



Contract Administration - What Documentation and When

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Here Today

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Quigg Golden – What We Do

- **Construction Law**
 - PWC, NEC, JCT, ICE and NEC contract advice and preparation
- **Procurement**
 - Strategy, bid support, making/defending challenge
- **Dispute Resolution**
 - Arbitration
 - Adjudication
 - Conciliation/Mediation
 - Litigation support



Agenda

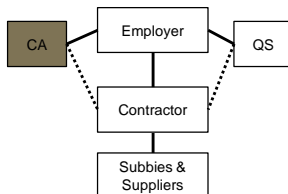
- The Role of Contract Administration under JCT
- Record Keeping Generally
- Terms of Appointment
- Progress Reporting
- Practical Completion
- Defects and Final Completion
- Q&A



The Role of the Contract Administrator

The Role of the CA

- Architect?
- Supplying Information
- Issuing Instructions, Certs, Statements
- Inspection
- Dual Role (see next slide)



The Role of the CA

• Dual Role. Conflict?

Impartial Decision Maker	Employer's Agent
Assessing EOT (2.28)	Information Release (2.11)
Date of PC (2.30)	Inspection/Tests (3.17)
Interim Valuations (4.9)	Workmanship (3.19)
Loss & Expense (4.21)	Variation Instructions (5.1)



"The employer and the contractor make their contract on the understanding that in all matters where the architect has to apply his professional skill he will act in a fair and unbiased manner in applying the terms of the contract"

- *Sutcliffe v Thackrah* [1974]

The Role of the CA

Information Supply	Financial	Supervision	Misc.
Ensure	Certify	Approve	Undertake
Supply	Consider	Instruct	Give Notice
Provide	Send	Obtain	Direct
		Issue	
		Make	



The CA's powers come from the Contract. Know it. Apply it.

The Role of the CA

- **Burden of Proof**
He who asserts must prove
- **Standard of Proof**
Balance of probabilities
- **Evidence to Support a Fact**
Evidence of Fact vs Opinion





Record Keeping



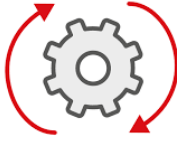
Types of Records

- What is the point?
- **The three types**
 - Systematic Records
 - Regular Records
 - Reactive Records



Systematic Records

- Things that are kept automatically:
 - Safety records
 - Drawings
 - Site sign in sheets
 - Emails, telenotes
 - Correspondence
 - Payment information
 - Invoices / Payment Certs
 - Weather Info



Regular Records

- Things that are normally recorded:
 - Minutes of meetings
 - Programme progress
 - Subcontracts
 - General Photographs



Reactive Records

- Things that are kept because there is a problem:
 - Representations on something
 - Specific photographs
 - Reports on defects
 - Opinions by others



Why keep Records?



Evidence to prove
Facts

But you don't know
what facts!





Terms of Appointment



Your Appointment

- Professional Services Contract
- Remember the RICS Rules & By-laws
- Scope of your Duties
 - Inspections
 - Record Keeping
 - Client Negotiations
 - Exclusions
- Reasonable Skill and Care
- PI Insurance
- Design Responsibility
- The CA as an Employee



Recording Progress



Recording Progress

- For Contractual Obligations. Think Time, Cost and Quality.

Time	Cost	Quality	Factors affecting progress	
Relevant Events (2.29)	Work properly executed by Contractor (4.14)	Work not in accordance with contract (3.18)		• Weather
Contractor's programme (2.9)	Relevant Matters (4.22)	Defects (2.38)		• Contract Instructions
	Loss and Expense (4.21)	Materials, goods and workmanship (2.3)		• Site Management
			• Supply Chain	
			• Access	
			• Unforeseen Issues	

Recording Progress

- Meeting Minutes are Important. We see them a lot.
 - Schedule them early
 - Progress to Date
 - Expected completion date
 - Risk register
 - Sequencing of work
 - Health & Safety
 - Discuss impacts of instructions
 - Discussion of EOT and L&E
 - Quality of work
 - Effectiveness of communications
 - Programming and Timing
 - Variations
 - Drawing/Spec Queries
 - Subcontractors

Practical Completion



Practical Completion

- What is it?
- Lots of Pressure on CA
- Fixing of the Completion Date (2.28)
- What needs done?
 - PC Cert (2.30)
 - As-Builts (2.40)
 - CDM (3.23)
- What's Next?
 - Rectification Period
 - Schedule of defects (2.38)
 - Cert of Making Good (2.39)



Defects and Final Completion



Defects and Final Completion



- The CA's job is not over yet
- Defects, shrinkages and other faults
- Defects schedule (2.38.1)
 - 14 days after expiry of RP; or
 - Instruct if "necessary"
- Reasonable time at no cost to Employer
- Accept, and reduce Contract Sum
- Final Certificate (4.26)

... on to the next one! Lessons Learned?

What we have covered today

- The Role of Contract Administration under JCT
- Record Keeping Generally
- Terms of Appointment
- Progress Reporting
- Practical Completion
- Defects and Final Completion
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Thank you

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