



**LOVE YOUR LETTER OF INTENT**  
**5 Simple Steps to Success**

**Making Letters of Intent Work for You**

**Sarah Fox, 2014**

## 5 Simple Steps Making Letters of Intent Work for You

Use this note to remind you how to make sure letters of intent work for, not against, you

### Steps: Overview

<b>1</b>	<p><b>STAR Analysis</b> Check whether your letter of intent is any good</p>	<p>Four aspects you should review:</p> <ul style="list-style-type: none"> <li>• Scope of Initial Works</li> <li>• Tight terms</li> <li>• Agreed aims</li> <li>• Real Risks</li> </ul>	<p><i>Resources</i>  <a href="#">Why Use STAR Checklist</a> (video)  <a href="#">2 Stages to Success</a> (video)  <a href="#">STAR Checklist</a> (pdf)</p>
<b>2</b>	<p><b>Contract Analysis</b> Check whether your letter of intent is a contract</p>	<p>Five contract essentials you should investigate:</p> <ol style="list-style-type: none"> <li>1. Offer</li> <li>2. Acceptance</li> <li>3. Intention</li> <li>4. Consideration</li> <li>5. Certainty (the villain)</li> </ol>	<p><i>Resources</i>  <a href="#">How the Courts Decide</a> (pdf)  <a href="#">Use Clarity to Avoid Contract Disasters</a> (slides)</p>
<b>3</b>	<p><b>Build a Better Letter</b> Create STAR content for your letter (build or adapt)</p>	<p>Four core items your letter should include:</p> <ol style="list-style-type: none"> <li>1. Parties</li> <li>2. Initial Works</li> <li>3. Price for Initial Works</li> <li>4. Dates for Initial Works</li> </ol>	<p><i>Resources</i>  <a href="#">Build a Better Letter</a> (video)  <a href="#">Framework</a> (pdf)  <a href="#">How to Write A Contract</a> (slides)  <a href="#">How to Write a Contract</a> (pdf)</p>
<b>4</b>	<p><b>Use sparingly</b> Ask better questions before you send your letter</p>	<p>Questions you should ask:</p> <ul style="list-style-type: none"> <li>• Is a quick start critical?</li> <li>• Are all risks understood?</li> <li>• Are key project details agreed?</li> </ul>	<p><i>Resources</i>  <a href="#">What (Not) To Do</a> (video)  <a href="#">Guide to What Not to Do</a> (pdf)</p>
<b>5</b>	<p><b>Use wisely</b> Learn what not to do after you've sent your letter</p>	<p>Actions you should avoid:</p> <ul style="list-style-type: none"> <li>• Ignore signing project contract</li> <li>• Add more works</li> <li>• Extend duration of letter</li> <li>• Pay beyond price in letter</li> </ul>	<p><i>Resources</i>  <a href="#">What (Not) To Do</a> (video)  <a href="#">Guide to What Not to Do</a> (pdf)  <a href="#">Avoid the Pitfalls</a> (video)  <a href="#">Risks Checklist</a> (pdf)</p>

### Success with Letters of Intent

The term 'letter of intent' covers a wide range of arrangements and is not a term of art. It is a description given to a document in which:

- (a) the employer (or sender) states that she intends to enter into a contract with the contractor for some works at a later date (the intention element of the 'letter of intent'); and
- (b) the contractor (or subcontractor) is instructed or authorised to start some preparatory or mobilisation works, provide specific services or order specific long-lead materials and goods.

A letter of intent is used to enable a project to start when some formalities cannot or have not been completed. Although often used to kick off-off a commercial relationship, they are a [minefield for the unwary](#).

It's not necessarily good or bad to use letters of intent. The courts have said it is neither negligent nor bad practice to start a project under a letter of intent. But they recommend that you to use them **wisely and sparingly**. What does this mean in practice? Three cases highlight some of the issues:

The judge in *Cunningham v Collett*<sup>1</sup> recognised that “*Letters of intent are used unthinkingly in the UK construction industry, and...they can create many more problems than they solve*”. So it is important to check whether the letter of intent is ‘good to go’, rather than use them unthinkingly and store up problems for later (**step 1**).

If you want your letter of intent to create certainty, then you'll need a clear contract (**step 2**) comprising at least 4 core items for the initial works (**step 3**). In *Durabella v Jarvis*<sup>2</sup> the court said “*a contract cannot exist unless it is clear that, viewed objectively, the parties were in fact agreed on all the matters which they considered necessary and which are necessary to form a contract.*”

The courts have warned against using them prematurely. In *Cunningham v Collett* the court said you should not use a letter of intent until the key project details have been agreed. So you need to ask better questions before you send one (**step 4**).

The courts have also warned that you could be negligent in letting a project continue under a letter of intent. In the *Ampleforth v Turner and Townsend*,<sup>3</sup> the court said the employer really didn't understand the risks of continuing under a letter of intent and emphasised the importance of getting the project contract signed. The project team needs to recognise that a letter of intent is merely the first stage in the contract negotiation process NOT the last. You must get on and sign the project contract, not let the project paperwork drift (**step 5**).

## Author of the 500-Word Contract™

Sarah Fox is a construction contracts specialist, who has written, adapted and reviewed all manner of construction contracts from 5-page letters of intent to over 50,000-word multi-million pound construction contracts. What she thinks you need, particularly when time is tight, is a really simple contract... a 500-Word version.

Although her 500-Word construction contracts are quick to read, understand and agree, none cuts corners. The 500-Word Letter of Intent is a mini-contract which you cannot extend. It has everything your letter of intent needs, just in a more user-friendly package.

Sarah believes that project success in any industry is built on trust and that starts with a contract with no nasty surprises. Please [get in touch](#) if you too believe that you should be able to read, use and understand your contracts in an instant.

For access to Sarah's FREE 3-part video series on Making Letters of Intent Work for You, click [here](#).

## Footnotes

<sup>1</sup> Cunningham v Collett and Farmers (A Firm) (TCC) [2006] EWHC 1771 (TCC).

<sup>2</sup> Durabella Ltd v J Jarvis & Sons Ltd 83 Con LR 145.

<sup>3</sup> Ampleforth v Turner & Townsend [2012] EWHC 2137 (TCC).