**Claims…**

Against the backdrop of pandemic cost related expenditure and an increased necessity for better returns, contractual claims are on the increase.

What’s meant by the term ‘claim’?

Are you relying on a common understanding or an industry related definition; or does the contract define its meaning? Ascertaining what is claimable avoids wasting time and incurring needless costs!

Identifying a claim

Once we know what a claim should look like, the next step is to actually identify the circumstances in which a claim could arise. Whilst there are many ways of achieving this, it’s important that key individuals are able to identify and triage potential claims.

Managing a claim

Different projects adopt their own claim management procedures. Sometimes it is easier to manage project related claims at a project level and on other occasions there are obvious benefits in using a dedicated multidisciplinary claims team which might be providing its services to two or more projects.

Contractual provisions

How many times have we read about the person who innocently applied a guidance note, only to discover that it had no contractual significance and the costs associated with the resulting work couldn’t be claimed? Knowing the contractual significance of any document before you incur any related expenditure is critical – relying on a document ‘in good faith’ does not necessarily result in an entitlement to be paid.

As contracts often require claims to be notified within prescribed timescales, it’s important to ensure that these are met as not doing so can lead to your claim being dismissed for meeting the prescribed deadline. Preparing the claim can also entail significant costs, some contracts cater for this by allowing the claimant to be paid its associated costs or alternatively an agreed pre-determined fixed cost.

The origin of a claim

Claims occur for a variety of reasons, and in the construction sector most are connected with the construction phase – ‘completion delays’ being one such common example. A significant number of claims can however be avoided, by managing the contract in a better way and engaging the other party so as to avoid issues occurring.

What’s the claim for?

Normally, claims are made for additional time and money (loss and expense) or alternatively for changes to the works (variations and quantum) but parties are now starting to adopt different ways to both establish and defend claims, including delayed deliverables giving rise to Intellectual Property breaches.