



BRIEFING PAPER

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The collapse of Carillion

By Federico Mor, Lorraine Conway, Djuna Thurley, Lorna Booth

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Summary

Compulsory liquidation

A compulsory liquidation order was made against Carillion, on the petition of the companies' directors, on 15 January 2018. The High Court appointed the Official Receiver as liquidator. Compulsory liquidation is a court-based procedure through which company assets are realised for the benefit of creditors.

Various business commentators have [suggested](#) that Carillion went into compulsory liquidation rather than administration because it had no real assets left to sell. It had contracts, but they were either too complex or insufficiently valuable for the banks to lend against.

On 25 January 2018, the court appointed the Official Receiver as liquidator of further Carillion entities. Special Managers have now been appointed to help the Official Receiver manage the affairs, business and property of Carillion Plc and twenty-six group companies.

It is a feature of the Carillion liquidation that the Official Receiver is expected to prioritise the continuity of vital public services while securing the best outcome for creditors. Unless told otherwise, all employees, agents and subcontractors providing public services are being asked to continue to work as normal and they will be paid for the work they do during the liquidations by the Official Receiver.

It is too early to predict what, if anything, creditors will recover. The Special Managers have already said that there is no prospect of any return to Carillion shareholders. The Insolvency Service has also announced that bonuses and severance payments have not been made to directors since the date of the company's collapse.

On 16 January 2018, the Government [announced](#) that the Official Receiver's investigation into the causes of the failure of Carillion is to be fast-tracked. The investigation is to look at the conduct of directors in charge at the time of the company's insolvency and the conduct of previous directors, to determine whether their actions might have caused detriment to the company's creditors (including detriment to any employees who are owed money or to the pension schemes).

Financials

On 10 July 2017, Carillion [announced](#) that its profits would be hit to the tune of £845 million. As a consequence, its chief executive resigned and there would be no dividends that year. The [shares](#) lost 70% of their value over the announcement and the two days that followed.

Although the July 2017 profit warning marks the beginning of the end for Carillion, it is poor decisions in the years leading up to it that caused the company serious trouble. Of the £845m charge, Carillion said that £375m related to the UK (mostly three PPP projects) and £470m to overseas markets (mostly exiting markets in the Middle East and Canada).

On 29 September 2017, Carillion's [half-year financial statements](#) revealed a total hit to the company's worth of £1.2 billion – enough to wipe out the profits from the previous eight years put together.

In the eight years from 2009 to 2016, Carillion paid out £554 million in dividends, three quarters of the cash it made from operations. In the five-and-half-year period from January 2012 to June 2017, Carillion paid out £333 million more in dividends than it generated in cash from its operations.

Over the eight years from December 2009 to January 2018, the total owed by Carillion in loans increased from £242 million to an estimated £1.3 billion – more than five times the value at the beginning of the decade.

Pensions

Carillion's pension deficit was one of the largest among FTSE 350 companies. It was the 15th or 7th largest on different measures.

Carillion has 13 UK defined benefit pension schemes with 27,000 members. Most are all expected to enter a Pension Protection Fund assessment period ([PQ 129456, 28 February 2018](#)).

The PPF was set up in 2005 to pay compensation to members of pension schemes that wind up underfunded on the insolvency of the employer. In general, those over scheme pension age at the date of insolvency get compensation equal to 100 per cent of their pension initially, while members below that age at the date of insolvency get compensation equal to 90 per cent of their accrued pension, subject to an overall cap. The PPF is funded by a levy on schemes and the assets of schemes transferred to it - see Library Briefing Paper [SN-03917](#), (January 2018).

The Carillion pension schemes have an estimated PPF deficit (the shortfall compared to what is needed to pay PPF compensation levels) of around £800-900 million ([Letter to Work and Pensions Select Committee, 26 January 2018](#); *Financial Times*, 15 January 2018).

Former Pensions Minister Steve Webb told [the Guardian](#) that "Carillion would be the biggest-ever hit on the PPF" but that the lifeboat would be able to "comfortably absorb" the Carillion scheme.

Public sector contracts

Carillion was a major supplier to the public sector in the UK, delivering around 450 contracts with government across a range of areas.

The government are providing funding to the Official Receiver to maintain public sector services following the insolvency of Carillion, until suitable alternatives are found. Some contracts are being moved to other providers.

Suppliers and payment terms

Carillion owed around £2 billion to its 30,000 suppliers, sub-contractors and other short-term creditors. Most of them risk getting little or

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nothing back from the liquidation, because they have low priority in the hierarchy of creditors.

Emma Mercer, Carillion's last Finance Director, stated the following payment statistics:

- During 2017, average payment days to suppliers was 43 days
- About 5% were paid in 120 days
- Less than 10% were paid in more than 60 days

Investigations

Four government bodies are investigating the collapse of Carillion: the Insolvency Service, the Financial Conduct Authority, the Financial Reporting Council and the Pensions Regulator.

There are also three inquiries into Carillion and related issues by Select Committees of the House of Commons.

1. Compulsory liquidation

1.1 Events as they unfolded

A compulsory liquidation order was made against Carillion, on the petition of the companies' directors, on 15 January 2018. Ahead of the collapse, the company had issued three profit warnings between July and November 2017.

The High Court appointed the Official Receiver as liquidator of the following companies (collectively referred to as "Carillion"):

- Carillion Plc
- Carillion Construction Limited
- Carillion Services Limited
- Planned Maintenance Engineering Limited
- Carillion Integrated Services Limited
- Carillion Services 2006 Limited

At the same time, the High Court appointed 6 executives of PwC as "Special Managers" to support the Official Receiver. A Special Manager is an officer of the court with his powers and functions defined by the court.¹

Subsequently, on 25 January 2018, the High Court appointed the Official Receiver as liquidator of further Carillion entities and at the same time appointed additional Special Managers to support him. The following Carillion entities are also now in compulsory liquidation:

- Carillion LGS Limited
- Carillion Asset Management Limited
- Carillion Energy Services Limited
- Carillion Fleet Management Limited
- Everprime Limited
- Postworth Limited
- TPS Consult Limited
- Carillion Specialist Services Limited
- Carillion Utility Services Limited
- Carillion AM Government Limited
- Sovereign Hospital Services Limited
- Carillion JM Limited
- Carillion Holdings Limited
- Carillion Project Investments

¹ Special Managers act as agents of the Official Receiver, without personal liability. As licenced insolvency practitioners they are bound by the [Insolvency Code of Ethics](#)

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- Schal International Management Limited
- Sovereign Consultancy Services Limited
- Dudley Bower Group plc
- PME Technical Services Limited
- PME Partnerships Limited
- Carillion Professional Services Limited
- Carillion Property Services Limited

In effect, Special Managers were appointed by the High Court to help manage the affairs, business and property of Carillion Plc and twenty-six group companies, in accordance with the powers and duties contained in the order appointing them.

On Friday 19 January 2018, four insolvency practitioners were appointed as “provisional” liquidators by the Court of Session to manage the affairs, business and property of Carillion (AMBS) Limited (only), with the powers set out in Schedule 4 to the [Insolvency Act 1986](#) (IA 1986).

To explain the reasons for its insolvency, Carillion issued a statement in which it said that discussions to secure short-term financial support had not been successful and that the board had “no choice but to take steps to enter into compulsory liquidation with immediate effect”. Philip Green, chairman of Carillion, said:

This is a very sad day for Carillion, for our colleagues, suppliers and customers that we have been proud to serve over many years. Over recent months huge efforts have been made to restructure Carillion to deliver its sustainable future and the Board is very grateful for the huge efforts made by Keith Cochrane, our executive team and many others who have worked tirelessly over this period. In recent days however, we have been unable to secure the funding to support our business plan and it is therefore with the deepest regret that we have arrived at this decision.²

The character of the Carillion liquidation

Insolvency law is complex and events are still unfolding. The Special Managers have said that they will publish information as it becomes available.³ However, it should be apparent that in its scale and procedures, the compulsory liquidation of Carillion is not usual.

1.2 Why liquidation and not administration?

The starting position is that a company must not trade whilst insolvent. Insolvency is defined as having insufficient assets to meet all debts, or being unable to pay debts as and when they fall. It is the company directors’ responsibility to know whether the company is trading whilst insolvent and they can be held legally responsible for continuing to trade in that situation.

² “[Carillion: Government contractor’s liquidation statement in full](#)”, Independent, 15 January 2018, [online] (accessed 17 January 2018)

³ The [PwC website](#) should be monitored for this purpose

Reportedly, Carillion was left with just £29m in cash when it collapsed; it owed more than £1.3bn to its banks, including a £790m credit facility and £349m in private placement notes.⁴ It also had £630m of “bonding facilities” and £350m of invoice finance, taking the total exposure of its 13 banks above £2bn.⁵ Carillion would apparently have been left with a cash shortfall of £3.5m had it kept operating just a few more days without drawing down further debt facilities.⁶

The two main procedures open to an insolvent company are:

- administration and
- liquidation

The first procedure provides for the potential rescue of the company or its business, while the last one does not. Once an administration order is in place, a moratorium protects the company from legal actions whilst a survival plan or an orderly wind-down of the company’s affairs is being achieved.⁷ Administration allows a company to continue to operate as the administrator attempts to find a buyer for all or part of the business. In contrast, liquidation means a company stops trading, employees are made redundant, assets are collected in and sold and the proceeds used to pay company debts. At the end of the liquidation, creditors are paid as much as possible and the company ceases to exist.

Various business commentators have suggested that Carillion went into compulsory liquidation rather than administration because it had no real assets left to sell.⁸ It had contracts, but they were either too complex or insufficiently valuable for the banks to lend against. With margins too low to cover its liabilities, there was no viable business to sell.⁹ Press reports suggest that there was so little funding available that the consultants PwC and EY both rejected requests that they be taken on as administrators amid concerns they would not be paid.¹⁰

On 24 January 2018, during an Opposition Day debate, David Lidington, Cabinet Office Minister, explained why the Government had agreed to cover the Official Receiver’s costs:

It is worth my explaining that this company was in such trouble that it could not even fund its own administration. If the Government had not stepped in and agreed to cover the costs of the official receiver, there would have been a real threat to public services in schools, hospitals and prisons. Staff would not have come to work last Monday, as they would not have been paid.¹¹

⁴ [“Carillion held just £29m in cash when it collapsed”](#), Financial Times, 16 January 2018, [online] (accessed 17 January 2018)

⁵ Ibid

⁶ Ibid

⁷ The administration procedure was extensively reformed by the [Enterprise Act 2002](#), which came into force in September 2003

⁸ [“Why Carillion has gone into liquidation rather than administration”](#), Financial Times, 15 January 2018, [online] (accessed 17 January 2018)

⁹ Ibid

¹⁰ [“Carillion held just £29m in cash when it collapsed”](#), Financial Times, 16 January 2018, [online] (accessed 17 January 2018)

¹¹ Ibid c.346

1.3 Petition to wind-up an insolvent company

A compulsory liquidation order was made against Carillion on the petition of the companies' directors. This is not in itself unusual.

All compulsory liquidations start with the presentation of a winding-up petition at court. Often, a company is placed into compulsory liquidation on the petition of one of its creditors. However, any of the parties set out in [section 124](#) of the [IA 1986](#) may present a petition, including the company itself or the directors of the company acting collectively.

At the hearing of a winding up petition, it is for the judge to decide whether to make a liquidation order, dismiss or adjourn the petition.¹² The court will only make a liquidation order if one of the grounds for winding up a company (as set out in [section 122\(1\)](#) of the IA 1986) are met. The most common ground used is that the company is unable to pay its debts. If a liquidation order is made, the liquidation is deemed to start from the date when the petition for winding up was presented.

Compulsory liquidation is a court-based procedure through which company assets are realised for the benefit of creditors.

1.4 Role of the liquidator

In a compulsory liquidation, it is usual to appoint the Official Receiver as liquidator¹³ unless and until creditors appoint their own liquidator.¹⁴ This is only an option if there are sufficient company assets to pay the fees of a private sector insolvency practitioner.

In respect of Carillion, the Government stepped in to make funds available to cover the costs of the Official Receiver to allow an orderly wind-down of the company's affairs and to ensure the continuation of public sector services (see below).

On taking control of an insolvent company, all liquidators are under a general duty to act in "good faith" and in the interests of the body of creditors.¹⁵ The IA 1986 (as amended) confers extensive powers on the liquidator to enable him/her to recover company assets, and to maximum the funds available for distribution to creditors. A summary of the main powers available to a liquidator are set-out in **Box 1** below.

It should be noted that contracts with a liquidated company may not automatically be discharged, but often contractual clauses will allow for termination in the event of insolvency. There may also be "retention of title" clauses which often become of great importance after a liquidation. Briefly, a retention of title clause is a provision in a contract for the sale of goods which means that the seller retains legal ownership of the goods until certain obligations are fulfilled by the buyer – usually payment of the purchase price.

The liquidator must act in the interests of the body of creditors.

¹² [Section 125](#), Insolvency Act 1986

¹³ [Section 136](#) of the Insolvency Act 1986

¹⁴ [Section 139](#) of the Insolvency Act 1986

¹⁵ [Section 167\(3\)](#) of the Insolvency Act 1986

Box 1: The main powers available to the liquidator

Sections 165, 167 and [Schedule 4](#) of the IA 1986 sets out the powers available to a liquidator. These powers include:

- Disclaiming onerous property or contracts ([section 178](#) of the IA 1986).
- Bringing or defending legal proceedings on behalf of the insolvent company.
- Carrying on the business of the company as far as is necessary for its beneficial winding up.
- Selling the insolvent company's property and executing documents in the name of the company.
- Challenging antecedent transactions. (Antecedent transactions are specific types of transaction that were made prior to a company's insolvency. They may be reversible by a liquidator if the company was insolvent at the time they were made, or caused the company to become insolvent.)

It is a feature of the Carillion liquidation that the Official Receiver is expected to prioritise the continuity of vital public services while securing the best outcome for creditors. This was made clear in a Statement made by David Lidington, Minister for the Cabinet Office, to the House of Commons on 15 January 2018. An extract from this Statement is reproduced below:

The Official Receiver's role in the liquidation of Carillion.

Today the directors of Carillion concluded that the company is insolvent and that it is going into liquidation. The court has appointed the official receiver as the liquidator. It is regrettable that Carillion has not been able to find suitable financing options with its lenders, and I am disappointed that the company has become insolvent as a result. It is however, the failure of a private sector company and it is the company's shareholders and lenders who will bear the brunt of the losses; taxpayers should not, and will not, bail out a private sector company for private sector losses or allow rewards for failure.

I fully understand that both members of the public and particularly employees of companies in the Carillion group will have concerns at this time, and the Government are doing everything possible to minimise any impact on employees. Let me be clear that all employees should continue to turn up to work confident in the knowledge that they will be paid for the public services they are providing. Additionally, in order to support staff—and in this instance, this will apply to staff working for the private sector as well as for the public sector contracts of the Carillion group—we have established a helpline using Jobcentre Plus through its rapid response service.

The Government are also doing everything they can to minimise the impact on subcontractors and suppliers who, like employees, will continue to be paid through the official receiver. The action we have taken is designed to keep vital public services running, rather than to provide a bail-out on the failure of a commercial company. The role of the Government is to plan and prepare for the continuing delivery of public services that are dependent on these contracts, and that is what we have done.

The cause of Carillion's financial difficulties is, for the most part, connected not with its Government contracts, but with other parts of its business. Private sector contracts account for more than 60% of the company's revenue, and the vast majority of the problems the company has encountered come from these contracts rather than the public sector.

Our top priority is to safeguard the continuity of public services, and we have emphasised that to the official receiver. We are also laying a departmental minute today notifying the House of a contingent liability incurred by my Department in indemnifying the official receiver for his administrative and legal costs. The official receiver will now take over the running of services for a period following the insolvency of the company. The Government will support the official receiver to provide these public services until a suitable alternative is found, either through another contractor or through in-house provision. The court appointment of the official receiver will allow us to protect the uninterrupted delivery of public services—something that would not have been possible under a normal liquidation process.¹⁶

The whole Statement can be viewed [online](#).

It is clear from this Statement that in addition to reviewing all of Carillion’s contracts, the Official Receiver’s role is to ensure the continuity of public services while acting in the interests of the body of creditors. The Official Receiver is to be supported in this role by the Government until a suitable alternative is found (either through another contractor or in-house provision). Unless told otherwise, all employees, agents and subcontractors providing public services are being asked to continue to work as normal and they will be paid for the work they do during the liquidations by the Official Receiver. The Government has undertaken to provide the necessary funding required by the Official Receiver to maintain public services carried on by Carillion staff, subcontractors and suppliers. It will also indemnify the official Receiver for his administrative and legal costs.

Continuation of public services by the Official Receiver

On 17 January 2018, the Insolvency Service published a statement in which it said that the Official Receiver was pleased with the level of support shown by Carillion’s private sector service customers. It said:

Over 90% of these customers have indicated that they want Carillion to continue providing services in the interim until new suppliers can be found and will provide funding which enables the Official Receiver to retain the employees working on those contracts.

Work has paused on construction sites, pending decisions as to how and if they will be restarted.¹⁷

1.5 Payment of creditors’ claims

Carillion only entered compulsory liquidation on 15 January 2018. It is too early to predict what, if anything, creditors will recover. Obviously, much will depend on the value of company assets and debts. The Special Managers are in the process of **exploring any potential sale of the businesses and assets in whole or part**.

The **Special Managers** have already said that there is no prospect of any return to Carillion shareholders. The Insolvency Service has also

¹⁶ [HC Deb 15 January 2018 c.634-635](#)

¹⁷ “[Update on Carillion contracts](#)”, Insolvency Service, Gov.UK, 17 January 2018, [online] (accessed 17 January 2018)

announced that bonuses and severance payments have not been made to directors since the date of the company's collapse.¹⁸

The order in which creditors are paid is prescribed by the [IA 1986](#) (as amended) and is set out in **Box 2** below. The following points should be noted:

- There is no “freeze” on the enforcement of security on the insolvency of a company.
- There is, however, a stay (i.e. a “stop”) on the commencement or continuation of legal proceedings against the company without the leave (i.e. permission) of the court.
- This means that unsecured creditors (e.g. trade suppliers) will not be able to pursue or enforce their own claims against the liquidated company. Instead, they are entitled to share “*pari passu*”¹⁹ in any distribution made to the unsecured creditors by the liquidator later in the process (assuming funds are available after secured and preferential claims have been paid).

Box 1: Hierarchy of creditors in a compulsory liquidation

- **Fixed charge holders** - any creditor holding a fixed charge over an asset.
Fixed charge security is a lien or mortgage over a specific asset such as land, a building, or machinery which is registered and remains in force until the debt is paid. A characteristic of fixed charge security is that a borrower would need the lender's permission to sell a fixed charge asset. In the event of the borrower's insolvency, the fixed charge holder will be paid out of the proceeds from the sale of the assets subject to the fixed charge.
- **The fees and charges of the liquidation** - expenses of the liquidation have priority over other claims except for those of fixed charge holders.
- **Preferential creditors** – these are unsecured debts which, by statute, are to be paid in priority to all other unsecured debts and debts secured by floating charges. The categories of preferential debts are listed in [Schedule 6](#) to the IA 1986. Importantly, certain employee debts (subject to certain limits) are preferential.
Floating charge holders - any creditor holding a floating charge over an asset (e.g. a debenture). Unlike a fixed charge, which will attach itself to an asset from the point of creation, a floating charge will ‘float’ above a changing pool of assets (e.g. stock, book debts and work in progress) until a specific event occurs (i.e. insolvency or a default under the loan) when it will attach. At that stage the floating charge is converted into a fixed charge over the assets which it covers at that time. (For certain floating charges there may also be a percentage-based ring-fenced amount set aside for the benefit of unsecured creditors).
- **Unsecured creditors** (also known as ordinary creditors) – any creditors who do not hold any security for the money owed to them.
- **Shareholders** - in most liquidations, company shareholders will not recover anything at all).

¹⁸ “[Bonuses for Carillion bosses are blocked](#)”, BBC News, 17 January 2018, [online] (accessed 17 January 2018)

¹⁹ “Pari passu” means at the same rate or on an equal footing

1.6 At the end of the liquidation

On completion of the winding-up, the liquidator is required to file a final return with [Companies House](#). The company is automatically dissolved 3 months later – it will no longer exist.²⁰

It is fair to say that in terms of its scale and procedures, the liquidation of Carillion Plc is not usual. However, as outlined above, many of the effects of Carillion's liquidation will be the same as those seen in other liquidations.

1.7 Who will investigate the company's failure?

On 16 January 2018, the Government announced that the Official Receiver's investigation into the causes of the failure of Carillion is to be fast-tracked. [Section 6](#) of this briefing paper provides further detailed information about this and other investigations.

²⁰ Unlike administration, where jobs may be saved if a buyer can be found to take over all or part of the business as a "going concern". Employees may be transferred to the buyer with their rights protected under special rules that apply to transfers of undertakings.

2. Financials

On 10 July 2017, Carillion [announced](#) that its profits would be hit to the tune of £845 million. As a consequence, its chief executive resigned and there would be no dividends that year. The [shares](#) lost 70% of their value over the announcement and the two days that followed.

Although the July 2017 profit warning marks the beginning of the end for Carillion, it is poor decisions in the years leading up to it that caused the company serious trouble. The shock announcement said so, in corporate English:

- Deterioration in cash flows on a select number of construction contracts led the Board to undertake an enhanced review of all of the Group’s material contracts, with the support of KPMG and its contracts specialists, as part of the new Group Finance Director’s wider balance sheet review.
- This review has resulted in an expected contract provision of £845m at 30 June 2017, of which £375m relates to the UK (majority three PPP projects) and £470m to overseas markets, the majority of which relates to exiting markets in the Middle East and Canada. The associated future net cash outflows in respect of these contracts is £100m-£150m (primarily in 2017 and 2018).

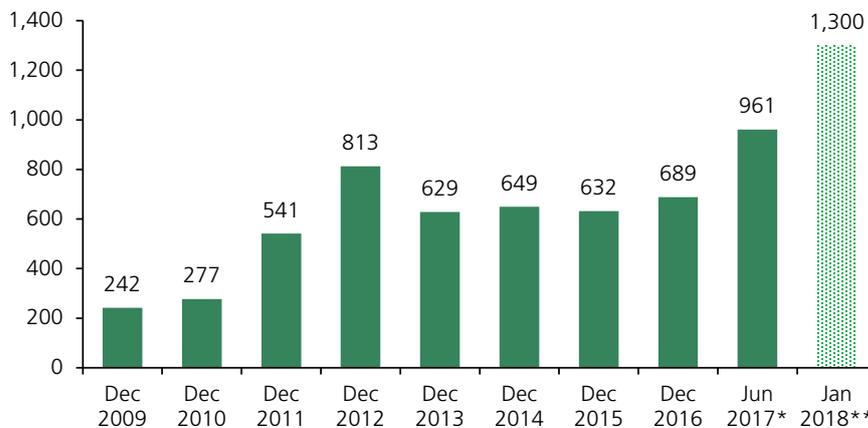
What had happened?

2.1 Borrowing multiplied

Over the eight years from December 2009 to January 2018, the total owed by Carillion in loans increased from £242 million to an estimated £1.3 billion – more than five times the value at the beginning of the decade.

Carillion's loans

Total owed, £ millions



Source: Carillion’s annual [financial statements](#); * [Interim financial statement](#) for the six months ended 30 June 2017; ** [Financial Times](#) (16 Jan 2017)

Note: Total loans is the sum of bank overdrafts, bank loans, finance lease obligations and other loans.

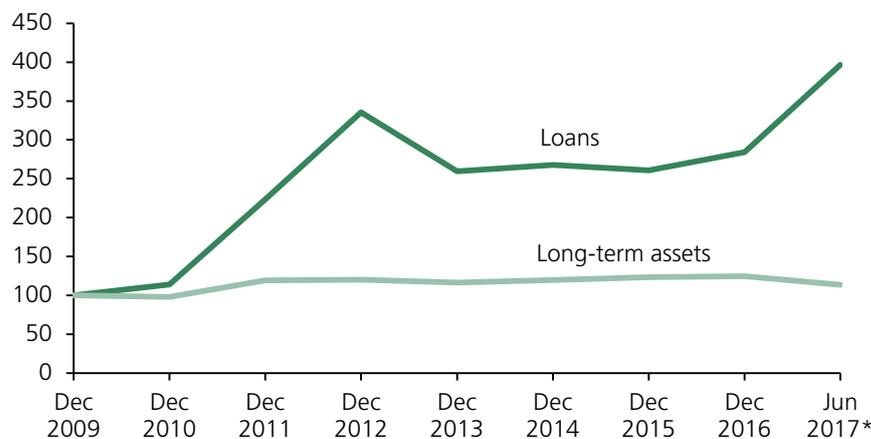
Carillion also ‘borrowed’ large amounts of money in less conventional ways, for example, by [taking longer](#) to pay its invoices. The total owed within a year to unspecified ‘other creditors’ jumped from £212 million at the end of 2009 to £761 million at the end of 2016. This is effectively a form of short-term borrowing. It is risky because it makes the company much more vulnerable to a cash crunch.

2.2 Little valuable investment

Carillion’s borrowing was mainly not used to invest in the company. In fact, while Carillion’s debts rose by 297%, the value of its long-term assets grew by just 14% between 2009 and 2017.

Loans vs value of long-term assets

2009 = 100



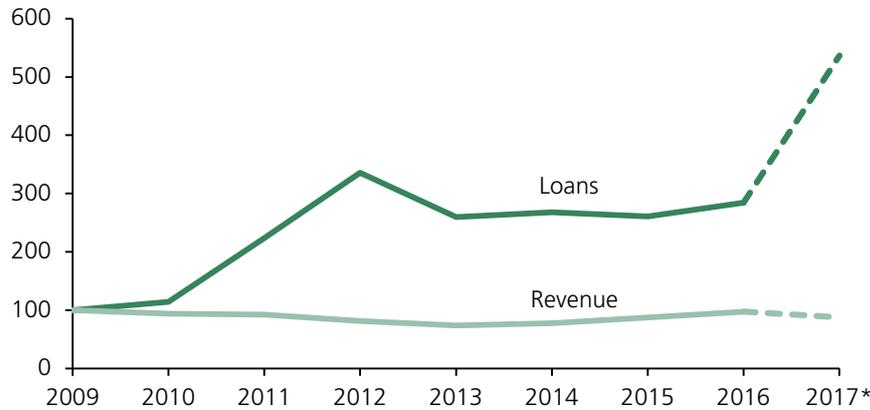
Source: Carillion’s annual [financial statements](#); * [Interim financial statement](#) for the six months ended 30 June 2017

Note: Long-term assets is total non-current assets less deferred tax assets

2.3 Declining revenue

Nor did Carillion manage to grow its revenue. The group’s revenue actually fell by 2% between 2009 and 2016. Revenue is likely to have fallen further in 2017 – by as much as 12% compared to 2009, if one projects the 2017 interim results linearly. At the lowest point, in 2013, revenue was 26% lower than in 2009.

Loans vs revenue for the year
2009 = 100



Source: Carillion’s annual [financial statements](#); * Loans value reported by [Financial Times](#) (16 Jan 2017) and full-year revenue projected by the Library based on [Interim financial statement](#) for the six months ended 30 June 2017

Note: Revenue is the group revenue

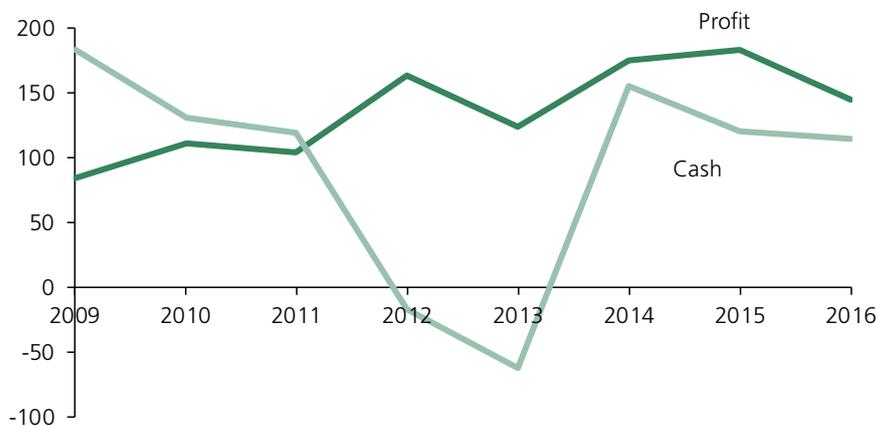
2.4 Aggressive bidding and accounting

Carillion has been [criticised](#) for its aggressive bidding and accounting. ‘Aggressive accounting’ is the practice of declaring revenue and profits based on optimistic forecasts, before the money has actually been made. All is well if the forecasts are correct. But if costs rise and revenues fall (say, because of delays and defects), expected profits turn into actual losses.

Because aggressive accounting means declaring profits before receiving the money, it shows up in company accounts as a fall in the actual cash that the company makes compared with the profits it declares. Carillion’s accounts are a case in point.

Declared profit vs cash generated

From operations, £ millions



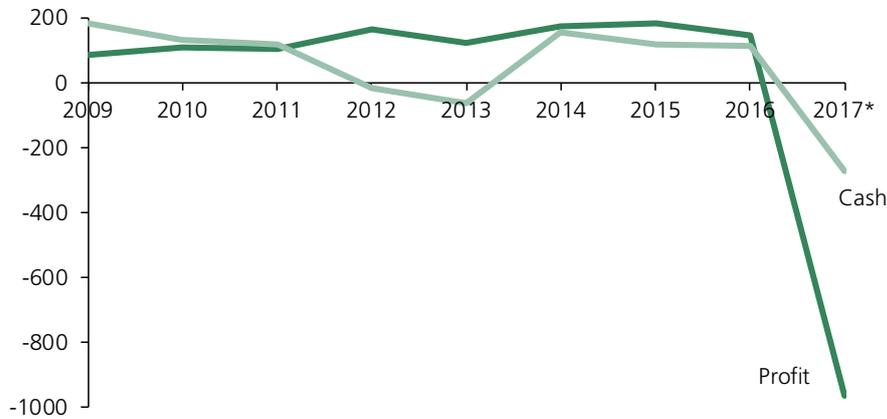
Source: Carillion’s annual [financial statements](#)

Note: Profit is group operating profit; Cash is net cash generated from operations

When these projections are not realised, profits can turn into losses very sharply:

Declared profit vs cash generated

From operations, £ millions



Source: Carillion’s annual [financial statements](#); * [Interim financial statement](#) for the six months ended 30 June 2017

Note: Profit is group operating profit; Cash is net cash generated from operations

In its [10 July 2017 profit warning](#), Carillion announced that it had undertaken ‘an enhanced review of all of the Group’s material contracts’ which resulted in a ‘contract provision of £845m at 30 June 2017’. In other words, Carillion had been £845m too optimistic about its contracts.

On 29 September 2017, Carillion’s [half-year financial statements](#) revealed a total hit to the company’s worth of £1.2 billion – enough to wipe out the profits from the previous eight years put together.

2.5 Dividends paid out

Carillion’s aggressive accounting also drove up its borrowing. Dividends illustrate this well.

Dividends are a distribution of profits and there are great pressures on companies to, at the very least, maintain dividend payments. While declared profits can be based on expectations, dividends are paid out in hard cash.

When dividends are paid on the basis of *expected* profits, the company is effectively borrowing money to pay its shareholders.

Dividends vs cash, £ millions

For the year	Cash from operations	Dividends paid	Cash left
2009	184	53.4	130
2010	131	59.1	72
2011	120	64.6	55
2012	-16	70.4	-87
2013	-62	74.6	-137
2014	156	75.7	80
2015	120	76.8	44
2016	116	78.9	37
2016	116	24.5	91
2017 H1*	-270	54.4	-325
<i>Total 2009-2016</i>	<i>748</i>	<i>554</i>	<i>194</i>
<i>Total 2012-2016</i>	<i>313</i>	<i>376</i>	<i>-63</i>
<i>Total 2012-2017*</i>	<i>43</i>	<i>376</i>	<i>-333</i>

Source: Carillion's annual [financial statements](#); * [Interim financial statement](#) for the six months ended 30 June 2017

Note: Cash is net cash generated from operations; dividends is dividends paid to equity holders of the parent

Note: Dividends in respect of one year are paid in two instalments. The second instalment (the 'final dividend') is paid in arrears, the following year. The two lines of the table shaded in light green show the real timing of the dividend payments in respect of 2016.

In the eight years from 2009 to 2016, Carillion paid out £554 million in dividends, three quarters of the cash it made from operations. In the five years from 2012 to 2016, Carillion paid out £63 million more in dividends than it generated in cash from its operations.

Dividends in respect of a year are usually paid in two instalments, with the second payment made in arrears the year after. The light green shading in the table reflects the actual timing of the 2016 dividend, of which £54.4 million was [paid on](#) 9 June 2017.²¹ Taking that into account, Carillion paid out £333 million more in dividends than it generated in cash from its operations in the five-and-half-year period from January 2012 to June 2017.

Dividends is not the only thing that companies need to generate cash for. Net cash from operations also needs to pay for investments and interests on debt (Carillion's interest charge was £30 million in 2016).

²¹ Carillion plc, [Annual Report 2016](#), p. 82

3. Pensions

3.1 What is the position of the pension schemes?

Carillion has 13 UK defined benefit (DB) pension schemes, with 27,000 members.²² The schemes are in deficit. Different measures of pension scheme funding are used for different purposes, so the best one to use will depend on the context.

Measures of pension scheme funding

Scheme assets are usually measured at market value. Liabilities are measured by “discounting” the promised future payments. This allows for the fact that money to pay for the liabilities will earn interest over the intervening period. The main differences between the different standards lines in the way liabilities are valued. From an economic perspective, the differences reflect the different degrees of certainty required in the payment of pensions. For more detail, see Library Briefing Paper SN-04877 [Defined benefit pension scheme funding](#) (October 2017)

Pension Protection Fund (PPF) basis

A scheme’s section 179 liabilities represent, broadly speaking, the premium that would have to be paid to an insurance company to take on the payment of Pension Protection Fund levels of compensation.

The Carillion schemes have a deficit of around £800 to £900 million on a PPF basis.²³

The estimated funding ratio of the Carillion schemes on a PPF basis is around 80%. This compares to a funding ratio across schemes in the PPF universe of 94% in November 2017.²⁴

Funding level on PPF basis (s179)

Assets as a % of liabilities (PPF compensation)	
Carillion (January 2018 estimate)	80%
Aggregate of all schemes (November 2017)	94%

Former pensions minister Steve Webb told the Guardian that “Carillion would be the biggest-ever hit on the PPF” but that the lifeboat would be able to “comfortably absorb” the Carillion scheme.²⁵

PPF pays two levels of compensation

100% for people beyond their scheme’s normal pension age (or retired through ill-health) when the scheme enters the PPF;

90% (subject to a cap) for people under pension age.

There is no indexation on rights accrued before 1997.

For more detail, see PPF website - [compensation](#).

²² [Carillion Annual Report 2016, Financial Statements, Note 30](#); Carillion, [Financial results for the 6 months ended 30 June 2017](#), 29 September 2017; [PWC, Carillion/Pensions](#)

²³ [Letter from Carillion DB Pension Trustee to chair of the Work and Pensions Select Committee, 26 January 2018](#); [Recriminations fly after Carillion collapse](#), Financial Times, 15 January 2018

²⁴ [PPF 7800 Index](#)

²⁵ [After Carillion, how many firms can the pensions lifeboat rescue? The Guardian, 16 January 2018](#)

Statutory funding objective

Under the ‘scheme specific funding regime’ introduced in the *Pensions Act 2004*, trustees must have a statutory funding objective - to ensure there are “sufficient and appropriate assets to cover their technical provisions” (or liabilities). They must obtain triennial actuarial valuations and where the scheme is in deficit, they must prepare a recovery plan setting out the steps that will be taken to meet the funding objective, and over what time. A copy of the plan is sent to the Pensions Regulator.²⁶

The Trustee expected the valuation of five schemes of the Carillion schemes (including the three largest)²⁷ as at 31 December 2016 to have a deficit of £990 million. The reason for the increase since 2013 was the “significant reduction in interest rates over those three years.”²⁸

At the end of December 2013, the same schemes were 76% funded. A recovery plan was agreed, under which recovery payments could continue until 2029 (i.e. a recovery plan of 15 years).²⁹ To put this in context, this is a lower funding level and a longer recovery plan than the average of schemes agreeing plans that year (although the recovery plan is shorter than the 23 years agreed for the BHS pension scheme):³⁰

Funding level and length of recovery plan

Tranche 9 (valuation year = 2013-14)

Assets as % of liabilities (technical provisions)	Years
Carillion	76% 15
Average (unweighted) of schemes	90% 8

IAS 19 (company accounts)

IAS 19 is the measure used to calculate and present the pension liabilities in company accounts.

At the end of June 2017, the deficit in the pension schemes on this basis was £587 million (net of tax)³¹ down from £663 million at the end of 2016. The gross figure for June 2017 was £711.4 million (down from £804.8 million at the end of 2016).³²

²⁶ For more detail, see Library Briefing Paper CBNP-04877 [Defined benefit pension scheme funding requirements](#) (October 2017)

²⁷ Carillion Staff, Mowlem Staff and Alfred McAlpine Staff schemes

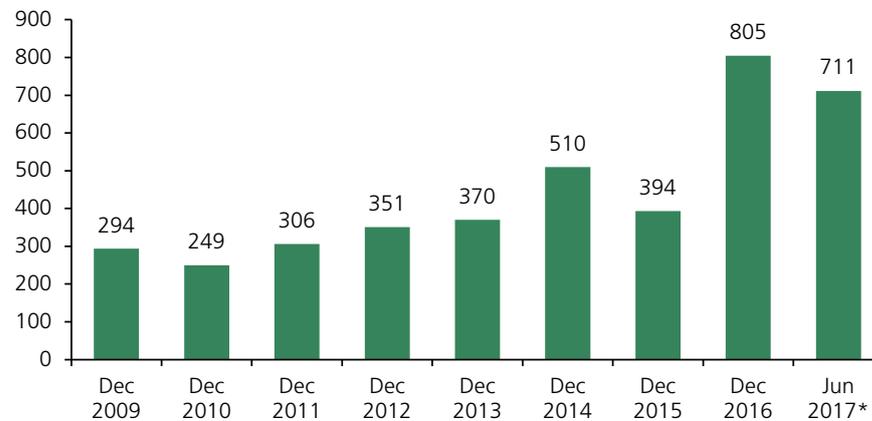
²⁸ [Letter from chair of Carillion DB Pension Trustee Ltd to chair of the Work and Pensions Committee, 24 January 2018](#)

²⁹ [Carillion Annual Report 2016, Financial Statements, Note 30](#)

³⁰ TPR and PPF, [The Purple Book 2017](#), Figure 12.3, p. 62; Work and Pensions Committee, [Defined Benefit Pension Schemes](#), December 2016, p4

³¹ ‘Related deferred tax assets’. However, these are only recognised to the extent that it is probable that they will be recovered against the reversal of deferred tax liabilities or other future taxable profits (the very existence of unrelieved tax losses is strong evidence that there may not be other future taxable profits against which the losses will be relieved). ([FRS102, para 29.7](#))

³² [Carillion plc annual report 2016](#), p45

Carillion's pension deficit (IAS 19)*Gross of taxation, £ millions*

Source: Carillion's annual [financial statements](#); * [Interim financial statement](#) for the six months ended 30 June 2017

In absolute terms, Carillion's £805 million deficit for the last full year of accounts was the 15th largest out of the 350 companies on the FTSE 350.

If we express the pension deficit as a percentage of shareholders' funds (the company's capital), Carillion's deficit was the 7th largest on the FTSE 350. It was worth 115% of the company's capital.

Pension deficit on IAS 19 basis (company accounts), £ millions*Seven largest pension deficits as a percentage of capital in FTSE 350*

Company name	Latest accounts	Pension deficit	Capital	Deficit / capital
Coats Group Plc	31/12/2016	257	56	459%
Glaxosmithkline Plc	31/12/2016	4,090	1,124	364%
Stagecoach Group Plc	29/04/2017	233	78	299%
Morgan Advanced Materials Plc	31/12/2016	271	121	224%
BAE Systems Plc	31/12/2016	6,054	3,438	176%
Dairy Crest Group Plc	31/03/2017	110	72	153%
Carillion Plc	31/12/2016	805	701	115%

Source: Company accounts via Fame

3.2 What had the Trustee been doing?

The Trustee of the Carillion pension schemes has explained that, in coming to a judgment as to what level of contributions could be afforded, it took account of the Carillion's debt position. It was unable to secure the level of contributions that it wanted:

Carillion made it clear, repeatedly, to the Trustee in valuation discussions (e.g. in correspondence shared with TPR for the 2011 and 2013 valuations, the Trustee sought to agree higher contributions for the schemes (taking into account the covenant advice they had received).

For both the 2008 and 2011 valuations, the Trustee and Company were not able to reach agreement on the valuations by the due date under the Pensions Act 2004. This was essentially due to the

Trustee seeking to take a more prudent approach to funding than the Company considered it could afford. The Trustee (and the former trustees of the schemes in the case of the 2008 valuations) reported this to tPR and tPR became involved in the discussions.

Ultimately, for all three valuations TPR decided not to exercise its powers.³³

In August 2017, the Trustee was approached by Carillion with a request to defer contributions for a period. The Trustee agreed to defer eight months of contributions on the basis that failure to agree would have led to the banks not lending new money and the Carillion Group becoming insolvent. The contribution deferral agreement fell away with Carillion going into compulsory liquidation and the Trustee has informed the official receiver that the deferred contributions are now due to the schemes.³⁴

The Trustees were also attempting to gradually 'de-risk' the schemes investments. Following the company's profit warning in July 2017, the Trustee took steps to "increase allocations to defensive assets and to draw up a contingency plan." The objective was to "put in place the mechanics to allow the Trustee to materially and quickly reduce investment risk should it become appropriate."³⁵

A [joint inquiry](#) by the Work and Pensions and BEIS Select Committees has been looking at the management and governance of Carillion, its sponsorship of its pension funds, and the implications for company and pension scheme law, regulation and policy.³⁶

In evidence to the Committee, the Regulator said it had been engaged with the Trustee and had considered using its powers before receiving an improved proposal:

Mike Birch: We had been engaged with the trustee. They had been keeping us informed of what was happening. It then got to a point when they decided that they could not reach an agreement, and wrote to us with what is called a formal failure to agree. At that point, we engaged directly with the employer. We had meetings with the employer and with the trustees. We got them to present to us the amounts of money that they thought they could pay and why they thought it was constricted. We disagreed with them on that and we sought revised proposals from them. They gave us revised proposals and we then said we thought those were not acceptable. We made clear to them that, if they did not reach something that was better, we would look to use our powers.

The powers that we looked to use were two. The primary one is what is called Section 231. That is a power under which we can set the terms of a valuation and we can also set the recovery plan, so the amount of money that is going to go into the scheme. Prior to doing that, we would appoint what is called a skilled person to look at the business, understand the cash flows that it had and understand the ability to fund

³³ [Letter from chair of Carillion DB Pension Trustee Ltd to chair of the Work and Pensions Committee, 24 January 2018](#)

³⁴ Ibid

³⁵ Ibid

³⁶ [Carillion inquiry - publications](#)

the scheme over a reasonable period. On the basis of that, we would then set the amounts in the recovery plan under Section 231.

Q659 **Heidi Allen:** Did you do that?

Mike Birch: No, we made clear to the company that we were considering that. They then gave us and the trustees an improved proposal, which saw the payments stepping up over time and more money going into the scheme. On that basis, we and the trustees agreed that what was offered in response to our threat of use of those powers was acceptable.³⁷

3.3 What will happen to the schemes?

Price Waterhouse Coopers (PWC) (who had been appointed as special managers to the liquidation) said it was looking into the position of each of the pension schemes with Trustees and the PPF:

There are around 27,000 members of the Group's defined benefit schemes. The Pension Protection Fund ("PPF") provides compensation to the members of defined benefit schemes whose sponsoring employer becomes insolvent. However there are numerous schemes and so the position is complicated.

Our Pensions specialists, together with the schemes' Trustees and the PPF, are looking into the schemes.

The Pensions Advisory Service ("TPAS") has established a dedicated Carillion line - 0207 630 2715. TPAS will be able to discuss general enquiries members have about their pensions, but not questions about members' specific circumstances. We will provide further contact details to help members when we can.³⁸

On 15 January 2018 Carillion made an announcement regarding eight pension schemes.³⁹ The trustees would work to understand the next steps and what these would mean for members. More detailed information would follow:

The Trustees have been very closely involved in all discussions with stakeholders over the last few months in order to protect members' interests as far as possible. They will continue to work to understand the next steps and what these may mean for members. This includes working with the Pension Protection Fund which provides compensation to members of defined benefit schemes whose sponsoring employer becomes insolvent.

The Trustees will provide a more detailed general update as soon as they have further information and will also write to members of each Scheme in relation to their own circumstances.⁴⁰

The Pensions Regulator said it would work with the trustees, official receiver and the government to "achieve the best possible outcome for

³⁷ [Evidence to BEIS and Work and Pensions Committee, 22 February 2018](#)

³⁸ [PWC, Carillion/Pensions](#)

³⁹ Carillion Staff Pension Scheme; Mowlem Staff Pension and Life Assurance Scheme; Alfred McAlpine Pension Plan; Carillion B Pension Scheme; Planned Maintenance Engineering Limited Staff Pension and Assurance Scheme; Bower Group Retirement Benefits Scheme; Carillion Public Sector Pension Scheme; Mowlem (1993) Pension Scheme

⁴⁰ Carillion, Pension Scheme Announcement, 15 January 2018; Carillion (DB) Pension Trustee Limited; Carillion Public Sector Trustees Limited; Mowlem (1993) Trustees Limited

members of the pension schemes". It was too early to comment on possible outcomes for the various schemes connected to Carillion.⁴¹

On 24 January, Mr Lidington said seven schemes covering 6,000 members were already in a PPF assessment period:

At present, seven Carillion schemes, covering 6,000 members, have moved to the Pension Protection Fund assessment period, which occurs automatically when a sponsoring employer becomes insolvent. The remaining 21,000 members are in schemes that have at least one sponsor not in insolvency and are therefore not in the PPF.⁴²

On 28 February 2018, Pensions Minister Guy Opperman said that most or all of the 13 Carillion pension schemes will enter a PPF assessment period.⁴³ The purpose of an assessment period is to determine whether the PPF should accept responsibility for the scheme. To answer this, it will look to establish answers to two key questions: can the scheme be rescued and can it afford to secure benefits at least equal to PPF levels.⁴⁴

3.4 What will government and regulators do?

On 15 January 2018 Cabinet Office Minister David Lidington said that the official receiver would:

[...] consider potential detriment to the interests of pension contributors and pensioners as well as to employees of the company, and may seek to impose penalties. In addition, the Pensions Regulator has the powers to recover payments made to executives or others in the company if there is evidence that they have abused their responsibilities.⁴⁵

On 18 January 2018, The Pensions Regulator launched an investigation into Carillion to determine whether there is evidence that would support the use of anti-avoidance powers to recover some money for the pension scheme. There is more information about the investigation in [section 6.4](#) of this briefing.

In an urgent question on 22 January 2018, Shadow Work and Pensions Secretary Debbie Abrahams asked what action the Government proposed to take to "stop private sector pension abuse":

Yesterday, the Prime Minister chose to announce via the media, in part in response to the collapse of Carillion, that the Government planned to introduce tough new rules to stop private sector pension abuse. Carillion had 13 defined benefit schemes in the UK, with 28,500 members and a combined pensions deficit of £587 million. Between the end of 2015 and last year's interim results, the difference between Carillion's assets and liabilities almost doubled, from £317 million to £587 million. We know that profit warnings started to be issued in the summer of 2017. Given the severity of the financial problems facing Carillion, why did the

⁴¹ Recriminations fly after Carillion collapses, Financial Times, 15 January 2008

⁴² [HC Deb 24 January 2018 c349](#)

⁴³ [PQ129456 28 February 2018](#)

⁴⁴ [PPF website – trustee guidance – overview of the assessment period](#)

⁴⁵ [HC Deb 15 January 2018 c625](#)

Government not act then, rather than attempting to close the stable door after the horse had bolted?⁴⁶

Work and Pensions Secretary Esther McVey said the Government had asked for views on measures to strengthen the powers of the Pensions Regulator in its February 2017 Green Paper. In its manifesto for the 2017 election, the Conservative Party had:

[...] reaffirmed this intent by proposing to give the regulator the power to impose punitive fines alongside contribution notices so that pension scheme members are fully protected. The details of the fine would be worked through with all the relevant stakeholders, but it would represent a significant strengthening of the deterrent. We also intend to make certain corporate transactions subject to mandatory clearance by the Pensions Regulator, but we must take care to ensure that these measures do not have an adverse effect on legitimate business activity and the wider economy.⁴⁷

A White Paper was expected to be published in the spring.⁴⁸

For more detail, see Library Briefing Paper CBP-04368 [The Pensions Regulator: Powers to protect pension benefits](#) (January 2018).

3.5 Initial comment

Former Pensions Minister Steve Webb questioned whether it was acceptable for dividends to have increased in each of 16 years since the formation of the company alongside a pension fund deficit of over half a billion pounds.⁴⁹

In *the Observer* on 21 January 2018, Prime Minister, Theresa May said:

In the spring, we will set out new tough new rules for executives who try to line their own pockets by putting their workers' pensions at risk – an unacceptable abuse that we will end.⁵⁰

Chair of the Work and Pensions Committee Frank Field said the government should have acted faster on the Committee's recommendation to issue punitive fines:

We called over a year ago for the Pensions Regulator to have mandatory clearance powers for corporate activities...that put pension schemes at risk, and powers to impose truly deterrent fines that would focus boardroom minds...If the Government had acted then, the brakes might have been put on Carillion's massive ramping up of debt and it would never have fallen into this sorry crisis.⁵¹

He has also argued that the Pensions Regulator has questions to answer:

It's clear that Carillion has been trying to wriggle out of its obligations to its pensioners for the last 10 years. The purported

⁴⁶ [HC Deb 22 January 2018 c28](#)

⁴⁷ Ibid c25-6

⁴⁸ Ibid

⁴⁹ Carillion under fire for raising dividend as pension deficit grew, *Financial Times*, 15 January 2018

⁵⁰ ['Boardroom excesses can no longer be tolerated: the economy has to work for all'. Theresa May, The Observer, 21 January 2018](#)

⁵¹ Ibid

cash flow problems did of course not prevent them shelling out dividends and handsome pay packets for those at the top.

This culminated in negotiating deficit contributions away entirely last autumn to enable more borrowing. Remarkably, this was endorsed by the trustees and the Pensions Regulator.

Once again, TPR has questions to answer. They have been sniffing around Carillion - at the trustees' behest - since at least 2008, though it is not apparent to what effect.

When ten years later the company collapses with £29 million in the bank and £2 billion in pension liabilities it doesn't look good for them.⁵²

The Committee took evidence from TPR and others as part of its ongoing [inquiry](#) into the collapse of Carillion.

The trade union Prospect called on the Government to clarify the position of some former public sector workers:

Payments being made by Carillion to retired former staff who moved over from the public sector when it was awarded certain government contracts were not strictly pensions, but instead goodwill or "ex gratia" payments that the ex-public sector employees received in lieu of pension, said Prospect, the union for white collar workers.

These pension-like payments are not covered by the Pension Protection Fund, which pays compensation to pension scheme members whose employers have gone bust.⁵³

⁵² [Carillion "trying to wriggle out of pension obligations for the last 10 years"](#), Work and Pensions Select Committee, 29 January 2018

⁵³ 'Trade unions warn on Carillion retirement benefits for ex-public sector workers *The Financial Times*, 16 January 2018

4. Public sector contracts

4.1 What public sector contracts did Carillion have?

Carillion was a major supplier to the public sector in the UK.

According to the Government:

Government contracts with Carillion include services for hospitals, schools, prisons and transport. Carillion delivered around 450 contracts with government, representing 38% of Carillion's 2016 reported revenue. Key central government contracts are held with Department for Education, Department for Health and Social Care, Ministry of Justice and Department for Transport.⁵⁴

The 38% figure implies that about £2 billion of Carillion's revenue came from government contracts in 2016.⁵⁵

A part of this revenue was from PFI contracts. As of March 2016, Carillion companies had a direct equity stake in 12 PFIs, with expected revenues of £106 million in 2017/18.⁵⁶

For more about individual contracts and particular sectors see below.

4.2 Carillion as a strategic supplier

Carillion was designated a Strategic Supplier to government. Strategic Suppliers are those government suppliers with contracts across a number of departments whose revenue from government exceeds £100m per annum and/or who are deemed significant suppliers to government in their sector.⁵⁷

Relationships with Strategic Suppliers and their performance are monitored on a cross-Government basis:

Strategic Suppliers bring many benefits to the delivery of public services. However, serious and/or persistent under-performance by

⁵⁴ Gov.uk, [Carillion declares insolvency: information for employees, creditors and suppliers](#), published 15 Jan, updated 16 Jan. These figures cover direct contracts, joint ventures, PFIs and sub-contracts – source: [PO 122758](#), answered 18 January 2018

⁵⁵ Carillion's [2016 accounts](#) reported 'total revenue' of £5.2 billion, implying (with the above 38% figure) that about £2 billion of Carillion's revenue came from government contracts in 2016 alone. Note though that they also report a 'group revenue' of £4.4bn – 38% of this is around £1.7 billion.

⁵⁶ HM Treasury, [Private Finance Initiative and Private Finance 2 projects: 2016 summary data](#) (December 2016). This total is for PFI projects listed with Carillion / Carillion Private Finance Limited / Carillion Private Finance (Education) 2015 Limited as one of the equity holders. Carillion also have an indirect interest in certain PFI projects, but this is not included in the total above.

The figure for revenues is the 'unitary charge payment', which reflect the total cost of a contract and include payments for ongoing services (e.g. maintenance, cleaning, catering and security) associated with these projects, as well as repayment of and interest on debt used to finance the capital costs.

⁵⁷ Cabinet Office and Crown Commercial Service, [Strategic supplier risk management policy](#)

Strategic Suppliers is bad for the delivery of public services and the taxpayer and so these risks must be proactively managed in keeping with best practice in the private sector.⁵⁸

Certain triggers – such as the issuing of profit warnings – can lead to Strategic Suppliers being designated as ‘high risk’. Various actions can then be taken to manage the risk, as set out in Cabinet Office and Crown Commercial Service, [Strategic supplier risk management policy](#).

Questions have been asked about why Carillion was awarded contracts even after they had issued profit warnings. The Government have said:

The Government’s priority is to ensure the continued delivery of public services, and we have contingency plans in place to ensure this happens. We routinely stress-test contracts to ensure that if one party within a contract fails to deliver, the other parties involved will step in to complete the work.

The majority of public procurement is governed by Public Contracts Regulations. These stipulate that public procurers have to award contracts through fair and open competition, in line with principles of equal treatment, transparency and non-discrimination. Suppliers have to meet certain criteria to be able to bid for public contracts, including a minimum level of financial and economic standing proven through turnover, audited accounts or other financial measures.

Given that a large number of companies issue profit warnings from time to time, it is unrealistic to terminate all business with such a company as this would further undermine chances of company recovery.

Once Carillion had made the profit warnings, we took steps to ensure that greater degrees of protection were built into the small number of specific contracts that were awarded after July last year.⁵⁹

Crown Representatives manage the relationship between government and each of its Strategic Suppliers – there is normally a Crown Representative for each Strategic Supplier.⁶⁰ The role of Crown Representative for Carillion was vacant for three months between August and November 2017 – with Crown representative responsibilities being covered by the Government’s Chief Commercial officer and the Cabinet Office Director of Markets and Suppliers.⁶¹

For more information on strategic suppliers and how government relationships with suppliers operate, see:

- Cabinet Office and Crown Commercial Service, [Strategic supplier risk management policy](#)
- NAO, [A Short Guide to Commercial relationships](#)

The question of the government’s relationship with Carillion was debated in an Opposition Day debate [on Carillion and Public Sector](#)

⁵⁸ Cabinet Office and Crown Commercial Service, [Strategic supplier risk management policy](#)

⁵⁹ [PO 123288](#), answered 1 February 2018

⁶⁰ Cabinet Office and Crown Commercial Service, [Strategic supplier risk management policy](#)

⁶¹ [PO 121316](#), answered 10 January 2018. See also [PO 124135](#), answered 7 March 2018.

[Outsourcing](#) on 24 January 2018. The Public Administration and Constitutional Affairs Committee are carrying out an inquiry into [Sourcing public services: lessons learned from the collapse of Carillion](#).

4.3 Immediate future

The government [said](#) that it will continue to deliver all public sector services following the insolvency of Carillion, by providing the “necessary funding required by the Official Receiver to maintain public services”,⁶² and:

Our top priority is to safeguard the continuity of public services, and we have emphasised that to the official receiver. [...] The official receiver will now take over the running of services for a period following the insolvency of the company. The Government will support the official receiver to provide these public services until a suitable alternative is found, either through another contractor or through in-house provision. The court appointment of the official receiver will allow us to protect the uninterrupted delivery of public services—something that would not have been possible under a normal liquidation process.⁶³

Wages for many of those who have been employed by the Carillion group to deliver public service contracts are continuing to be paid, but now via the Government, through the official receiver.⁶⁴

On 23 January, the Government provided an update:

Since I last updated the House, there has been no significant disruption to service delivery in schools, hospitals, prisons, defence and other public services as staff have continued to provide services. We have been engaging with all devolved administrations with exposure to Carillion to ensure that robust contingency plans are being implemented.

A number of Carillion’s joint venture partners such as Kier, Eiffage, Balfour Beatty, KBR, Amey and Galliford Try have committed to stepping into the respective public sector contracts to ensure continuity of these vital services. Public sector construction sites have been secured and construction will begin following the appointment of a new contractor. I would like to express my thanks to all those who have worked hard to ensure the continuity of public services.⁶⁵

4.4 Longer term

There are a large number of Carillion companies – in January, Companies House listed around 100 companies and partnerships with ‘Carillion’ in their names.⁶⁶ The Government have indicated that some

⁶² Gov.uk, [Government protects essential public services as Carillion declares insolvency](#), 15 January 2015

⁶³ [HC Deb 15 January 2018 c624](#)

⁶⁴ [HC Deb 15 Jan 2018 627](#)

⁶⁵ Written Statement, [Update on Carillion PLC](#), 23 January 2018

⁶⁶ Based on a search of Companies House records on 22 Jan 2018 giving a rough count of current companies with the word ‘Carillion’ in their name.

Carillion companies appear to be solvent, and those companies will still be able to trade.⁶⁷

Where a public sector contract is with one of the Carillion companies that is in liquidation, the contract might be transferred to an alternative external contractor, or be taken in house by a Department or other agency of government.⁶⁸ The public sector might in certain cases re-tender for the work, or move to alternative contractor if there is an existing 'framework agreement' that would cover the work.

Where a public sector contract is with one of the Carillion companies that is not in liquidation, the expectation is that the contract will continue. It is possible that the official receiver may decide to sell its interest in that company (with its contractual obligations) to some other organisation.

The Special Managers have already offered a number of contract packages for sale – some of these transactions are already complete.⁶⁹

Carillion may also be a sub-contractor to other bodies that have contracts with the public sector. It will be for those other bodies to ensure continued service.

Joint ventures and PFIs

Some public sector contracts are joint ventures between Carillion and one or more partners, where the remaining joint venture members are obliged to complete the contract.

In at least some of these cases, the other partner is continuing with the contract. Some are obliged to do so:

.... It is worth making the point that of the seven contracts that were let post July, six were joint ventures; in other words, there was joint and several liability to undertake the work if one of them collapsed. In the case of HS2, which was the largest at £1.4 billion in total, Kier has already announced this morning that it has put in place contingency plans to ensure continuity of service. The two MoD contracts were joint ventures, as were the two HS2 ones, and so was the Network Rail contract to Carillion Powerlines.⁷⁰

This is also true for PFI contracts:

My understanding is that the contracts that are strictly PFI contracts are actually in joint ventures. In that case, it is most likely that the joint venture partner will take over.⁷¹

⁶⁷ [HC Deb 26 Jan 2018 c349](#)

⁶⁸ [HC Deb 15 January 2018 c629](#) – see also [HC Deb 16 January 2018 c724](#)

⁶⁹ PWC, [Carillion Group: Interested Parties: Proposed sale process with respect to certain Carillion contracts](#) [online 9 March 2018] but noting that one of the companies due to take over one of the deals has recently been reported as pulling out – see Financial Times, [Canadian company pulls out of deal to take over Carillion contracts](#), 8 March 2018

⁷⁰ [HL Deb 15 January 2018 c471](#)

⁷¹ [HC Deb 16 January 2018 c724](#)

4.5 Particular contracts

The government have not yet published a complete list of Carillion's 450 contracts with government.⁷²

This section contains information on some of the key contracts – note that this list is not complete.

Beyond this, various pieces of information on individual contracts are available, whether from Parliament, on the websites of other organisations involved, or in the national and local media.

Defence

[CarillionAmey](#) (an incorporated joint venture) work on behalf of the Defence Infrastructure Organisation (DIO) to repair and maintain Service Family Accommodation, and to repair, maintain and build infrastructure on military sites.⁷³

According to the Ministry of Defence, CarillionAmey is an independent legal entity and Carillion entering liquidation has no direct impact on the services provided – the partners in the joint venture are contractually required to deliver even if one of the partners fails. The Ministry says it is working with the relevant partners to ensure they deliver services.⁷⁴

Prisons and justice

Carillion AMBS Ltd (a subsidiary of Carillion PLC) provided a range of facilities management services to the National Offender Management Service for public sector prisons in London and the East of England, and in the South West, South Central, Kent and Sussex.⁷⁵

Carillion AMBS Ltd had provisional liquidators appointed on Friday 19 January 2018.⁷⁶

The Ministry of Justice has announced the creation of a new government owned facilities management company (Gov Facility Services Limited), which will take over the delivery of the prison facilities management services previously provided by Carillion.

Around 1,000 staff (including 100 contractors) will move to the new company, with terms and conditions of employment preserved. The services provided will not be affected by the transfer.⁷⁷ For further

⁷² In response to Parliamentary Questions asking for details of the contracts (e.g. PQ [123461](#), answered 24 January 2018), the Government have pointed to information on the [previous](#) and [current](#) versions of the Contracts Finder website. A search for 'Carillion' on these sites gives some, but not all, of the contracts (as Ian Makgill of Spend Network has [noted](#) on Twitter).

⁷³ CarillionAmey, [What we do](#), [online, accessed 22 Jan 2018]

⁷⁴ [Letter from Tobias Ellwood MP at Ministry of Defence to Mark Francois MP regarding points raised during the backbench defence debate concerning Carillion](#), DEP2018-0144, 12 Feb 2018

⁷⁵ [Written Statement Prison Competition and Efficiency](#), HC Deb 18 Nov 2014 c7WS; [PQ 122617](#), answered 18 Jan 2018

⁷⁶ PWC, [Carillion Group](#) [accessed 26 Jan 2018]

⁷⁷ Ministry of Justice, [Ministry of Justice launches new facilities management company](#), 26 January 2018

information see Ministry of Justice, [Ministry of Justice launches new facilities management company](#), 26 January 2018.

Carillion were also involved in two courts PFI schemes and were one provider (among others) providing a Legal Aid Agency helpline.⁷⁸

Transport

Carillion was involved in a consortium (CEK Joint Venture) to deliver certain parts of **HS2** – the other companies involved will take over responsibility for the contract:

...the demise of Carillion, a tragic event for this country and for corporate Britain, will none the less not affect the HS2 project. The existing contract is part of a three-company consortium, and the other two companies, Kier and Eiffage, are taking over responsibility for the project. The apprenticeships are being transferred, the staff are being transferred and the project will continue uninterrupted.⁷⁹

Carillion was also involved in **Network Rail projects**. A “significant number” of these contracts have been acquired by Amey Rail Limited, including projects in the East Midlands, London and North West England. The sale is expected “to safeguard over 700 jobs and provide security for many other companies within the rail industry supply chain”.

Network Rail has said that it is working with PwC to look for long-term transition arrangements for the remaining contracts and staff. In the meantime, these remaining contracts continue to be delivered under a transitional arrangement with PwC.⁸⁰

Carillion was also involved with **roads** – the government said:

The fact of the matter is that the contracts have often been reinforced and proofed. Certainly on the road side [...] we have joint-venture partners that are jointly and severally obliged to pick up these obligations, and they will do so.⁸¹

Kier has assumed responsibility for the smart motorway schemes on which they had been working in joint venture with Carillion. Employees currently working on the schemes have been offered the opportunity to join Kier.⁸²

Schools

Carillion provide catering, facilities management or other services to a number of schools and are involved in some school building works.

The Government have said:

⁷⁸ [Letter from David Gauke to Justice Select Committee](#), 19 Jan 2017

⁷⁹ [HC Deb 18 Jan 2018 c1037](#). See also [HL5579](#), answered 06 Mar 2018, which confirms that Kier and Eiffage are now 50/50 joint venture partners and will deliver the HS2 contracts under the same terms, including cost and schedule.

⁸⁰ Network Rail, [Sale secures Carillion rail contracts](#), 22 Feb 2018

⁸¹ [HC Deb 18 Jan 2018 c1044](#). There may also be other contracts – according to a [Freedom of Information request from 12 February](#) Carillion won two Highways England contracts in 2017 (for A249 Sheppey Crossing Road Safety Mitigation and Area 13 Construction Works Framework (CWF) Lot 11: Temporary Traffic Management).

⁸² Kier, [Update Re: Joint Ventures with Carillion PLC](#), 19 Jan 2018

Local authorities and academy trusts are responsible for their contracts. Information available to the Department indicates that the number of local authority (LA) and academy trust schools covered by catering, facilities management or other service with Carillion is relatively low. The Department, LAs and other bodies have a small number of contracts with Carillion for school building works. We have worked with LAs and academy trusts to make sure they have robust contingency plans in place and that these have been actioned, where required.

Our priority is to ensure schools can continue to operate as usual. Government is supporting the Official Receiver, so that services to schools, such as school meal provision, can continue to be delivered.

We are continuing to monitor the situation and will work with schools and providers to help minimise any disruption for pupils.⁸³

Hospitals

The NHS in England has a number of contracts with Carillion, mostly for facilities management:

Carillion provides facilities management services to 13 National Health Service trusts through subcontracts with Private Finance Initiative (PFI) project companies. Carillion is also building two NHS hospitals under PFI contracts.

The Department and the hospital regulator NHS Improvement have been helping trusts supplied by Carillion with planning and will continue to work intensively with trusts over the coming days to minimise disruption. The Government is committed to maintain public services and has an agreement with the Official Receiver to ensure that Carillion workers in public sector contracts will continue to be paid.

The contracts between the trusts and PFI Companies are still in place, which means that each PFI Company is still contractually obliged to manage the projects and find another construction or facilities management services subcontractor who can continue to deliver the services and building work. The PFI Companies are currently in discussions with PWC (on behalf of the official receiver), their lenders and with other service and construction companies to assess how best to continue delivering these contracts.

Three NHS trusts also directly contract Carillion (ie outside of PFI contracts) to provide facilities management services and car parking management. Each NHS trust with a direct contract may, at any given point in time, have amounts owing to or withheld from Carillion on the basis of contract's provisions. This data is not collected centrally.

The Department has no direct contracts with Carillion.

In addition, Carillion provide maintenance services to a number of NHS LIFT Companies. The NHS LIFT Companies have their own contingency plans in place to source these maintenance services from other companies and prior to the current issue have replaced Carillion on a variety of sites. These buildings are typically primary

⁸³ [PO 123190](#), answered 19 January 2018 – see similarly [PO 128766](#), answered 23 Feb 201

care facilities ranging from general practitioner surgeries to small community facilities.⁸⁴

Ahead of Carillion's collapse, Serco was in the process of acquiring a portfolio of UK health facilities management contracts from certain subsidiaries of Carillion – a revised version of this deal is still in progress (now through PWC).⁸⁵

Power

Carillion's UK power framework business has been sold to J Murphy & Sons (JMS), along with certain contracts for National Grid:

JMS takes on Carillion framework contracts with National Grid in respect of electricity overhead lines, substations and underground cables. The transaction sees the transfer of 14 Carillion staff to JMS.

JMS also replaces Carillion as the joint venture partner with Eltel in supporting National Grid to deliver planned replacement and refurbishment schemes across England and Wales.⁸⁶

Wales, Scotland and Northern Ireland

The **Welsh Government** made a [written statement](#) to the Assembly on 17 January. In it, they said that Carillion are "not a significant provider of services here in Wales". In the statement, they also set out what was happening where Carillion were involved in projects in Wales.⁸⁷

Carillion was raised at [topical questions](#) in the **Scottish Parliament** on 16 January. The Scottish Government said that there was only a short list of affected contracts that involved them and their agencies, and that they had contingency plans in place for affected contracts.⁸⁸

Reports suggest that Carillion has 'over 200' jobs in **Northern Ireland**. Major contracts reportedly include repair and heating services for the Housing Executive (which have now been taken over by ENGIE⁸⁹) and work for Power NI.⁹⁰

⁸⁴ [PO 124089](#), answered 15 January 2018

⁸⁵ Serco, [Update on health facilities management acquisition](#), 14 Feb 2018

⁸⁶ PWC, Carillion, [Latest News and Updates](#) - Sale of Carillion's UK power framework business 07/02/18 [online, accessed 8 March 2018]

⁸⁷ See also [Written Statement - Wales and Borders rail services and Metro operator and development partner procurement update](#), 23 February 2018

⁸⁸ There was [further debate](#) in the Rural Economy and Connectivity Committee on 24 January 2018

⁸⁹ ENGIE, [ENGIE acquires Northern Ireland Housing Maintenance Contracts](#), 20 Feb 2018

⁹⁰ Belfast Telegraph, [Carillion collapse fuels fears for Northern Ireland jobs: No Executive means little help for staff, says MLA](#), 15 Jan 2018

See also Belfast Telegraph, [Carillion's Northern Ireland business is placed into liquidation](#), 26 Jan 2018

5. Suppliers

On 30 June 2017 (the most recent balance sheet), Carillion owed £2 billion to its suppliers, sub-contractors and other short-term creditors.⁹¹ The BBC reported that most of Carillion's 30,000 suppliers risk getting little or nothing back.⁹²

Suppliers and subcontractors are 'unsecured creditors':

Subcontractors and suppliers who are owed money for work undertaken for Carillion prior to its liquidation are unsecured creditors and will need to lodge a claim with the Official Receiver. A letter will be sent to suppliers shortly containing further instructions. It is too early to say if there will be any payments made.⁹³

As explained in [section 1.5](#) of this briefing, unsecured creditors rank second lowest in the hierarchy of creditors, only above shareholders. It is feared that some of Carillion's suppliers may themselves become insolvent because of the money they are going to lose in the collapse.⁹⁴

5.1 Support for affected suppliers

The Government announced two measures to support businesses affected by Carillion's collapse: help and flexibility with tax;⁹⁵ and special support from banks.⁹⁶ The banks' support includes overdraft extensions, payment holidays and fee waivers.⁹⁷

The tax help that HMRC can give includes:

- agree instalment arrangements if the business is unable to pay tax on time
- suspend any debt collection proceedings
- review penalties for missing statutory deadlines
- reduce any payments on account
- agree to defer payments due to short-term cash flow difficulties

5.2 Carillion's payment terms

In December 2017, City A.M. reported that 'third-party suppliers on 30-day terms have been put on 90 and 120 days without their

⁹¹ 'Trade and other payables', p. 21 of the [Interim financial statement](#) for the six months ended 30 June 2017

⁹² BBC, 'Carillion collapse: Insurers pay out £30m to suppliers', 25 January 2018

⁹³ DWP and Insolvency Service (gov.uk), [Carillion: information for employees, sub-contractors, creditors and suppliers](#), 25 January 2018

⁹⁴ FT, [Suppliers left counting cost of Carillion collapse](#), 21 January 2018

Independent, [Carillion collapse: Company's suppliers to get less than 1p for every pound they are owed](#), 16 January 2018

⁹⁵ HMRC, [Practical support for businesses affected by Carillion liquidation](#), 17 January 2018

⁹⁶ BEIS, [Business Secretary welcomes banks' support for small businesses affected by Carillion insolvency](#), 17 January 2018

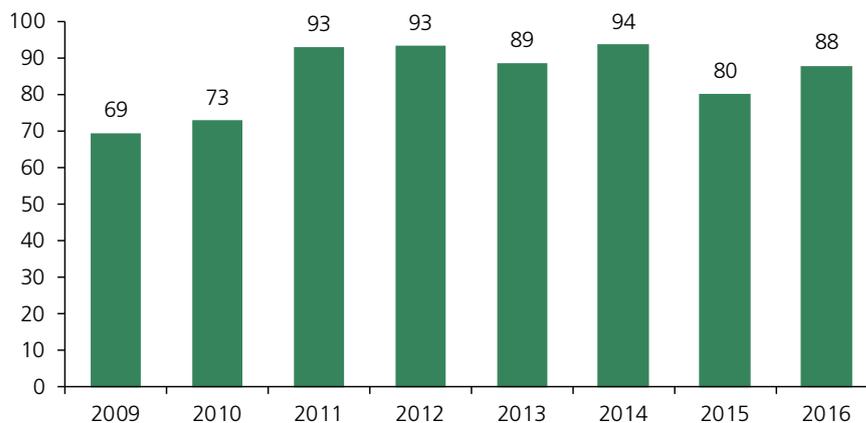
⁹⁷ UK Finance, [Banking industry support for Carillion supply chain](#), 17 January 2018

knowledge'.⁹⁸ Carillion's late payments had attracted negative attention since at least 2013, when Carillion had increased its maximum payment terms to suppliers to 120 days.⁹⁹ The lengthening of Carillion's payment terms was the reason cited by a hedge fund manager for betting against the company.¹⁰⁰

It is possible to estimate the average number of days taken by Carillion to pay its trade creditors, such as suppliers and subcontractors. The chart below shows that the main change occurred in 2011, when average payment days went from 73 to 93, or 28% longer.

Carillion's trade payable days

Average number of days to pay trade creditors



Source: Library's analysis of Carillion's annual [financial statements](#);

Note: Staff costs are deducted from cost of sales to calculate trade payable days.

It is informative to compare Carillion with one of its close competitors, Balfour Beatty. Using the same methodology, payable days at Balfour Beatty were 66 in 2009, almost the same as Carillion's 69. Unlike Carillion, though, Balfour Beatty's payable days remained around that level in the following years (63 in 2010, and 65 in 2016).¹⁰¹

Note that these are rough estimates calculated from total balances in company accounts. They may not reflect the experience of the 'average supplier', since data on the terms of individual suppliers is not available.

Carillion's last Finance Director, Emma Mercer, was asked about Carillion's payment terms by a joint Committee of MPs investigating the collapse of the firm ([Carillion joint inquiry](#)). She stated:

Effectively, we give suppliers the choices of being on either [direct payment to them or on the supply chain factoring scheme]. With those that go on to the supply chain factoring, we do ask them to sign up to terms of 120 days, but they have the ability to be able

⁹⁸ City A.M., [Revealed: Behind the scenes of Carillion's annus horribilis](#), 21 December 2017

⁹⁹ The Construction Index, [The hidden dangers of Carillion's new payment terms](#), 25 September 2013

¹⁰⁰ FT, [Carillion fights for survival after share price crash](#), 13 July 2017

¹⁰¹ Library's analysis of [Balfour Beatty's financial statements](#)

to draw down a payment within 45 days [...] or anything above 45 days is not at their charge.¹⁰²

Emma Mercer also stated the following payment statistics:

- During 2017, average payment days to suppliers was 43 days
- About 5% were paid in 120 days
- Less than 10% were paid in more than 60 days.¹⁰³

5.3 Prompt payment rules

There are three sets of rules on prompt payment that Carillion would have been subject to. The first comes from the Public Contracts Regulations 2015; the second from general late payment regulations; and the third from the Prompt Payment Code.

Public Contracts Regulations 2015

The Public Contracts Regulations 2015, which came into force for procurements from February 2015, set out a number of requirements that apply to large contracts with the public sector. It is likely that these rules would have applied for certain large public sector contracts let with Carillion, although not for all contracts.

[Chapter 9 of the regulations](#) contains rules for the payment of undisputed invoices within 30 days by contracting authorities, contractors and subcontractors. In other words, contractors – such as Carillion – are required to pay invoices submitted by sub-contractors under the contract no later than the end of a period of 30 days (from the date on which the invoice is regarded as valid and undisputed).¹⁰⁴

Late Payment of Commercial Debts Regulations 2013

Aside from public contracts, there is legislation on payment between businesses in general. The [Late Payment of Commercial Debts \(Interest\) Act 1998](#) introduced a statutory right for businesses to claim interest on the late payment of commercial debts.

The [Late Payment of Commercial Debts Regulations 2013](#) required businesses to pay invoices in no more than 60 calendar days, unless otherwise expressly agreed in the contract and provided it is not grossly unfair to the creditor. It remains therefore possible for parties to agree on payment periods longer than 60 calendar days, provided such extension is not grossly unfair to the creditor.

For more information on late payment legislation, see the Library's Briefing Paper on this topic, [Late Payment of Debts](#) (July 2017).

Prompt Payment Code

The [Prompt Payment Code](#) sets out good payment practice. Participation is voluntary, although the Government does ask its large

¹⁰² Business, Energy and Industrial Strategy and Work and Pensions Committees, Oral evidence: Carillion, HC 769, 6 February 2018, [Q353](#)

¹⁰³ Ibid., QQ356-358

¹⁰⁴ For more information, see the Government's [Statutory guidance for contracting authorities and Suppliers on paying undisputed invoices in 30 days down the supply chain](#) (effective from 1 September 2016).

suppliers to sign up. Carillion was a [signatory](#) to the code. As such, Carillion would have undertaken

to pay suppliers within a maximum of 60 days [this requirement is met by paying 95% of invoices within 60 days], to work towards adopting 30 days as the norm, and to avoid any practices that adversely affect the supply chain.

6. Investigations

Four government bodies are investigating the collapse of Carillion: three regulators and an agency.

A focus of these investigations concerns the actions of Carillion's board, the conduct of its directors and related issues of governance. The role and duties of company directors are explained in the Library's briefing, [Corporate Governance Reform](#).

There are also three Carillion-related inquiries by Select Committees of the House of Commons, discussed in [section 7](#).

6.1 Insolvency Service

On the making of the liquidation order, the court will appoint an Official Receiver to manage the liquidation of the company. The Official Receiver is both an "Officer of the Court" and an employee of the Insolvency Service, an executive agency of the BEIS. The [Insolvency Service](#) is responsible for overseeing the insolvency process and investigating the cause of company failure.

From 2015, the powers of the Insolvency Service to investigate have been expanded, and the system for liquidators reporting on the conduct of the directors has been modernised, to make investigations quicker and more efficient. In addition, there is a new process whereby if a director is disqualified, and it can be shown that their actions caused direct losses to creditors, the court can order that they make a payment from their own pocket to compensate creditors. These compensation orders were introduced in the [Small Business, Enterprise and Employment Act 2015](#).

In deciding whether there should be an investigation by the Insolvency Service, all sources of information will be considered, including:

- information from creditors of the company;
- its customers;
- its records; and
- other agencies.

A serious matter of misconduct on the part of directors can lead to periods of disqualification, personal liability and possible prosecution proceedings being sought (see below).

The Official Receiver's role

In all compulsory liquidations, the Official Receiver is under a statutory duty to investigate the causes of a company's failure and the actions of directors come under scrutiny. The Official Receiver is also under a duty to report any evidence of wrongdoing or potential misconduct by the directors, to the Secretary of State for BEIS.

Nature of the investigation

In brief, it is a long-established principle of company law that directors must act in the best interests of their company, but once the company approaches insolvency, their first duty must be to the creditors. Once it has been established that the company cannot pay its debts as and when they fall due, a responsible director should take steps to protect creditors, and if a solution to the problem cannot be found, the company may enter formal insolvency proceedings.

Directors' conduct

An irresponsible (or reckless) director may be subject to disqualification proceedings, which if successful will prevent them from acting as a director of a company, whether formally appointed or not, for a period of between 2 and 15 years. The Government are responsible for disqualification of unfit directors via the Insolvency Service, which assesses insolvent company cases to decide whether to investigate the conduct of the directors and, where appropriate, seek disqualification orders. A person who acts as a director while disqualified is committing a criminal offence and, further, they are personally liable for any debts of the company incurred while they were breaching the disqualification.

An investigation may lead to evidence of criminal offences committed by directors, such as fraud. In those cases, directors may face prosecution as well as disqualification proceedings.

Whatever measures are taken, the process will usually start – this is the relevant point – with the receipt of a report on the conduct of the directors, which must usually be submitted by the liquidator within 3 months of their appointment.

Further detailed information is provided in a separate Library briefing, "[Company insolvency: potential liabilities of directors](#)", (CBP 7936).

Investigation into collapse of Carillion

Following the appointment of the Official Receiver as liquidator, the Business Secretary wrote on 16 January 2018 to the Insolvency Service and the Official Receiver asking that the statutory investigation into both the causes of Carillion's failure and the conduct of its directors is fast-tracked and extended in scope. The investigation is to look at the conduct of directors in charge at the time of the company's insolvency and the conduct of previous directors, to determine whether their actions might have caused detriment to the company's creditors (including detriment to any employees who are owed money or to the pension schemes).

6.2 Financial Conduct Authority (FCA)

The [FCA](#) regulates the conduct of 56,000 financial services firms and financial markets (such as stock markets) in the UK. The FCA has wide-ranging powers to investigate potential breaches of its rules.

Before launching an investigation, the FCA considers:

- the strength of the evidence and the proportionality and impact of opening an investigation;

- what purpose or goal would be served if the FCA were to end up taking enforcement action in the case;
- relevant factors to assess whether the purposes of enforcement action are likely to be met.¹⁰⁵

On 3 January 2018, Carillion announced that it was being investigated by the FCA “in connection with the timeliness and content of announcements made by Carillion between 7 December 2016 and 10 July 2017”.¹⁰⁶

6.3 Financial Reporting Council (FRC)

The [FRC](#) regulates auditors, accountants and actuaries, and sets the UK’s Corporate Governance and Stewardship Codes.

The FRC is responsible for ensuring that the provision of financial information by public and large private companies complies with Companies Act requirements. It also has the power to investigate statutory auditors and audit work, and to impose sanctions.¹⁰⁷

On 15 January 2017, Greg Clark, the Secretary of State for BEIS, [asked](#) the FRC to investigate the preparation and audit of Carillion’s accounts:

I am writing to ask you to use your powers to conduct an inquiry into the preparation of Carillion PLC’s historic accounts and the audit of those accounts. [...]

I ask that any investigation you undertake examines not only the conduct of the directors, past and present, in the preparation of the accounts, but also the conduct and practice of the auditors of those accounts.

On 29 January 2018, the FRC announced it was opening an investigation into the audits of Carillion:

The Financial Reporting Council (FRC) has decided, following enquiries made since a profit warning in July 2017, to open an investigation under the Audit Enforcement Procedure in relation to KPMG’s audit of the financial statements of Carillion plc. The investigation will cover the years ended 31 December 2014, 2015 and 2016, and additional audit work carried out during 2017.

The investigation will be conducted by the FRC’s Enforcement Division, and will consider whether the auditor has breached any relevant requirements, in particular the ethical and technical standards for auditors. Several areas of KPMG’s work will be examined including the audit of the company’s use and disclosure of the going concern basis of accounting, estimates and recognition of revenue on significant contracts, and accounting for pensions.¹⁰⁸

¹⁰⁵ FCA, [Referral criteria](#), 26 May 2016

¹⁰⁶ Carillion PLC, [Regulatory investigation](#) announcement, RNS Number: 8128A, 3 January 2018

¹⁰⁷ FRC, [Roles and Responsibilities](#), June 2017

¹⁰⁸ FRC, [Investigation into the audit of the financial statements of Carillion plc](#), PN 2/18, 29 January 2018

6.4 The Pensions Regulator (TPR)

[TPR](#) is the UK regulator of workplace pension schemes. TPR has two 'anti-avoidance' powers, which it can use against an employer and associated persons providing a defined benefit scheme. It can issue contribution notices (a demand to pay a set amount of money to the pension scheme) and financial support directions (a demand to set out proposals for how the scheme will be supported).

On 18 January 2018, TPR launched an investigation into Carillion to determine whether there is evidence that would support the use of anti-avoidance powers to recover some money for the pension scheme.¹⁰⁹

However, amounts recovered (if any) are likely to be small. This point was put to the Regulator in oral questions of the Work and Pensions Committee (22 February 2018):

Ruth George: What could you possibly hope to retrieve? There was £29 million left in the entire company.

Nicola Parish [Executive Director of Frontline Regulation at TPR]: Our contribution notice powers can go wider than just looking at corporates. They can look at individuals [for example, company directors] who are connected to and associated with corporates as well.

[...]

Ruth George: Bearing in mind where we are now, surely the anti-avoidance investigation is likely to produce, particularly as you are in competition with three other bodies as to where the tiny amount of money that might be extracted can go. Would it not have been better to have avoided this happening in the first place and to have been able to put some avoidance measures in place earlier? [...]

[This question is not answered.]¹¹⁰

¹⁰⁹ TPR, [Letter from The Pensions Regulator to the Chair regarding Carillion, 12 February 2018](#), published by Work and Pension Committee on 19 February 2018

¹¹⁰ Work and Pensions Committee, Oral evidence: [Carillion, HC 769](#), Thursday 22 February 2018, Q761 and Q769

7. Parliamentary debate and inquiries

7.1 Opposition Day Debate

On 24 January 2018, there was an Opposition Day Debate on “Carillion and public sector outsourcing”. Commenting specifically on the company’s liquidation, David Lidington, Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster, outlined the government’s priorities:

I reiterate the priorities that have animated the Government throughout the process. They have been: first, to make sure that public service delivery continued without interruption, which has been the case, as no public bodies have reported any major service disruptions; secondly, to reassure the workers employed on public service contracts that they will continue to get paid for their work; thirdly, to make sure that the right support is in place for pensioners; and fourthly, to protect taxpayers from an unacceptable bail-out of a public company, the risk of which is rightly borne by the shareholders and the banks that have lent to it”.¹¹¹

Costs of the Official Receiver

The Minister confirmed that the court appointed official receiver is now effectively running Carillion, and in time his investigations will show exactly how the company ran into trouble. He outlined the role of the official receiver as follows:

It is the statutory responsibility of the official receiver to ensure that contracts previously held by Carillion are transferred as quickly and in orderly a fashion as possible to alternative contractors. In respect of the public service contracts, the Government are ensuring that payments are made for the continued delivery of those services while that process continues.¹¹²

In terms of supporting the official receiver to manage the liquidation, the Minister said that the government had made funds available to allow an orderly wind-down of the company’s affairs:

It is worth my explaining that this company was in such trouble that it could not even fund its own administration. If the Government had not stepped in and agreed to cover the costs of the official receiver, there would have been a real threat to public services in schools, hospitals and prisons. Staff would not have come to work last Monday, as they would not have been paid.¹¹³

Asked if the Government has estimated the costs of the official receiver, the Minister replied as follows:

It is not possible to give an estimate because that will be a net figure that has to take into account both the willingness of joint venture partners to step forward and take over the projects in which they were involved – that seems to have been the case – and the speed at which the official receiver is able to find alternative contractors, or in-house contractors in certain cases, to

¹¹¹ HC Deb 24 January 2018 c.342

¹¹² Ibid c.344

¹¹³ Ibid c.346

take on the provision of particular public services. Our overall estimate can be only quite an uncertain estimate at this stage, but we are confident that it will in any case be very significantly less than if we had had to cope with the costs of an unplanned, unmanaged liquidation, had the Government not stepped forward and agreed to pay for the official receiver's administrative and legal costs.¹¹⁴

7.2 Business, Energy & Industrial Strategy Committee and Work & Pensions Committee

The [Carillion joint inquiry](#) looks at the management and governance of Carillion, its sponsorship of its pension funds, and the implications for company and pension scheme law, regulation and policy.

Joint inquiry into the collapse of Carillion

7.3 Liaison Committee

On 7 February 2018, the Committee held an oral evidence session on the [cross-government response to the collapse of Carillion](#). The session sought to establish the main impacts for different government departments and public services, and explored government support for public sector workers and contracts.

7.4 Public Administration and Constitutional Affairs Committee

The Committee launched an inquiry on [Sourcing public services: lessons learned from the collapse of Carillion inquiry](#). The inquiry looks at how Government and the public sector make decisions about how to source the delivery of public services, including the risks of concentrating a large number of contracts with a small group of large companies.

Inquiry into lessons learned for the sourcing of public services

¹¹⁴ Ibid c.347

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