

Cracks in the Foundations:
Common Issues Facing the
Construction Industry
Payment and Contract
Administration

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Speakers



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Agenda

Today we will cover:

- Common pitfalls and best practice in relation to payment and contract administration.
- Compensation Events under NEC contracts.
- Relevant Matters under JCT contracts.
- Administration of contracts around delay.

The webinar will conclude with a Q&A session.

Common pitfalls around payment and contract administration

- 'Inadequate contract administration' was responsible for 42% of all adjudication referrals in 2023 (King's College London, 2023)
- Common pitfalls in relation to contract administration:
 - a) Poor understanding of the contract documents.
 - b) The absence of effective processes and organisation.
 - c) Failure to identify and monitor risk.
- Best practice in relation to payment and contract administration.

'Smash and grab' claims and how to avoid them

- 'Smash and grab' claims account for around 63% of all adjudications each year (King's College London, 2024).
- The claims involve the payee adjudicating on the payment application due to the absence of a valid payment notice or pay less notice.
- The risk of claims can be mitigated by:
 - Appropriate training.
 - Record keeping.
 - Effective email management.

Key contract administration failures

- Construction projects may need to be delayed.
- Construction contracts provide for this through:
 - Compensation Events under NEC contracts.
 - Relevant Matters under JCT contracts.



Compensation Events under NEC

- An event that can impact the cost of completing the works or the time it will take for the works to be completed.
- Allow a Contractor additional time to complete the works or additional payment.
- Clause 60.1: provides for twenty-one Compensation Events.
- Notification period – eight weeks.

Relevant Matters under JCT

- Matters that may affect the progression of the works and cause loss or expense to the Contractor.
- The Employer must:
 - Be responsible for the issue; or
 - Bear the risk for the issue contractually.
- Procedure to claim under Clause 4.21.
- Loss and expense to be claimed in interim payments.

Administration of contracts around delay

- The impact of delay on the project Programme.
- Best practice for managing the Programme throughout a construction project:
 - Regular review of the Programme.
 - Report changes to the relevant parties and stakeholders.
 - The Employer should notify the Contractor in the case of Contractor non-compliance.

Questions?

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