

JBCC ADVISORY NOTE: EDITION 6.2

DOCUMENT/S

Principal Building Agreement

N/S Subcontract Agreement

Minor Works Agreement

DISCLAIMER *The purpose of this publication is to give advice on the most effective use of the JBCC documents. Advice is given in good faith and JBCC disclaims all liability for any loss, damage or expense that may be incurred through acting on such advice*

17.0 CONTRACT INSTRUCTIONS – Oral instructions

- 17.1 The **principal agent** may issue **contract instructions** to the **contractor** regarding:
17.1.1 – 17.1.20 ...
- 17.2 The **contractor** shall comply with and duly execute all **contract instructions**
- 17.3 ...
- 17.4 ...
- 17.5 Oral instructions shall be of no force or effect

INTERPRETATION

The definition of a **contract instruction** as well as subclause 17.5 make it quite clear that a **contract instruction** must be given in writing. The question is often asked whether an entry in the site instruction book or site meeting minutes satisfies the requirement for a **contract instruction** to be in writing. This not considered good practice on the part of both the **principal agent** and **contractor/subcontractors** for various reasons. A **contract instruction** must be properly identified and dated with the receipt thereof signed by the **contractor/subcontractor** or the authorised site representative

If the **contractor/subcontractors**, in good faith, executed an oral instruction, he would not, it is submitted, be legally entitled to demand payment for any cost that he may thereby have incurred. A **contractor/subcontractor** on receipt of an oral instruction, would be well advised to confirm it in writing to the **principal agent/contractor** before giving effect to it (footnote 175, Finsen 2019)

E-mail (and to some extent still by fax) is overwhelmingly the preferred medium of issuing **contract instructions**. Social media (twitter, WhatsApp, etc) are specifically excluded (see subclause 2.4.2)

SUGGESTED ACTION

The **principal agent** should, at the start of the contract, agree with the **contractor** on the procedures for requesting, issuing and recording **contract instructions**. Experience has shown that a **contract instruction** written in the office using a well-designed standard office template receives more careful consideration than one issued on the spur of the moment on site