



Technical

## Risk Analysis and Risk Management Techniques

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### What is Risk Analysis and Risk Management?

1. Risk Analysis and Risk Management can be used as Strategic Management tools that, when adopted and applied to Construction Contracts, can assist in establishing **Solutions that Make Business Sense**.
2. Collectively, these tools can be used to test a case either in total or in part. For example, a disputed Compensation Event on the NEC3/4 Contract or a Change on a JCT 2016 Contract or an entire account. The principle is to ensure that the Client's Team, and all involved, fully understand and appreciate the pros and cons of the position.
3. As a direct consequence the whole Team is empowered so that a fully informed decision can be made, ensuring the adopted strategy is based on the sound known information and focussed on the best commercial, contractual and financial position.
4. **Ramskill Martin has developed and successfully used Risk Management tools with its Clients since it was founded in 2002.**

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## Why do we Need to Adopt Risk Analysis and Risk Management?

5. In the absence of any Risk Analysis, the Team on a Construction Contract would otherwise make decisions, often worth hundreds of thousands of pounds and in many instances multi-millions of pounds, without any beacons for direction, guidance or navigation.
6. **Making decisions without any such Risk Analysis is synonymous with playing Poker *blind*.**
7. Why would any Construction Business openly and freely want to take unnecessary risks worth millions of pounds if they do not need to?

## What is a Risk Review?

8. A Risk Review is a review or analysis of any aspect of a construction project involving commercial, contractual or quantum issues that carry, or is likely to carry, a risk.
9. **Ordinarily Risk Reviews are priced in a band and take on average around 2 to 4 weeks to produce (following receipt of all information) and is usually presented in a bullet point Report.**

## What is the Purpose of a Risk Review?

10. The purpose is to provide a high-level assessment of liability and entitlement in respect to commercial, contractual and quantum related matters and identify the risk and any potential leverage which can be vital in a successful negotiation.

## How is the Risk Review Presented?

11. The Risk Review Report will vary in size depending on the complexity and the number of issues under review.

## 7 Benefits of Conducting a Risk Review

12. A cost effective and quick approach which establishes the risk and opportunities within a project.

13. Information is provided in a precise and clear manner which can be easily interpreted by Senior Management.
14. It causes minimal disruption to the Client's Project Teams.
15. A quick turnaround of the Report minimises the likelihood of differences escalating.
16. It avoids the likelihood of aborted effort by developing a case which is unsustainable.
17. It quickly provides a high-level assessment of liability and entitlement with regard to commercial, contractual and quantum matters.
18. It helps Clients to avoid formal disputes.

## How is the SWOT Analysis and Cost Benefit Analysis Utilised in a Risk Review?

19. A SWOT Analysis (*Strengths, Weaknesses, Opportunities and Threats*) is often required by Clients and this can be utilised during strategic decision making or negotiations.
20. On occasion, and to simplify the Report, Clients can choose to simply have the Strengths and Weaknesses identified.
21. The Cost Benefit Analysis is often adopted by Clients to enable them to consider the financial viability of progressing a claim or commencing a formal process at an early stage.
22. The Risk Review (including the SWOT Analysis and Cost Benefit Analysis) provides the Client's decision makers with the requisite information to develop and progress an appropriate strategy and/or to be equipped with the key information during negotiations.
23. Where the pursuance of a claim is not viable in a formal process Ramskill Martin will, wherever possible, provide advice on alternative commercial strategies.

## What is a Commercially Focussed Delay Analysis?

24. A Commercially Focussed Delay Analysis ("*CFDA*") is a specific and highly focussed review and analysis of an identified delay event, a window or a period is referred to as "*the Focussed Scope*" and that is what constitutes the CFDA.
25. Depending on our Client's requirements, the cost benefit of using CFDA in place of a full Delay Analysis can provide up to a **90% reduction** in an otherwise expensive fee bill.

26. **Ordinarily priced in a band and take on average around 2 to 4 weeks to produce (following receipt of all information) and is usually presented in a bullet point Report.**
27. CFDA is an alternative, yet direct, approach for dealing with delays. The objective of the CFDA is to establish the entitlement and liability for a particular delay event, a window or a period without expending the resource time and cost of an extensive Delay Analysis. It is a quick and cost-effective way of establishing delay entitlement and liability without having to incur long periods of preparation time and excessive fees on a full Delay Analysis.

## What is the Purpose of a Commercially Focussed Delay Analysis?

28. The CFDA approach provides a targeted, relevant and easily understood Report which:
- Quickly provides a high-level assessment of liability and entitlement in respect to delays and time.
  - Identifies the risks and the potential leverage vital in a successful negotiation and reduces the likelihood of escalation to a formal and protracted dispute resolution procedure.

## How is the Commercially Focussed Delay Analysis Presented?

29. The CFDA Report is often no more than 10 to 12 pages long, with selective and focussed Appendices, normally including a Risk Register and a summary programme illustrating the conclusion of the CFDA.

## Practical Applications

30. CFDA is not appropriate for Expert Witness appointments because it is very focussed and selective in terms of matters and periods considered and therefore does not take into account the “*big picture*”.
31. It is, however, extremely appropriate and useful when providing Expert Advisor Services and, in certain circumstances, for Adjudications. CFDA is extremely effective during mediations, when incorporated into Risk Reviews for Contractors and Sub-Contractors, and it has a proven track record during negotiations.

## 6 Benefits of Adopting a Commercially Focussed Delay Analysis

- 32. A cost-effective solution to otherwise expensive problems.
- 33. It provides precise and clear information which can be easily interpreted.
- 34. It causes minimal disruption to our Client's Project Teams and resources.
- 35. A quick turnaround of the Report minimises the likelihood of differences escalating.
- 36. It reduces the requirement for a full Delay Analysis.
- 37. It helps Clients to avoid formal disputes.

## How is the SWOT Analysis and Cost Benefit Analysis Utilised in a Commercially Focussed Delay Analysis?

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## What is Meant by "Solutions That Make Business Sense"?

- 43. **Solutions that Make Business Sense are those which are beneficial to, and properly address, a Client's needs on point, on time and on budget.**

44. The important point here is establishing the precise needs of the Client. The Client's needs are properly identified by him/her (with Ramskill Martin's assistance) after review and consideration of a properly prepared Risk Review and/or Commercially Focussed Delay Analysis.
45. **The timescale and budget required for pursuing a Client's case are 2 of the Products arising out of a Cost Benefit Analysis which is ordinarily prepared on behalf of a Client by Ramskill Martin.**

## Summary and Conclusion

46. The Client's needs are always the most important objective, however, arguably and equally as important an objective is the delivery of a solution or solutions that are on point, on time and on budget.
47. By adopting Risk Analysis and Risk Management Products and Services these objectives are invariably met.

*Note: This Article is based on Ramskill Martin's years of experience of working with a number of large national and international contracting organisations and utilising that experience to develop quality Products and Services which meet Client's needs with Solutions that Make Business Sense.*

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ARTICLE BY: CLIVE RAMSKILL] (BSC BA (HONS) MSC MRICS,  
(clive.ramskill@ramskillmartin.co.uk)

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<p style="text-align: center;"><b>Sheffield</b></p> <p>The Annexe 260 Ecclesall Road South Ecclesall Sheffield S11 9PS</p> <p>Tel – 0114 230 1329 E-mail – <a href="mailto:frances.sawicki@ramskillmartin.co.uk">frances.sawicki@ramskillmartin.co.uk</a></p>	<p style="text-align: center;"><b>London</b></p> <p>Adam House 7-10 Adam Street London WC2N 6AA</p> <p>Tel – 020 7520 9295 E-mail – <a href="mailto:clive.ramskill@ramskillmartin.co.uk">clive.ramskill@ramskillmartin.co.uk</a></p>
<p style="text-align: center;"><b>Birmingham</b></p> <p>Birmingham Business Park 4200 Waterside Centre Solihull Parkway Birmingham B37 7YN</p> <p>Tel – 0121 481 2381 E-mail – <a href="mailto:clive.ramskill@ramskillmartin.co.uk">clive.ramskill@ramskillmartin.co.uk</a></p>	<p style="text-align: center;"><b>Manchester</b></p> <p>3 Hardman Street Manchester Lancashire M3 3HF</p> <p>Tel – 0114 230 1329 E-mail – <a href="mailto:nick.cheetham@ramskillmartin.co.uk">nick.cheetham@ramskillmartin.co.uk</a></p>
<p style="text-align: center;">Head Office The Annexe 260 Ecclesall Road South Sheffield, S11 9PS UK</p> <p style="text-align: center;">Tel – 0114 230 1329</p>	