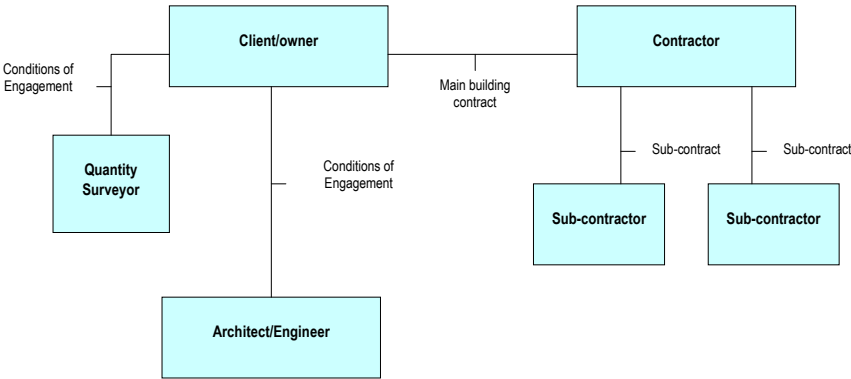


Southern Enforcement Officers Group
Watford, Friday 10th March

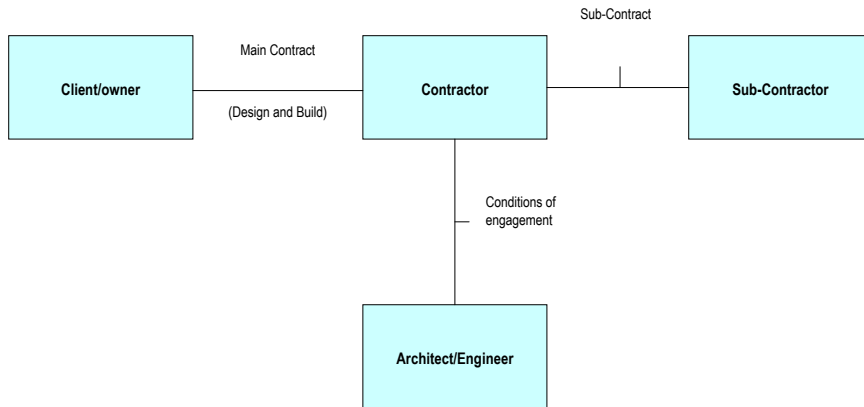
CONSTRUCTION PROJECTS

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Traditional Procurement



Design and Build



Types of Building Contract. I.

Joint Contracts Tribunal JCT

Minor Works Contract – where works are simple and of relatively modest value.

Intermediate Building Contract – where building works are of simple content, involving basic trades.

Standard Building Contract – available with approximate quantities, with quantities and without quantities.

Major Project Construction Contract – for major works where Employer regularly procures large-scale works and contractor is experienced and so able to take more responsibility.

Design and Build Contract

Sub-contract.

Other types of contract

ICE Institution of Civil Engineers.
NEC New Engineering Contract.
I Chem E Institution of Chemical Engineers.
Construction Management.
Management Contracting.
Turnkey contracts.
FIDIC International contracts.

Professional roles and responsibilities

Architect
Engineer
Quantity Surveyor
Project Manager

Basic duty: *Contract* (to client) reasonable care and skill of an ordinary competent practitioner in carrying out duties
Tort (to client and third parties) reasonable care and skill to avoid personal injury or damage to property.

Professional roles and responsibilities

Design: Work stages

A-B Inception and feasibility including preparation of application for planning permission and building regulations approval.

C Outline proposals.

D Scheme design, including liaison with planning authority, building authority, fire authorities and environmental authorities. This is the latest stage at which a detailed application for planning permission would be made.

E Detail design. Client's approval for type of construction, quality of materials and standards to be obtained. This is the latest stage at which building regulations approval would be obtained.

Professional roles and responsibilities

F-G Production information and bills of quantities – mainly financial.

H Tender action: obtaining and appraising tenders – appointing contractor.

J Project planning: preparation of building contract.

K-L Operations on site and completion.

Construction Design and Management Regulations

- ensuring design complies with health and safety requirements.

Professional roles and responsibilities

Contract administration.

Supervision versus Inspection.

- site visits
- approval of works.

Certification for payment: interim and final certificates.

Administrator not responsible for contractor's method of working.

Dealing with other decisions on contract

- Extension of time applications
- Variations
- Contractor's loss and expense and other additional payment claims.

Contract administration:

Contract administrator: appointed by owner, but has a duty to 'hold the scales evenly' in making decisions i.e. must be fair to contractor.

Contractor and sub-contractor

Obligation is to execute and complete the works in accordance with the contract/sub-contract.

Unless the contractor/sub-contractor is entitled to an Extension of Time, e.g. for delays outside its control (Fire, lightning, explosion, storm, tempest, flood, earthquake, terrorist activity, riot or civil commotion).

Late completion will incur liability to pay liquidated damages.

***Barnes & Co v Malvern Hills District Council* [1985] 274 Estates Gazette 830.** Compensation payable for stop notice following successful enforcement appeal could include contractor's liability to liquidated damages under construction contract.

Obligations in dealing with local authority

***BL Holdings v Robert J Wood and Partners* [1978] 10 BLR 48**

Architects had relied on incorrect statement by local planning officer on method of calculation of area of floor space for requirement of office development permit. Architects held not to be in breach of duty to their clients.

***Strongman v Sincock* [1955] 2 QB 525.**

Unless provided otherwise by contract, it would be responsibility of architect and/or owner, not the contractor, to obtain local authority approvals.

***Townsend (Builders) Ltd v Cinema News Property Management* [1958] 20 BLR 118**

Architect held to be under obligation to notify local authority under building regs. Contractor could claim against architect for his failure to do so.

Impact of construction projects on third parties

Party Wall Act 1996

Permits building owners to carry out works to a party wall/structure which could otherwise constitute a nuisance or trespass.

Protects interests of neighbouring owner by requiring notice to be given and requiring building owner to compensate neighbour for damage.

Negligence

Contractor becomes an occupier with responsibilities Nuisance towards those coming onto the site and to neighbours/passers-by.

Occupiers Liability Act

Owner may retain shared responsibility depending on degree of control.

Trespass

Unlawful occupation of land.

Woollerton v Costain [1970] 1 WLR 411

Projection of crane job over land a trespass.

Impact of construction projects on third parties

No such thing in English law as 'right to a view'.

However, construction which impinged on neighbour's boundary could be trespass.

Armitage v Palmer 1960 EG

Architect liable to owner for design infringing neighbour's rights.

Blocking out of natural light may not only infringe local authority guidelines for grant of planning permission but could constitute actionable interference with easement of light, if the interference is serious enough to prevent ordinary beneficial use.

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