



Learning the Science of Construction Claims

Traditionally, claims within the construction industry were handled by the parties at project level. The contractor's quantity surveyor, for example, would compile the claim and the architect or engineer would respond with support from the client's quantity surveyor.

The economic recession of the late nineteen eighties and early nineteen nineties hit the UK construction industry very hard and as may be observed whenever there is an economic downturn, contractors were obliged to tender at very low or non-existent margins. One of the ways in which they sought to improve their returns was to turn to the claims provisions contained within the contract and this era saw a proliferation of claims being brought both against clients and against subcontractors. Many claimants and respondents however, found that their existing teams had little experience in the often-complicated field of claims and contract law and consequently turned to specialists to assist them. Thus, the claims specialist or consultant, if not exactly created during this period, was at least significantly developed.

Coming out of the recession, the traditional ways of procuring construction contracts changed significantly and clients sought more aggressive procurement strategies in terms of both time and costs. More design and build projects came onto the market, more fast-track projects were launched and more projects were tendered on the basis of plans and specifications rather than by way of an accurate bill of quantities. These changes brought more ambiguity and conflict to the procedure and consequently, claims became more prolific.

These days claims are common within the industry and whether a claim consists of a relatively straight-forward claim brought by a contractor to establish entitlement to payment for a variation, or a complicated claim for an extension of time and payment for associated prolongation, in order for it to succeed and for it to be dealt with a timely fashion, the claim must be prepared in a professional and effective manner. Of course, every claim submitted requires a response and for the proper management of a project and to bring claims to resolution, it is of equal importance that responses are prepared with similar principles in mind.

Whether dealing with claims at project level or acting as a specialist claims practitioner, professionals who have a good understanding of the science of claims are always in demand

within the industry and are assets to their employers because they can significantly affect a company or project's profitability. Claims practitioners are amongst the highest earners in the construction industry and unlike many professions in the industry, they remain in demand even in times when the economic climate is unfavourable. The problem until recently, however, has been how does one acquire the necessary skills to attain such a position? Unless one has been fortunate to join a claims consultancy where training is provided, most people involved in claims have just 'picked it up as they went along' which is not exactly the perfect method of education.

Andy Hewitt, the author of *Construction Claims & Responses: effective writing & presentation* says that he recognised this situation many years ago when he needed to produce claims for projects on which he was working and unsuccessfully attempted to find a 'Claims for Dummies' type of book. There are, of course, several heavyweight publications, which deal with the subject of claims from a legal or contractual point of view, but nothing was available to explain how to properly write and present claims. Andy says that this situation became even more apparent in later years where part of his job was to respond and produce determinations on contractor's claims and he found that most of the claims he reviewed were lacking in the elements essential to establish entitlement. Roger Knowles, Consultant, agrees with this and he says in excess of half the claims prepared fail to follow the simple procedures of including the essential information that is required to properly produce a determination of a claim.

Following the international success of his book and several suggestions from readers, Andy was inspired to develop the principles contained in *Construction Claims & Responses* into interactive learning programmes in which the student many acquire the necessary skills through a hands on approach. These programmes are now available through Claims Class who currently offer educational programmes through both a distance learning course and 2-day intensive learning courses. Both of these courses are endorsed by ICES.

This distance-learning course provides the student with the tools they need to succeed in the field of construction claims. Students learn how to correctly identify situations that give rise to a claim, how to calculate the value of a claim and how, by way of a step-by-step process, to compile a claim submission into a persuasive argument which will help the claim to succeed. In order to provide the student with the ability to deal with claims from either the contractor or the client's perspective, the course also deals with the analysis of claim submissions and the preparation of responses to claims. These principles also assist those involved in the industry as arbitrators, adjudicators or expert witnesses. Claims avoidance and claim management is also an important tool in the claims professional's skill-set and the course also deals with good practice in contract administration so that students may learn how to deal with the management of claims throughout the life of a project.

When students have completed the distance learning course, they will have gained a thorough knowledge of construction industry claims, including what provides entitlement to a claim; how to analyse cause and effect; the principles of delay analysis; how to compile and present a claim effectively; how to analyse and present a response to a claim and how to confidently manage a project from a claims perspective. Graduates will be in a situation where they may join the ranks of professional claims practitioners.

The same subjects are now presented by way of the 2-day intensive learning courses, which were launched this year with initial courses in London, Glasgow and Dubai. It is the intention to expand the regions where the courses are held and Claims Class is currently seeking and developing regional partners to market and promote the course in different countries.

If you are interested in learning the science of construction claims, then check out Claim Class at www.constructionclaimsclass.com. Claims Class is offering a 10% price reduction to Nexus readers until the end of 2012, so now would be a good time to think about enrolling or attending a course.