



Managing the Impact on Construction Contracts & Coronavirus (Covid-19)

Whilst the health and welfare of all people is paramount during this crisis, it's important that your contractual obligations are not put to one side in relation to your ongoing contracts and actions that you may need to be taking **now**.

Inevitably, normality will resume, hopefully sooner than later, and there will be fall-out from the delays and costs which all parties have suffered. Contra-charges will be the MC's favourite tactic so therefore important that you do all you can to protect your position **now**.

Ensure that you take the following actions as appropriate to the circumstances on each contract, to protect your position as far as possible:

- Issue Delay Notices (or Compensation Event Notices under NEC Contracts) setting out the fact of the delay. If it is the Main Contractor closing the site or restricting the work that you can do, cite denial of access as the event causing the delay, and issue a loss and expense notice.
- If you feel that you have to cease operations for the wellbeing of your workforce, it is your responsibility to demonstrate that this was justified, so gather evidence to support the decision, based on physical or practical inability to comply with the government's social distancing rules. Issue the evidence as a record taken at the time and produce a statement which fully explains why the nature of your work (specific to each site) is incompatible with the distancing rules and hence you cannot guarantee the wellbeing of your operatives.
- Record events which have prevented or hindered your progress, such as suppliers closing, workforce being unavailable due to isolation measures, travel arrangements which do not comply with the government's rules, access and working arrangements on site.
- Submit and follow-up your payment applications as normal. Ensure that the applications are substantiated as robustly as possible with evidence of progress to date, and full substantiation of all variations and other claim items.
- Be alive to late payments and respond quickly and robustly. Consider if you have grounds for issuing a Notice of Intention to Suspend Works if certified payments are not made by the final date for payment and consider taking formal action to secure payment.
- Record the progress of your works at the point of any closedown, whatever the source.
- Safeguard your materials, plant and equipment left site as far as possible.





- Check your insurances and consider making a claim, if policy scope permits.

Please note that the question of whether you can claim time (or even money) for delays caused by the current Coronavirus impact, will depend largely on the specific wording of each contract, and the risk allocation set out in the conditions. However, without the relevant actions being taken now, you will have little or no chance of defending yourselves when the contra-charges and claims start flying.

