Graham Vinter

IJGlobal speaks to legendary lawyer Graham Vinter about infrastructure after PFI, the promise of Africa, and being lured back from retirement. By Jon Whiteaker.

Graham Vinter is well-known across infrastructure finance, and particularly among lawyers, as the man who wrote 'the book'.

It was 1995 when Sweet & Maxwell published the first edition of *Project Finance, a Legal Guide*. At the time Vinter was seven years into a 20-year stint as a partner at Allen & Overy, and the PFI market in the UK was about to take off like a rocket.

The book has now run into four editions, during which time Vinter left A&O, spent eight years in-house at BG Group, and then enjoyed a very short-lived retirement before being tempted back into practice by US law firm Covington & Burling.

This is a man who was at the centre of the PFI boom in the UK, cut his teeth on North Sea project financing, and has been lured from early retirement by an evolving energy sector he says "is going to keep me interested for a long time yet".

There are lots of legal guides to project finance now, but Vinter's was the first and is still seen as the gold standard.

He was inspired to write the first edition after a meeting in which he had to explain how project finance worked to German bankers looking at the Tapada do Outeiro CCGT project in Portugal.

"I was waiting for a plane, on my way back from some negotiations in Frankfurt and I thought to myself "'no one knows this stuff!'".

The first edition was around 150 pages and took just six months to write, as Vinter had already penned an internal guide for A&O. The fourth edition published in 2013 spanned almost 600 pages and was a "huge undertaking", though Vinter claims its co-authors Gareth Price and David Lee (both A&O partners) did the heavy lifting for that edition.

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He says there probably will be a fifth edition though he is not sure when.

"We need to stop expanding the book though. Some parts are less topical and can probably be taken out. The tendency is to include it because it is already written. Take upstream oil & gas in the North Sea – that is over now, or at least it is on a classic project finance basis.

He adds: "It would also be nice if Brexit was out the way so we could write about the UK with some certainty".

PFI and beyond

Unfortunately it is not just Brexit that is causing uncertainty for UK infrastructure. There is very little clarity on how the current government, or any future government, is going to fund major projects, given how much PFI as a product has been discredited in the eyes of politicians and the public.

Vinter was involved on some of the earliest PFI deals and was at the vanguard during Tony Blair's premiership, when so many of these projects were financed.

"My sad lament on PFI is that I still think it is a great way to get infrastructure projects built but its timing was cursed".

He notes how most PFI projects were financed during a period of high interest rates which lending banks locked in through long-term hedges.

"Of course when you then look at these embedded interest rates after the crash they look insane, at a time when the government can borrow cheaper than 2%.

"All those projects are too expensive but they are creatures of when they were put together".

He acknowledges that concerns around executive pay in wider society are "totally justified" given rising inequality in society, and says PFI became an easy target given some cases of "extreme and undeserved" returns.

While not wanting to defend bad projects, he blames the execution rather than the model itself for the problems that arose.

Vinter says that many of the PFI projects completed and still operational do not have problems of excessive returns. He names the Second Severn Crossing, one of the earliest PFIs, as an example of a great project he advised on.

But he acknowledges that there was often a mismatch of firepower between public and private sectors.

"I have been a district councillor in Surrey. I had huge respect for people who were heads of department at my local council but could they match a Rothschild or Goldman Sachs in terms of understanding financial modelling? Of course not. Do they have the money to pay for consultants of equal firepower? Of course not."

Those in the private sector need to take responsibility too: "If you play in that public/private space, you have to accept the 'Sunday Times' test about the amount of profit you can make and you need a mechanism that allows the public to share in that success."

Vinter argues that public-private partnership will need to come back "in some form" in the UK, even if Labour forms the next government and goes through with its renationalisation plans.

He suggests that local authorities need more help in negotiations with private entities, argues for a new Treasury taskforce to prioritise projects, and suggests revisiting plans dating back as far as the early 1990s for PFI vehicles to be jointly owned by the public and private sectors.

"You don't do infrastructure in fits and starts. You can't say 'it's all done now, so let's move on to something else'. It is a process of constant renewal and upgrading.

"We need to get back on the wagon. Otherwise we will end up in the same situation the Labour Government found itself in 1997 – infrastructure was literally falling to pieces.

"Whatever you say about the financing, stuff got done".

Covington lures him back

After A&O, the move in-house to BG provided a new "challenge and change of scenery". He described the chance to sit on the other side of the negotiating table as a member of the executive committee for a major oil company "a once in a lifetime opportunity that I had to take then or I would have missed it."

When BG was acquired by Shell in early 2016 Vinter thought his executive career had come to a "natural end" and life as a non-exec beckoned.

He soon became restless.

After speaking to "five or six" law firms he picked Covington for his return due to three reasons: The chance to build a project finance practice from scratch; the firm's focus on Africa; and its unique policy team.

"A lot of short-term thinking has taken root in law firms in recent years, with everyone obsessed with the bottom line and individual billings.

"There is a fear of not wanting to be left behind, in terms of profitability. That pressure has always been there to some extent but I first really started to notice it after about 2001. Over the last couple of decades the firms have become a lot more professionalised and started to focus on the numbers a lot more."

Given Covington is a US firm with an interest in growing in emerging markets, Vinter now spends a lot of his time thinking about Africa.

"Covington understands Africa could be 'the next big thing' and expanding its business in that region is a key objective of the firm. We want to be able to do corporate M&A, litigation, arbitration, as well as project finance in Africa. But project finance is a way for us to penetrate that market."

He highlights how varied the opportunities are across the continent and admits that long-standing fundemental challenges remain.

"You need governments to attend to their own balance sheets and take on more fiscal responsibility. The block on many projects in Africa is the creditworthiness of the offtaker, typically a state-owned institution, which is often poor."

He laments "a missed decade" for Nigeria but says there are lots of opportunities for investors in the continent's major countries.

"In a way, the continent needs to reboot. South Africa needs to lead the way, along with Nigeria. I am optimistic but the challenges are large."

Advice to young lawyers

"One of things I missed when I thought my executive career was over, was the interaction with younger colleagues moving through their careers".

When asked what advice he would give to lawyers at the start of their careers, he says: "It is not about selling services, it's about people liking you.

"Don't be arrogant, or stroppy, or think you are better than the clients – they pay your bills. If you think they are making a mistake, explain that to them but they ultimately make the decisions."

Q&A

What is the project you are most proud to have worked on?
Probably the Vasco da Gama bridge in Lisbon. I represented the lead arrangers of the bank finance. The negotiations were carried out in a truly constructive spirit and the project itself was relatively trouble free. There was a real and pressing need for the bridge and the design of the central suspension bridge is stunning. I still smile when I see it from an aeroplane window.

What is the one thing about infrastructure finance you would change if you could?
The institutional compulsion – particularly in the public sector – to accept the lowest price irrespective of what is said in the tender documentation about other selection criteria and without sufficient rigour being applied as to how that price has been arrived at.

Who has had the biggest impact on your career?
I owe an immense debt to Tony Humphrey, a former partner at Allen & Overy, who was my mentor in the early stages of my career. He was a pioneer in the early days of structured financing in the 1980s and was in my view at least partly responsible for many of the legal techniques that the market now takes for granted.

What makes an asset infrastructure?
I think you have to distinguish between the public and the private sector. For the public sector, it is in essence a capital asset which serves the public good. In the private sector – if you think of an oil or gas pipeline, for example – it is a capital asset which is not itself a source of major profit but without which there is no such profit.

Will there be more or less project finance globally in 10 years' time?
More. The world's population is growing.