NEC3 & 4 – What Are Early Warnings?

One thing you can guarantee on a construction project is you will face issues. However it is how these issues are dealt with that will determine the impact that is felt. If you are working on an NEC contract and you encounter an issue which changes the: time, cost or quality of the project, you will need to raise an Early Warning.

Early Warning process

The Early Warning ensures the *"spirit of mutual trust and co-operation"* is upheld during the lifecycle of a construction project as required by **Clause 10.1** (1).

The process is simple. As stated in **NEC3: Clause 16.1** or **NEC4: Clause 15.1**

> "The *Contractor* and the *Project Manager* give an early warning by notifying the other as soon as either becomes aware of any matter which could:
>
> - Increase the total of the Prices,
> - Delay Completion,
> - Delay meeting a Key Date or
> - Impair the performance of the *works* in use"

What's the point?

This system ensures that all parties are in the know when issues arise and facilitates the necessary climate for innovative and efficient solutions. The importance is heightened for a contractor who plans to claim a Compensation Event, as the issuing of an Early Warning could be a factor to if a Compensation Event is agreed or not.

In addition to the above, if cost is incurred on a project "because the *Contractor* did not give an early warning which the contract required it to give" then the cost is to be disallowed as per **NEC3 Clause 11.2 (25)** or **NEC4 Clause 11.2 (26).**

The importance of a contractor submitting an Early Warning is equally important as an Early Warning being recognised by the client. Ignoring Early Warnings is a possible breach of Clause 10 and could result in more costly Compensation Events to the client than if the matter had been dealt with at the outset (3).

Above all else and most importantly, the Early Warning is a benefit to both parties. Neither party wants to enter a legal dispute and early recognition of these issues, along with co-operative solutions will be the most simple and effective way to avoid this occurring.