



CONSTRUCTION CLAIMS PREMIUM E-COURSE

Presented by

Andy Hewitt

FICCP, FCIQB, FCICES, FQSI



MODULE 5

Delay Analysis and Entitlement

Module Content

This module is split into two parts:

- Part 1 – Delay Analysis Overview
- Part 2 – Entitlement

Part 1 – Delay Analysis

- In an extension of time claim, it is necessary to demonstrate that a delay actually affected, or will affect, the Time for Completion
- This is done by impacting the delay into a programme
- In Module 4, we discussed how to ascertain the information needed to perform a delay analysis in “The Effect” section

Impacted As-Planned

- Impacted as planned is not the preferred form of delay analysis
- It is simple to perform
- Sometimes it is the only option available
- Delays are impacted into the as-planned programme to show the effect on the Time for Completion
- If several delays are being considered, it is important to show the effect of each delay chronologically and separately
- Subsequent delays are impacted into the previous delay analysis, to build up a complete picture

Time Impact Analysis

- The current programme is brought up to date at the time the delay started. This will predict a Time for Completion before the delay started to have an effect
- The delay is impacted into the programme update, which will then predict a new Time for Completion
- The effect of the delay on the Time for Completion is noted and compared with the un-impacted programme
- The difference between the impacted and un-impacted programmes is the extension of time due to the delay in question

Narratives

- As discussed in the SCL Protocol, there are several types of delay analysis
- It is necessary to discuss why the particular type of delay analysis has been chosen and to justify its use
- Typically, claim narratives are prepared by different people to those who carry out the delay analysis. Consequently, claims often fail to properly explain how the delay analysis has been carried out
- A good claim will explain to a non-planner how each step of the delay analysis has been performed by making reference to the various programmes and explaining what activities have been included or changed within the programme to perform the analysis
- Remember the 4 Key Points when preparing the explanatory narrative

Part 2 - Entitlement

- A claim must justify that an event that caused delay to the Time for Completion, or caused the Contractor to incur additional cost, is actually something that entitles the Contractor to additional time or money
- The Contract will define under what circumstances the Contractor may make a claim
- It is essential that the claim sets out the Contractual provisions that provide entitlement and justifies why the Contractor is entitled to an award
- Remember the 4 Key Points when preparing the explanatory narrative

Case Study

Telstra Hotel and Serviced Apartments

- The delay was caused by the late instruction for the use of the provisional sum for the fitting out works
- There are a couple of unusual circumstances that need to be considered

Case Study

Northern Ring Road

- The claim was brought about by the presence of groundwater in a location where the Contract advised that no groundwater was present
- The Contractor considers that this information caused him not to include for any dewatering within his price and that he is consequently entitled to additional payment for the dewatering that he was obliged to carry out
- The Contractual entitlement to additional payment is not a clear-cut matter

Case Study

Northern Ring Road

- The Engineer may be expected to raise reasons to reject the claim, so when preparing this section try to think about arguments that the Engineer may use to deny or reduce your claim and deal with them in the claim
- It will therefore be necessary to examine all contract provisions to establish entitlement and create a persuasive argument

Finally...

If you have any doubts or require any advice...

Contact your tutor!

