

CICV Best Practice Guide

Practice Note 4: Variations and Compensation Events

Introduction

This Practice Note highlights the risks associated with variations in construction contracts, including onerous clauses, conditional precedents, and the risks of performing work without formal instructions. It builds upon Practice Note 1 on Notices and reinforces the importance of the “no instruction, no work” principle.

A key challenge for both contractors and subcontractors is completing work on-site only to face disputes over payment. This PN outlines how to identify and mitigate contractual risks related to variations, ensuring proper documentation and adherence to contract terms.

1. Understanding Variations and Instructions

One of the most common clauses in subcontracts requires that all variations must be formally confirmed in writing. In many cases, failure to obtain a written variation order may result in the subcontractor having no entitlement to additional time or money.

How Variations Typically Arise:

- Site managers often issue verbal instructions on-site for additional work.
- Subcontractors, keen to progress the project, proceed without formal written approval.
- When the final account is settled, contractors dispute or reject the variation due to a lack of records or proper authorisation.

2. Best Practices for Managing Variations

Step 1: Always Obtain Written Instructions

If a verbal instruction is given on-site:

- Request a formal site instruction (SI) in writing from the site manager.
Email the Contractor’s Quantity Surveyor (QS), seeking confirmation that it is a variation.
- Provide a cost estimate and request written approval before proceeding.
- If no written instruction is received, do not proceed unless the subcontract allows the subcontractor to issue a variation notice. If the contract requires written approval, failing to obtain it may mean the work will not be paid for.

Step 2: Clarify the Contractor’s Position

If the contractor refuses or delays issuing an instruction, this is a red flag and a potential dispute risk. In such cases:

- Explain that the contract requires written approval to avoid future disputes.
- If the contractor insists that work must start without a written instruction, escalate the issue immediately.
- Document the request and refusal for future reference.

3. Keeping Accurate Records for Variations – refer also to PN 2

Maintaining proper records ensures variation claims are substantiated. The following records should be maintained:

- A log of all variation requests with request and response dates.
- A tracker for site instructions (SIs) received and whether they were in writing.
- Photographic and video evidence of the work before, during, and after completion.
- Labour, material, and time records for all additional work.
- Regular correspondence with the contractor's QS to ensure agreement on variation costs.

Tip: Agree on variations as they occur rather than leaving disputes until the final account stage.

4. Handling Disputes Over Variations

If an instruction is disputed, or if the contractor refuses to issue a variation order:

- Red flag the issue and document the request.
- Request an official instruction allowing the work to proceed, pending valuation under the contract.
- If no resolution is reached, consider alternative dispute resolution (ADR) options, such as the Conflict Avoidance Process (CAP), and the Low Value Adjudication Schemes.
- Readers should note however the provisions in the JCT and SBBC Contracts in Schedule Part 2, which relates to Clause 5.3 in the Contract, which allows for a Variation Quotation to be submitted, and this will include the direct loss and expense to be incurred. This brings cost certainty to the employer, and the contractor, and goes a long way to eliminate payment disputes.

5. Final Advice

- Be proactive in managing variations — do not wait until the final account stage.
- Always insist on written instructions — verbal agreements are not enforceable.
- Keep detailed records — this will strengthen any claims for additional payment.
- Communicate regularly with the contractor's QS — avoid last-minute disputes.

By implementing these best practices, contractors and subcontractors can ensure clarity, fair compensation, and effective commercial management while minimising disputes.

You can access the [full guide here](#)