The end result is a fully costed carbon management plan. At the other end of the spectrum the Carbon Trust-funded Carbon Academy, works with students' unions to reduce the collective carbon footprint of students by 5,800 tonnes of carbon dioxide per year through better energy management.

According to HEFCE, student accommodation is a major source of carbon emissions in terms of initial construction, lighting, heating and cooling. The organisation is currently funding two projects looking at the design and use of space and this year is undertaking a major review of the HE sector's use of space.

HEFCE is now working with all the universities to which it allocates funding, to ensure that plans are in place to reduce carbon emissions by April 2011 and guidance on carbon reduction is due to be published in July. Good practice guidance is also available from the Carbon Trust to help HE institutions formulate their plans.

For more information call Tony Churchill, Associate in Watts' London office on 020 7280 8000.



# Summer launch for BREEAM HE

A new assessment method for higher education (HE) buildings will be launched by the BRE in July.

There is increasing pressure on the higher education sector to achieve high environmental performance when undertaking new build schemes and refurbishment projects. In the past there has been no specific assessment method for HE buildings against which environmental performance can be effectively measured or to provide a sector-wide benchmark for improvement. The best known assessment method – Building Research Establishment Environmental Assessment Method (BREEAM) – has not been widely adopted in the HE sector (source: Higher Education Environmental Performance Improvement (HEEPI)). According to HEPI, one reason for low take-up is the fact that there are no generic building specifications relevant to HE. Hence, most HE buildings which have gained BREEAM have done so on a bespoke basis, which is alleged to have cost up to £20,000 per building.

To remedy the situation, since 2008, BRE Global has been working with the Higher Education Funding Council for England (HEFCE), the Association of University Directors of Estates (AUDE) and HEPI to develop a set of standard criteria, tailored to the needs of the HE sector. The new assessment method will be available from July and will be flexible enough to cover a wide range of buildings including teaching, research, and mixed-use

buildings; laboratories are given particular attention, with the addition of a number of specific credits aimed at encouraging the use of energy efficient measures. For a list of BREEAM assessors who are licensed to carry out higher education assessments, together with training dates, go to [www.breeam.org](http://www.breeam.org)

For more information call Sam Pickering, BREEAM specialist in Watts' Bristol office on 0117 927 5800.



## Cheques and balances: are your suppliers solvent?

In the current economic climate, it pays to check the financial viability of key suppliers.

According to PricewaterhouseCoopers, 692 construction firms went into insolvency in the last quarter of 2008 – up 28% from 540 the previous quarter – and Jonathan Hook, PwC's construction and housebuilding leader, expects this trend to show further deterioration during 2009 (Source: Building).

Construction projects are typically high risk because contractors rely heavily on positive cash-flow to fund projects. The failure of one link can have an impact on the whole supply chain. The risk of financial failure in the supply chain is particularly dangerous for higher education projects, which are frequently scheduled for completion in time for the new academic year. Universities who run into problems due to the insolvency of one of their contractors may find themselves facing the problem of operating without vital academic facilities or accommodation.

It is not possible to protect projects completely from failure – but there are ways to considerably reduce the risk. Consider the potential for insolvency at the start of a project as part of the risk management strategy and put in place mechanisms to protect yourself:

- credit check all suppliers and main contractors;
- take credit references from the main contractors' supply chain - speak to at least three main suppliers and subcontractors;
- obtain warranties with step-in rights from key suppliers and subcontractors;
- take-out a performance bond – even a bargain basement bond will still give up to 10% of the contract sum in cover should the contractor fail, the ease with which a contractor can provide a bond is a good third party financial health check; and
- be alert to late payment and payment schedule changes, slowdowns on-site and/or of service delivery or the withholding of payment on the basis of unexpected claims.

If any of these indicators of insolvency become apparent, take professional advice and act quickly to protect yourself. And finally, take care to pay your suppliers on time, don't create the situation you want to avoid.

For more information call Tim French, Director in Watts' London office on 020 7280 8000.

## Refurbish or replace?

More than 40% of the UK university estate was built between 1960 and 1979. But should those buildings be demolished and replaced or retained and refurbished?

The Association of University Directors of Estates (AUDE) 'Legacy of 1960s university buildings' report, published in 2008, revealed that although the cost of refurbishment projects can be up to 80% that of new build, "there are often significant other benefits from the refurbishment route, particularly environmental ones".

Re-use is ultimately the best type of green development. No embodied energy is wasted in demolition and by carefully planning maintenance and refurbishment schedules, resource-efficient systems can be incorporated in a timely and considered way. The key to success is to be aware that whole-building opportunities often arise during refurbishment projects, so take expert advice at the planning stage. For example, the wholesale replacement of lighting in an old building provides the ideal opportunity to fit lighting controls. Choose a pale interior colour palette to maximise natural light and use energy efficient light bulbs. Solar shading to the exterior could also be an option. By planning these measures in advance, universities will reap the benefits.

Heritage buildings are often ignored in the sustainability debate, as they are frequently deemed 'untouchable' due to the listing system. However, sensitive refurbishment carried out in sympathy with the fabric and history of the building will pay dividends. Many UK university buildings have historic significance and specialist advice is vital if works are to be carried out that will not be detrimental. According to Allen Gilham, Watts' building conservation specialist, there is little point in trying to hermetically seal a building that needs to breathe, in an attempt to increase energy efficiency. In a Georgian building, instead of triple glazing, he suggests considering going back to internal wooden shutters. "These are in keeping with the original building, equally effective as modern glazing in keeping out light and retaining heat and are made from a sustainable resource," he says.

Taking timely and appropriate advice can help reduce the carbon footprint of the university estate and help maintain our valuable stock of existing buildings.

For more information call Daniel Webb, Director in Watts' London office on 020 7280 8000.

# Timely tendering: delay at your peril

## A recent judgement in the High Court provides food for thought for those involved in the procurement of public projects.

In *JB Leadbitter & Co Ltd v Devon County Council*, part of a tender for a framework agreement was submitted to Devon County Council 26 minutes late. The bid was rejected on the basis that a complete tender was not submitted in time to meet the deadline. The Invitation to Tender (ITT) clearly stated that all documents must be submitted to the contracting authorities' portal before the 3:00pm deadline and that those tendering would only have one opportunity to make their submission. Part of the tender comprised a number of case studies which the claimant, despite submitting its tender prior to the deadline, had forgotten to include. It then attempted to submit the case studies – also before the 3.00pm deadline – but was unable to upload the documents because the portal would only accept one submission per bid. At 3:26pm the claimant successfully emailed the documents to Devon County Council but they were rejected on the basis that a complete tender had not been submitted by the stated deadline.

The Court upheld Devon County Council's decision, judging that the tender had been properly rejected within the public procurement rules and that the claimant had not been treated disproportionately or discriminated against. This decision was based on the fact that although the invitation to tender allowed for errors in tenders to be rectified once the deadline had passed, the court did not accept that the failure to include the required case studies was an 'error' but that the documents were incomplete. The claimant argued that Devon County Council should have waived strict compliance with the ITT and allowed them to submit the case studies after the deadline. Not allowing this amounted to unequal treatment and discrimination, the claimant argued. However, the court disagreed on the basis that Devon County Council's strict compliance with the ITT was applied equally to all tenderers.

The claimant then argued that as a general principle of European Community Law, Devon County Council was obliged to act proportionately in dealing with the tender. By not doing so, said the claimant, the Council was in breach.

According to law firm CMS Cameron McKenna, proportionality involves an authority:

- acting to suit the purpose of their powers;

- achieving that purpose by means least burdensome to those affected; and
- imposing burdens that are proportionate to the intended goal.

The Court determined that the ITT was quite clear on the requirement for a single upload of documents and submission by the stated deadline. Therefore, Devon County Council's decision to reject the tender did not mean that it had acted disproportionately.

Cameron McKenna believes this judgement, "gives important guidance on the application of tender rules, particularly timing and also considers the viability of proportionality arguments in procurement challenges". In a climate in which an increasing number of challenges are likely to be made in courts against contracting authorities, anyone involved in the procurement of public projects should be keeping a close eye on relevant judgements to ensure they are aware of the latest legal developments, says the firm.

For more information call Mark Few, Director of Watts' Public Sector Team on 020 7280 8000.



## Watts network of offices:

### BARCELONA

T: +34 93 255 31 25  
E: barcelona@watts-int.com

### BELFAST

T: +44 (0)28 9024 8222  
E: belfast@watts-int.com

### BERLIN

T: +49 30 345 0569 0  
E: berlin@watts-int.com

### BIRMINGHAM

T: +44 (0)121 265 2310  
E: birmingham@watts-int.com

### BRISTOL

T: +44 (0)117 927 5800  
E: bristol@watts-int.com

### DUBLIN

T: +353 (0)1 703 8750  
E: dublin@watts-int.com

### DÜSSELDORF

T: +49 211 159 434 12  
E: dusseldorf@watts-int.com

### EDINBURGH

T: +44 (0)131 226 9250  
E: edinburgh@watts-int.com

### FRANKFURT

T: +49 69 971 6816 0  
E: frankfurt@watts-int.com

### GLASGOW

T: +44 (0)141 353 2211  
E: glasgow@watts-int.com

### THE HAGUE

T: +31 (0)79 361 88 91  
E: thehague@watts-int.com

### LEEDS

T: +44 (0)113 245 3555  
E: leeds@watts-int.com

### LONDON

T: +44 (0)20 7280 8000  
E: london@watts-int.com

### MADRID

T: +34 91 435 54 59  
E: madrid@watts-int.com

### MANCHESTER

T: +44 (0)161 831 6180  
E: manchester@watts-int.com

### MUNICH

T: +49 89 678 0663 0  
E: munchen@watts-int.com

### PARIS

T: +33 (0)1 42 86 69 80  
E: paris@watts-int.com

### SOFIA

T: +359 2 827 2222  
E: sofia@watts-int.com

### STOCKHOLM

T: +46 (0)8 791 7300  
E: stockholm@watts-int.com

### VIENNA

T: +43 (0)1 533 6809  
E: vienna@watts-int.com



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Special Bulletin editor: Mark Few (Email: [mark.few@watts-int.com](mailto:mark.few@watts-int.com))  
Special Bulletin author: Lesley Davis

Comments, criticisms and contributions are always welcome.

The Handbook is available to purchase from [www.ricsbooks.com](http://www.ricsbooks.com) priced £24.95.

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