Coronavirus Guidance Webinar
13th May, 2020
Agenda

All slides and a recording of the webinar are available on the website later this afternoon

- CBI Update
- CJRS Update
- Trade Credit Insurance
- Contractual Best Practice – Debbie Petford, Director of Legal & Commercial & Stephen James, Partner at Clarkslegal
- Q&A
CJRS Extended to 31st October

• Furloughed workers across the UK will continue to receive 80% of their current wages, up to £2,500
• The scheme will continue in its current format until the end of July 2020
• From August 2020 to October 2020 – new flexibility will be introduced designed to get employees back to work and boost the economy.
• From the beginning of August, furloughed workers will be able to return to work part-time with employers expected to pay a percentage towards the wages. The employer payments will substitute the contribution the government is currently making, ensuring that staff continue to receive 80% of their salary, up to £2,500 per month until the end of October.
• Detailed guidance on how the new phase of the scheme will be implemented will be published by the end of May 2020
Trade Credit Insurance

GOVERNMENT TO SUPPORT BUSINESSES THROUGH TRADE CREDIT INSURANCE GUARANTEE

- Businesses with supply chains which rely on Trade Credit Insurance and who are experiencing difficulties maintaining cover due to Coronavirus will get support from the government.
- The government will temporarily guarantee business-to-business transactions currently supported by Trade Credit Insurance, ensuring the majority of insurance coverage will be maintained across the market.
- This will support supply chains and help businesses to trade with confidence as they can trust that they will be protected if a customer defaults on payment.

Read more [here](#)
Contractual Behaviour

13/05/20
Debbie Petford
Stephen James
• Construction Leadership Council (CLC) statement on Payment & Contracts – 8 April

• PPN 02/20: Supplier Relief due to COVID-19 – 20 March

• PPN 02/20: Additional Guidance, FAQ’s and model terms for construction
2 new documents issued on 7 May 2020

• Cabinet Office Note: “Guidance on responsible contractual behaviour in the performance and enforcement of contracts impacted by the Covid-19 emergency”.

• CLC Covid-19 Contractual Best Practice Guidance
Cabinet Office Note
Issued by Cabinet Office & Infrastructure and Projects Authority

Recognises that parties may find it difficult or impossible to perform contracts due to COVID-19

Parties should act *responsibly and fairly* to protect jobs and the economy

Non-binding – not intended to override contractual or other legal duties & obligations
(1) Reasonable and proportionate responses to performance issues and enforcing contracts (including dealing with any disputes);

(2) Acting in a spirit of co-operation; and

(3) Aiming to achieve practical, just and equitable contractual outcomes, having regard to the impact on the other party (or parties), the availability of financial resources, the protection of public health and the national interest.
Areas where parties should act responsibly and fairly

- Payment
- Extensions of time
- Impaired performance
- Variations
- LAD
- Deposits/part payments
- Termination
- Requests and giving information
- Giving notices
- Keeping records
- Requests and giving of consent
- Dispute resolution
- Enforcing judgements
- Enforcement
- Claims for breach of contract
CLC Best Practice Guidance
Overview

- Advocates fair and reasonable administration of construction & maintenance contracts
- Applies to Public and Private Sector
- Provides examples of the types of issues that are likely to arise
- Practical advice on resolution in a constructive manner
- Supports Cabinet Office Note
Protect your position by issuing the correct notices

Encourage WP collaborative meetings to agree COVID-19 performance issues
Collaborative Meetings – Issues to consider

- Time
- Termination triggers
- Additional Costs
- Mutual suspension of works
- Payments and Valuations
- Variations
- Payments to sub-contractors/suppliers
Best Practice – Other Considerations

• Explanation of the terms Without Prejudice and Subject to Contract
• Need to consider Third Party Obligations

• Options if agreement cannot be reached:
  - RICS Conflict Avoidance Procedure
  - CIC Low Value Adjudication Procedure
  - RICS 15 day Adjudication Service
Pro-forma Letters & Notices

- Supplier and Employer WP letters to encourage dialogue
- Relevant Event Notices for JCT D&B 2016
- Compensation Event Notices for NEC 3/4
Practical Tips
Reserve your existing rights
Collaboration should be on a without prejudice basis and subject to contract.
Consider using the letter in Annex 1 to kick start discussions with your employer.
Ensure compliance with notice provisions and other requirements in your contract.
Send notices of delay to your Employer. Consider using the drafting in Annex 3 and Annex 4 (as applicable) as a basis for this.
Be transparent
Practical tips

• Do not rely on a handshake!
• Be mindful of the need to engage with third parties such as insurers, funders and the supply chain before reaching an agreement.
• If negotiations break down, try and explore alternatives (and possibly quicker and cheaper options) such as one of the low value adjudication service and mediation.
• The courts, mediators, adjudicators etc are still open for business.
• Keep clear and accurate records of progress on site and any discussions that take place including notes of meetings and conversations.
Q&A

covid19@thebesa.com
This Week:

Thursday 14th: Filtration & UV - we are joined by Hillary Spicer of E-CO Ltd, Peter Dyment from Camfil and Nathan Wood from Farmwood, Chair of the BESA Wellbeing group.

Friday 15th: Joanna Goddard from BRIM will be joining us to explore why cyber-crime has increased during the pandemic and what to do to protect yourself and your business.
We also have Jim Davis, MD of Construction Finance at Bibby talking about the results of their survey on construction finance in the pandemic.
History of Legionella & Legionella within Hot and Cold Water Systems
Thursday 14 May 10am - 11am

Ed Morris, Technical Manager at Altecnic Ltd

The session will give an insight into the history of Legionella, Legionnaires Disease and managing the risk within water systems.

It will give you a better understanding of how the systems we use today can be managed to reduce or remove the risk of Legionellosis and associated bacteria.

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