

Your route through Counterclaim Prevention

A sample report, built from invented answers, to show what yours will look like.

This report is based only on your answers, before we have seen any of your papers. It is not legal advice, and you should not rely on any date or time limit in it: check every date against your subcontract. Legal questions go to your solicitor.

Where you stand

In your routine, the first thing to fix is the written answer. Your answers suggest not every allegation gets one, and an allegation left unanswered can read later as one you accepted.

Together, money already taken and allegations without a written answer are what a bigger claim against you would be built from. A written answer now puts your side on the record before that claim is made.

If a claim does go to adjudication, you may have only days to respond. Your answers suggest your records would take that long just to gather.

Letters are already coming in. A claim against you is usually trailed in letters and emails long before it is made, so how you answer them now matters most.

Your team answers allegations by phone or in meetings. That is a start, but nothing is on the record: months later, the file shows an allegation and no reply.

Money has already been taken off your payments for things your main contractor says you caused. Deductions like these show where it thinks it has a claim against you, and they are often the first sign of a bigger one.

Your records show waiting time only sometimes, or in general terms. A note that says "delayed by others", with no area, hours or cause, is hard to rely on.

One person answers everything, with no cover. That gap shows in a holiday, a sick week or a busy month, when a letter sits unanswered.

What to do now

In order of priority.

1. Answer every allegation in writing while the facts are fresh

Why: A short written reply made at the time is worth far more than a long one made after a claim arrives. It puts your side of the facts on the record while your team still remembers them.

How: Log each allegation the day it arrives: who sent it, the date and what it says. Within a few days, reply in writing with the facts: what your team did, when, and what held it up. Name or attach the record that shows it, such as a diary entry, an allocation sheet or a dated photograph. Where you disagree, say

so and why. For any allegation still without a written reply, send one now.

2. List every deduction taken so far, with its date, sum and reason

Why: Each deduction shows an allegation your main contractor is already acting on. A list shows which heads are live, and which may still be worth getting back.

How: Go through the Payment Notices and Pay Less Notices on the job. For each deduction, note the date, the sum, what it is for and the notice it came in. Do not agree any of them yet. Getting the money back is a separate decision: Contra-Charge Claim is built for charges, and Delay Damages Claim for delay damages.

3. Read the clauses a claim against you would rely on

Why: Many subcontracts amend the standard form, and some widen what your main contractor can claim from you. You can only guard against terms you know.

How: Open the signed subcontract at its amendments first. Then find the indemnity, damages, set-off, defects and notice clauses. For each one, note in a line what your main contractor could claim, and any notice either side must give. If a clause is unclear, ask your solicitor what it means.

4. Record waiting time and its cause every day

Why: Who held up whom is decided on the records. A dated note, made that day, of where your gangs were and what stopped them is far harder to dismiss than a memory months later.

How: Add two columns to the diary or allocation sheet your supervisors already fill in: hours lost, and what caused them. For example an area not ready, missing information or another trade in the way. Note the area, and who on your main contractor's side was told. If a hold-up lasts more than a day, tell your main contractor by email the same day. Where your subcontract requires a delay notice, send that too, as the subcontract says.

5. Record each finished area's condition before the next trade moves in

Why: A signed sheet with dated photographs fixes the state of an area on the day you left it. It turns an argument about memory into a comparison of two dated records.

How: Walk each finished area with your main contractor's site manager, and note its condition on a one-page sheet. Take dated photographs from fixed positions, wide shot first, then detail. Ask the site manager to sign the sheet. If they will not, email them that day saying the area was handed over, with the photographs attached.

6. Keep every record in one file, by job, area and week

Why: A record nobody can find in time counts for nothing. When a claim arrives, the time should go on answering it, not hunting for the evidence.

How: Set up one shared folder for each job, with a folder for each area or week. Every week, move the diaries, allocation sheets, handover sheets and photographs into it, including the photographs on your team's phones. Give one person the job of doing it, and check it is done.

7. Name who answers allegations, who keeps each record, and who covers each

Why: A step nobody owns is the one that slips in a busy month, and a letter that sits in one inbox gets no reply. A written routine also survives a change of staff.

How: Write it down by role, not by name: who opens your main contractor's letters, who answers them, who keeps the diary and allocation sheets, and who records handovers. Put a second person against each one for when the first is away, and make sure letters reach both.

8. Keep every letter, notice and reply exactly as it went or arrived

Why: If a claim is ever made against you, it turns on what was said and when. The original email keeps its date and time; a forwarded copy or a printout may not.

How: Save each allegation as the email or letter it came in, and each reply as the email that sent it, in the job's folder. Do not edit or rename the attachments.

What to gather

Everything the work is built from. Copies are fine: send what you have and we will tell you what is missing.

- **The subcontract.** A complete PDF or scan with every schedule and amendment, and the main contract terms it incorporates where it refers to them.
Where to find it: The job's commercial folder or the order email normally holds the signed copy.
- **The correspondence with your main contractor.** Every letter or email that alleges delay, defects, damage or poor performance, reserves its rights, or warns of a charge. Forward the original emails with their attachments.
Where to find it: The project inbox: search your main contractor's contacts and forward the threads whole.
- **The account and the payment record.** Your applications, the Payment Notices and Pay Less Notices you have received, and every deduction or contra-charge made so far.
Where to find it: Whoever issues your applications, and your accounts package for what was actually paid.
- **The records your teams keep now.** Diaries, allocation sheets, day sheets, handover and snagging records and photographs, as they are, not tidied up.
Where to find it: The site office, the site manager's files and the team's phones.
- **Handover and condition records.** Signed handovers, completion or snagging sign-offs, and photographs of finished areas, with whatever dates they carry.
Where to find it: The site manager's handover folder, the QS's completion file and the photo folders on the team's phones.
- **Read access to the project's records, not a summary.** A login to the document system, or a shared folder we can browse, holding the records themselves.
Where to find it: Wherever the project record actually lives: the document system, the shared drive or the folder on site.

Why Quantsurv

You can do a good deal of this yourself, and the steps above show how. If you would rather have it done for you, or want the notices checked before you act, this is the work we do.

- **Specialists in exactly this.** We work only for subcontractors, on the claims and disputes that cost them money. Behind it: 10 years on the commercial side of construction, and £100m+ of construction projects worked on.
- **A fixed fee, agreed first.** We never bill by the hour. Fixed fee for the exposure review and set-up, agreed after we read your subcontract and correspondence. Optional monthly checks have a fixed

fee agreed first. Pause between jobs or stop at month-end. If the work runs over, the cost is ours, not yours.

- **Fast where it matters.** The timetable is agreed in writing at scoping and then kept. A fixed fee also gives us every reason to finish quickly.

How Counterclaim Prevention would run for you

The whole service, step by step. Where your answers decide a route, it is shown under the step it belongs to.

Step 01 You tell us about the job and the relationship

One call about the job, the subcontract, what has gone wrong, and what your main contractor has already said or deducted. The first conversation is free and commits you to nothing.

Step 02 You send us the paperwork

The list below lets us check your exposure on the records you actually hold, not on how the job feels.

Step 03 We read the subcontract and the correspondence so far

We read the signed subcontract, amendments first, for its indemnity, damages, set-off, defects and notice clauses. We read the correspondence for every allegation, warning of a charge and reservation of rights.

What you get: A note of the clauses a claim against you could rely on, and any allegation still owed an answer

- **If an allegation is still owed a written answer:** we tell you that day, so it is answered while the facts are fresh. An allegation left unanswered can read later as one you accepted.

Step 04 We confirm the scope and the fixed fee in writing

We set out what the exposure check and the set-up cover, the timetable and the fixed fee. It is agreed in writing before the work starts.

What you get: A written scope, timetable and fixed fee for the exposure check and set-up

- **If you want it on more than one job:** the scope names each job it covers, so the fixed fee covers exactly those.

Step 05 You decide whether to go ahead

Nothing is built until you agree the scope and the fee in writing.

Step 06 We check where you are exposed

We look at the job as your main contractor's surveyor would. We list every way a claim could be made against you, rate each one on the records you hold today, and name the record that would close it.

What you get: The exposure list: every way a claim could be made against you, rated, with the record that would close it

- **If money has already been deducted for an allegation:** we trace each deduction to the allegation behind it and add it to the list. Getting it back is Contra-Charge Claim, if you want it.
- **If a head turns on who caused delay:** we name the records that would show it. Any delay analysis stays with a programming expert.

Step 07 You agree the exposure list

You check the list against what you know of the job and agree it in writing. It sets what the routine has to capture.

Step 08 We set up the records and answers that close it

We add what a defence would need to the diary, allocation and handover sheets your people already use. We set up a same-day route for written answers to allegations, and one file where any record can be found in a day.

What you get: Your own sheets with the fields a defence needs, a same-day route for answering allegations, and one file

Step 09 We walk your team through it

We take the people who keep the records through each sheet, the route for answering allegations and the file. The routine is written down, so it survives a change of staff.

What you get: The written routine, and a team that has been through it

Step 10 You run it for a live month

Your people keep the records and send the answers, in your name and on your systems, while we work alongside them through the month.

Step 11 We check the month and correct the routine

We sample the month's records against the exposure list, and close any gaps that can still be closed while memories are fresh. We change whatever in the routine did not work.

What you get: A note of what the month showed, and the routine corrected to match

Step 12 You decide whether the monthly check continues

Your team runs the routine from here. Whether we keep checking it each month is your choice.

Step 13 We hand over a file that can answer a claim

You receive an exposure assessment matching each likely claim to the evidence needed to answer it. Record templates and a tested system help your team respond promptly to allegations and keep the defence documents organised and accessible.

Your path through the questions

The questions you answered, in order, as the page drew them. Your answers are in yellow, with the line running through them.



The flowchart guides the user through a series of questions to determine their risk of counterclaims. It starts with a question about the proximity to the main contractor, followed by a question about recent claims or letters. The next question asks if a letter or defect notice requires a reply this week. This is followed by a question about the number of live jobs. Then, it asks what a claim from the main contractor would most likely be about. The next question is about how the team answers allegations from the main contractor. This is followed by a question about whether the main contractor has taken money off payments. The final question is about having signed subcontractors. The flowchart uses yellow highlights to show the selected path and arrows to indicate the sequence of questions.

Which is closest to where you are with your main contractor?

☐ No claim yet; we want to be ready in case one comes

Letters are coming in about delay, defects, damage or progress

☐ We have had a claim against us before, and want to be ready for the next

☐ A claim or an adjudication has already arrived

Does a letter or a defect notice ask you to reply or act by a date this week?

☐ Yes **☒ No** ☐ Not sure

How many live jobs would you want covered?

☐ One job **☒ Several jobs, all with one main contractor** ☐ Several jobs with different main contractors

If your main contractor made a claim against you, what would it most likely be about?

☐ Delay, slow progress or holding up other trades ☒ Defects in our work, or damage they say we caused

A mix of these ☐ Not sure yet

When your main contractor writes alleging delay, defects or damage, how does your team answer?

☐ In writing, within a few days, with the records behind it **☒ By phone or at the site meeting**

☐ Some have had no answer at all ☐ Not sure

Has your main contractor already taken money off your payments for something it says you caused?

☐ No **☒ Yes, charges for damage, cleaning or defects** ☐ Yes, delay damages or delay costs ☐ Not sure

Do you have the signed subcontract, with its amendments, for each job you want covered?

☒ Yes ☐ No, it was never signed, or the terms are disputed ☐ Not sure

Do your daily records show when your gangs were waiting on others, and why?

Yes, every day, with the cause **Sometimes, or only in general terms** No, they show who was on site, not what held them up Not sure

When your team finishes an area, is its condition recorded before the next trade moves in?

Yes, a signed sheet with dated photographs **We take photographs, but nothing is signed** Nothing is signed or photographed Not sure

If a claim arrived tomorrow, how long would it take to find the records for one area or one week?

A day or less: it is all in one place **Days: it is spread across inboxes, phones and folders** We might not find it all Not sure

Who answers your main contractor's letters, and who covers when they are away?

A named person, with named cover **One person does it all, with no cover** Whoever is on site, or whoever the letter reaches Not sure

Roughly how much is at stake?

Under £5,000 £5,000 to £25,000 **£25,000 to £100,000** Over £100,000 Not sure

Your report

Next step

The first conversation is free and commits you to nothing. Reply to the email this report came with, or email contact@quantsurv.com, and we will already have your answers.