

Contract for Difference: Covid-19 impacts on Generators

Issued on 7 April 2020

LCCC contract managers are proactively engaging with CFD projects to understand how projects are being affected by the Covid-19 outbreak. Our Contract Management team are ready to respond quickly to this developing situation in a pragmatic way and will continue to work collaboratively with projects through any issues that might impact their performance under the CFD.

For the avoidance of doubt, we would like to confirm our view that the Covid-19 outbreak is capable of constituting a Force Majeure event. It will, however, still be necessary for Generators to demonstrate that all the other relevant elements for a Force Majeure claim are satisfied. We will be therefore be asking claimants to provide a brief explanation, relating to their particular case, and demonstrating the relevant elements.

Any claim for Force Majeure relief as a result of delays caused by COVID-19 to a particular project will be assessed on the facts provided by the generator in question on a case by case basis. We intend to take a reasonable and pragmatic approach to this.

The conditions for granting Force Majeure relief include the requirement for a CFD Generator to use reasonable endeavours to mitigate the effects of the Force Majeure (including any delay to the Project) and to continue to comply with its obligations under the CFD as far as reasonably practicable.

Generators should give notice of any Force Majeure event to LCCC as soon as reasonably practicable, giving details of the nature and extent of any Force Majeure of which it is aware, which it considers will or is likely to cause its failure or delay in performance and/or delay to the Project.

It is understood that, at the moment, the nature of impacts of Covid-19 might not be clear and may develop or become clearer over time. It is also understood that it may therefore be some time before Projects are able to fully assess and evidence if and how they have been impacted by COVID-19. We will continue to work with projects to assess and process any impacts, both those that are immediate and those that develop over time.