

RAMSKILL MARTIN

Commercial and Contractual Claim Preparation (Dispute Avoidance)

1. Introduction

Dispute avoidance has become more and more attractive to construction related companies as a direct result of the increased expense incurred through the formal process. Adjudication is a classic example.

To avoid disputes, the risk and/or differences, therefore, need to be avoided altogether or they need to be managed. Probably the most effective way of managing risks and/or differences is to ensure that both Parties fully understand the issues.

2. Preparation of Claim

ramskill martin assist its Clients to prepare claim documentation on the basis that its purpose is to avoid a dispute, but it is intended to promote our Client receiving its full entitlement. The claim would likely take the form of a 'position statement' which would clearly illustrate:

- How the claim arises
- The legal basis of the claim
- A narrative providing essential background
- Evidential material
- Qualification
- Summary of entitlements and remedies

3. Benefits Resulting from the Preparation of a Claim

- The 'position statement' can often promote a negotiated settlement.
- The 'position statement' preparation will always lead our Client to establish a better understanding of its own case.
- The 'position statement' will be utilised to develop a 'pre-action position statement' in the event that a negotiated settlement is not possible, and a formal process has to be pursued.
- The preparation of the 'position statement' and the subsequent information that reflects the true status of our Client's case, enables our Clients to make informed decisions in respect to whether or not it continues to pursue its case or not in a formal process.

Many Client organisations benefit greatly from feedback from ramskill martin in respect to particular contracts, and many of the issues that arise Clients have recognised that their business can be improved in respect to commercial and contractual matters by feeding this type of information back into the business.