

BASING CONTRACT CONSULTANTS

Civil Engineering and Construction

Experience and Expertise



Your specialist partner for Claims, Responses and Disputes ...

- **MANAGING THE PREPARATION OF CLAIMS AND RESPONSES**
 - **contract interpretation and case law**
 - **evidence collection and assembly**
 - **forensic investigation / cost analysis**
 - **delay analysis / disruption / extension of time**
 - **loss and expense**

- **EXPERT ADVICE AND REPORTS**

- **CONSTRUCTION ACT PAYMENTS**

- **DOCUMENT PREPARATION AND PARTY REPRESENTATION IN ADJUDICATION**

... and for Project Control and Training to help avoid them

- **PROJECT CONTROL PROCESSES**

- **COMMERCIAL AND PROJECT MANAGEMENT ADVICE / ASSISTANCE**
 - **document management and record keeping**
 - **critical path programming and resource analysis**
 - **managing compensation events, variation orders and final accounts**

- **TRAINING**

THE COMPANY'S PHILOSOPHY ...

A party to a contract facing claim/response preparation or a dispute, where the outcome potentially threatens the success (or even the existence) of its business, has a clear requirement for reliable advice and expertise in dealing with and resolving the matter to its best advantage.

Larger companies (both employers and contractors) which undertake many concurrent contracts have historically carried in-house permanent expertise in this area - often widely experienced engineers or surveyors well into their careers who, after working on sites and contract management for many years, have chosen to specialise in claims and disputes.

The experience and expertise which such people can bring to bear in researching and assessing the merits of a party's case are considerable and their advice is often invaluable. Based upon this advice decisions may be more confidently taken on how to proceed. Their input into the preparation of the case and any subsequent negotiations is equally invaluable.

It is rare for smaller and medium sized companies to carry such expertise, and they must seek assistance from external consulting companies. Success or otherwise is very much dependent upon the quality of the personnel supplied. Consequently, it is more difficult for smaller companies to be sure that the level of expertise brought to bear on their cases will be adequate.

The problem has been further compounded over the last twenty years by the trend for companies to use sub-contractors rather than in-house resources to carry out the majority of the site work required under a contract. This has resulted in there being available ever fewer qualified engineers and surveyors with the optimum attributes of: contract management skills, hands-on experience of organising and costing actual labour and plant resources on site, AND claim/response/dispute experience and expertise.

It is the fundamental experience in contract management and 'organising and costing', and the skills which flow from them, which make the input from such personnel so valuable when compared to that given by the 'trained' contract consultants provided by so many consulting companies.

It is a sad fact that many engineers and surveyors with such attributes are now generally close to or approaching retirement and they are becoming increasingly difficult to find.

In the light of the above there is a real need for these experienced engineers and surveyors to be retained in the industry for as long as possible. Furthermore, it would be of great advantage for the future if these professionals were able to pass on their knowledge and, more especially, their approach, to younger members of parties' staff by "on-the-job collaboration" during parties' claim, response and dispute work.

In this way a party facing claim/response preparation or a dispute, in addition to employing the optimum resource(s) to deal with the matter (i.e. the experience and expertise of senior members of the professions) may use the opportunity which the matter presents to give its younger members the best possible training in claim/response/dispute work.

The same experience and expertise may also be harnessed by companies who desire it in assisting them to put in place (or improve) Project Control systems aimed at reducing the incidence of claims and disputes and contributing to success if a claim/response or a dispute is unavoidable.

... AIMS ...

BASING CONTRACT CONSULTANTS ("BCC") was established by Ken Chapman, a Chartered Civil Engineer of 40 years standing, as a vehicle for providing the contractual experience and expertise of senior professionals (as described above) to smaller and medium sized companies (employers, contractors and sub-contractors) specifically for dealing with their claims, responses and disputes: Whilst, at the same time, seeking to assist companies who require it with improving their Project Control and increasing the knowledge and skills of their younger members by on-the-job and more formal training.

... SERVICES ...

For those who are less familiar with claims, disputes and the like, the document "Claims and Disputes on Civil Engineering and Construction Contracts" (available to download on our web site) seeks to provide details of BCC Services within an overview of the entire claims and disputes landscape. Perhaps of greatest significance are the services we offer to help avoid claims and disputes in the first place!

What follows is a brief summary of the document.

Claims and disputes generally arise as a result of a change of some sort to the contract. The parties have the same objectives when dealing with a change

- to agree quickly, whenever possible, a corresponding change to the contract price/time
- if written submissions are required, to receive due entitlement if claiming, and to avoid paying more than the entitlement if responding
- to settle after negotiating and avoid formal dispute resolution, and
- if formal resolution is unavoidable, to be in a position to be successful.

The single item which has the greatest bearing on a party's ability to achieve each of these objectives is the quality of the case and supporting proof/evidence which it puts forward at each step in the process.

The better the case/proof/evidence, the more likely an advantageous agreement can be reached in early negotiations before claim and response documents are prepared. If a claim or defence document must be prepared, the more convincing a party makes the case/proof/evidence in its document, the more likely a satisfactory settlement can be reached without employing third party (formal) resolution. If the matter becomes a dispute requiring formal resolution and the case/proof/evidence is sound and already prepared, a party is ideally placed to be successful in the resolution process.

The services offered by the company are itemised on the front cover of this brochure and summarised below:

Managing the Preparation of Claims and Responses

- *Contract interpretation and case law*
- *Collecting and assembling evidence*
- *Forensic investigation and cost analysis*
- *Analysis of Delay, disruption and Extension of Time, and*
- *Loss and Expense*

The above items of work become necessary when written submissions are required in order to progress a claim situation where early agreement could not be reached. BCC will assist with a review of existing records and, where required, with establishing consistent recording of the accurate information which is vital for the proper analysis of additional time and the evaluation of additional cost. The claim or response will focus on the key issues, establish causation and liability, and provide substantiation for the time and money either claimed (by the contractor in the claim) or considered due (by the employer in the response).

Expert Advice and Reports

It is sometimes of considerable advantage when preparing claims and responses to have the benefit of expert advice and/or the inclusion of an expert report to support a party's case. Our consultants are experienced in managing experts; they are also able to provide expert advice and reports in their own fields of expertise.

Construction Act Payments

Interim payments made by the employer to the contractor during the works must be made in accordance with the Construction Act. Disputes often occur in respect of the amounts applied for and paid. Our consultants have specialist knowledge and experience in this respect.

Document Preparation and Party Representation in Adjudication

BCC has the expertise and experience to provide the support necessary for the production of a clear and well-supported Referral or the drafting of the appropriate Response documentation within the time required by the Construction Act.

BCC will liaise with its client's staff to determine the facts. For the Response this will be done as quickly as possible. Existing client documentation will be analysed and used to produce the appropriate level of detail and documentation for use in the Referral or Response.

BCC will act as Party Representative throughout the Adjudication process (or as required by the client) for either the referring party or the responding party.

For the referring party our services include preparation of the case, service of the Notice and service of the Referral. For the responding party our services include appraisal of the Referral (in conjunction with the responding party) and preparation and service of the Response.

For either party and for the duration of the Adjudication process we will correspond with the Adjudicator on behalf of the party (including dealing with any jurisdictional challenges), prepare any submissions which he requires to be made (including the Reply to the Response or the Rejoinder) and represent the party at meeting(s).

Project Control Processes

The knowledge, experience and expertise of our consultants may be harnessed in assisting companies to put in place (or improve) Project Control measures aimed at providing the information needed to prepare, quantify and evidence claims and responses.

This does not apply solely when a claim situation or dispute is threatened or appears likely to ensue.

Those small and medium-sized contractor organisations which are more commercially aware and aiming for sustainable growth may utilise our consultants expertise to assist in improving the company's existing Project Control processes, internal practices, and staff capabilities (by systems analysis and revision and by the provision of training programmes), so that the circumstances which might lead to a claim or dispute are recognized early and avoided.

Employer organisations will benefit in the same way if our consultants are employed to analyse and assist in improving the company's Project Control systems, internal practices and staff capabilities.

Commercial and Project Management Advice/Assistance

- *document management and record keeping*
- *critical path programming and resource analysis*
- *managing compensation events, variation orders and final accounts*

These services are aimed at putting in place Project Control procedures and/or assisting with the production of Project Control documentation so as to ensure that a party is in a position to produce sound case/proof/evidence when changes occur.

Training

Whilst the training of a client's staff is seen as a natural and complementary part of our services dealing with claims, responses and disputes, we have consultants with extensive experience of providing training services, and this enables us to offer training packages as a stand-alone service through JC Project Training (see page 7).

... AREAS OF WORK ...

The wide experience of our consultants and their associated expertise may, in general terms, be successfully applied to claims, responses, disputes, project control and training over the full spectrum of civil engineering and construction works.

We do, however, have particular experience and expertise in:

Heavy Civil Engineering

RC structures
marine
dams
airports
railways

Major Building Works (including M & E)

Specialist and Domestic Sub-contracting

... CONSULTANTS

Ken Chapman

Director and Consultant

**CEng, MICE, BSc (Hons) Civil & Structural Engineering
Areas of work: Civil Engineering, Construction, Rail, M & E, Training**

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Ken is the director and founder of Basing Contract Consultants.

Through long involvement in project and commercial management at a senior level for major contractors, employers and sub-contractors on all sizes of project (from £50k to £500m plus) in the UK and overseas, and in many fields of work, Ken has the background knowledge to quickly research and advise on technical, commercial and contractual aspects of contracts.

After 20 years working for major contractors and his own contracting company, Ken became a consultant working for employers, contractors and sub-contractors on extensions of time, evaluation of changes (compensation events), finalisation of accounts, and forensic research/preparation of case documents for potential and actual claims and disputes. He is experienced at resolving matters both by negotiation and by third party determination (adjudication, litigation and arbitration).

Experienced, in particular, at adjudication party case management (including expert and legal input) he is himself a trained expert witness and provides expert advice and reports.



Robin Jones

Consultant

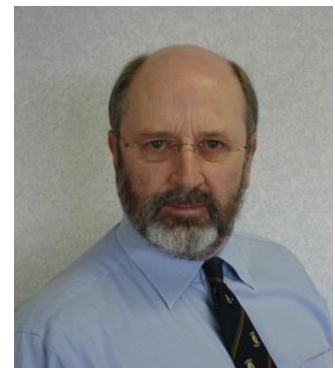
**FICE, FInstCES, MIHT
Areas of work: Civil Engineering, Rail, Training**

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Robin initially qualified as a civil engineer and after early work as a site engineer his career (spanning more than 45 years) was spent entirely in commercial management for main stream civil engineering contractors John Howard and Edmund Nuttall. He is a Past President of the Chartered Institution of Civil Engineering Surveyors (CICES) and more recently he took the role of CICES Director of Training.

During his contracting career Robin was involved with the measurement and contractual and financial management of some 150 civil engineering projects. Latterly as Divisional Commercial Manager (with a staff of some 19 Qs) he was responsible for commercial and contractual support on projects with an annual turnover approaching £100m, including the control and management of all associated dispute resolution.

Robin's knowledge of construction site operations, their management from a commercial viewpoint, and their relationship to the prosecution and resolution of claims and disputes, is exemplary. The experience and expertise which he can bring to bear in researching and assessing the merits of a party's case are considerable and his advice can be invaluable. Based upon this advice decisions may be more confidently taken on how to proceed. He will also provide input into the preparation of the ensuing case and the conduct of any subsequent negotiations.



John Mc Shane

Consultant

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Areas of work: Civil Engineering, Construction, Training

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John McShane is a Construction Planning Consultant. He developed his expertise in the planning and programming of civil engineering and construction works over a period of 20 years whilst working for major contractors in tender, contract and management roles. Since then (and for over 25 years) as owner/director of construction planning consultancies, he has carried out and managed a wide variety of commissions in (for example): tender planning, contract planning and progress monitoring, establishing and managing project control processes, reporting on the avoidance of disputes, providing expert forensic planning advice, and carrying out retrospective delay analysis.

John is widely experienced in computer based planning systems, provides training in their use for project control and progress recording, and has used them to prepare and present expert evidence for matters in adjudication, arbitration and litigation.



J C Project Training

JC Project Training (JCPT) was established in 2012 to provide workshops and master-classes in commercial awareness and project management. In 2016 it became the specialist training arm of Basing Contract Consultants Limited (BCC).

Whilst JCPT draws principally upon the experience and expertise of the two BCC consultants who are its main presenters for commercial and project management matters, it is emphasised that all BCC consultants will provide training to client staff in the course of carrying out a commission (with the agreement of the client), and are able to deliver training in their own particular field of expertise if required.

ROBIN JONES

Robin is a qualified civil engineer who specialised in commercial matters. After a career spent entirely in commercial management for major contractors, he was responsible in 2006 for setting up a training department within the Chartered Institution of Civil Engineering Surveyors (CICES) and was the Institution's Director of Training until he recently retired. During his time at CICES Training Robin developed and oversaw structured training programmes for numerous companies in the UK (both contractors and employers), delivering many of the modules himself, and provided over 250 hours of training to overseas companies.

KEN CHAPMAN

Ken is a Chartered Civil Engineer. After a career covering all aspects of procuring, carrying out, and finalising projects for major contractors in the UK and overseas, Ken established his own contracting and consultancy companies. He subsequently became heavily involved in the commercial and programme aspects of contracts for major Employer clients. He was a guest tutor for CICES Training from its inception presenting, in particular, on the planning, programming and resource management elements of estimating and compensation event evaluation.

Both Robin and Ken have extensive experience of using the NEC suite of contracts and have jointly published a series of articles on their use for project management.

JC Project Training offers a wide range of commercial workshops to an established format. It is currently in the process of developing training workshops and master-classes for project management to be delivered on an international basis. The training will focus on competence, collaboration and communication, will encourage dispute avoidance, and will use as its starting point the structure of the NEC suite of contracts.

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