

Conflict Avoidance Pledge

The Pledge:

- We commit to working proactively to avoid conflict and to facilitate early resolution of potential disputes.
- We believe in collaborative working and the use of early intervention techniques to try to resolve differences of opinion before they escalate into disputes.
- We recognise the importance of embedding conflict avoidance mechanisms into projects with the aim of identifying, controlling and managing potential conflict, whilst preventing the need for formal, adversarial dispute resolution procedures. We commit our resources to embedding these into our projects.
- We commit to developing our capability in the early identification of potential disputes and in the use of conflict avoidance measures.
- We will promote the value of collaborative working to prevent issues from developing into disputes.
- We commit to work with our industry partners to identify, promote and utilise conflict avoidance mechanisms.

Conflict Avoidance Toolkit



Avoiding Conflicts and Resolving Emerging Disputes

Overview

Most people hope that they will never have to deal with a dispute.

However, disputes regularly happen during or after completion of construction projects. It would be wise to spot the potential areas where disputes may arise and put in place systems to avoid them happening. When differences of opinion do arise, it is sensible to adopt a strategy that deals with them early and quickly, before they result in personal, financial and other costs.

Avoiding conflicts requires action much earlier than simply responding to a dispute when it has arisen. This requires proactive planning of a strategy for the completion of a project, that includes sensible and realistic assessment of the risks for disputes occurring and agreed procedures for dealing with differences of opinion amicably.

Conflict cannot always be avoided. When a difference of opinion arises, it is practical and sensible for all parties to recognise that a dispute may be emerging, and that there are methods available to deal with the matter before it escalates, legal costs are incurred, and commercial relationships suffer.



Conflict Avoidance Toolkit



Avoiding Conflicts and Resolving Emerging Disputes

Conflict Avoidance Coalition Steering Group (CACSG)

This toolkit has been prepared by six leading institutions and two of the UK's biggest employers in construction and engineering. They have led a coalition which has the objective of helping the industry tackle the rising financial and resource costs of disputes, and growing dissatisfaction with established forms of dispute resolution. They are:

- **Royal Institution of Chartered Surveyors (RICS)**
- **Institution of Civil Engineers (ICE)**
- **International Chamber of Commerce (ICC) United Kingdom**
- **Royal Institute of British Architects (RIBA)**
- **Chartered Institute of Arbitrators (CI Arb)**
- **Dispute Resolution Board Foundation (DRBF)**
- **Chartered Institution of Civil Engineering Surveyors (ICES)**
- **Transport for London (TfL)**
- **Network Rail (NR)**
- **Urban Growth Company (UGC)**

The Conflict Avoidance Coalition Steering Group (CACSG) promotes the value of conflict avoidance and early intervention techniques, and the use of these techniques in construction and engineering contracts.



Conflict Avoidance Toolkit



Avoiding Conflicts and Resolving Emerging Disputes

Overview continued...

The CACSG has prepared this Toolkit to provide information about measures which help avoid disputes arising and, when differences do arise, techniques to deal with issues early, quickly and cost effectively.

The aim of the toolkit is to educate people working across the industry, at every level, about the lifecycle of conflict avoidance and early intervention to prevent disputes. The aim is to help reduce the damage disputes cause commercial and personal relationships, finances, project delivery and brand reputations.

This Toolkit explains the differences between dispute avoidance and early intervention. i.e.

- Dispute Avoidance is about stopping the smoking embers of a dispute by bringing them to the attention of people who can do something about them
- Early Intervention is about snuffing out the smoking embers before they ignite into a fire.

The toolkit provides information about



Dispute Avoidance Toolkit



Avoiding Conflicts and Resolving Emerging Disputes

Pre-Contract Preparation

Thorough preparation of project documentation, and appropriate risk allocation, is the first step in conflict avoidance

Protecting Against Future Conflict

Well drafted contracts, which are easy to understand and include practical systems for avoiding and resolving disputes at an early stage, help to develop a culture of collaboration between the parties.

Where contract negotiations fail to include adequate methods for dealing with disputes early, they create a risk that a minor issue will escalate quickly to adjudication, arbitration or litigation. When this happens, meaningful dialogue often stops, positions become entrenched and legal costs mount out of control. Eventually the minor issue can develop into a far-reaching conflict, which can put the effective delivery of the project at risk.

Construction and engineering disputes can be about straightforward issues. They can also be immensely intricate and involve complex questions of law. Deciding the right method for avoiding and resolving differences requires careful thought and should be a key part of the contractual negotiation process. Most situations, which can give rise to disagreements and full-blown disputes, can be avoided through well drafted contracts and a commitment by parties to embrace dispute avoidance and early intervention techniques - which can be incorporated into the contract terms.

A well-designed dispute avoidance procedure in a contract helps parties to engage in open and honest communications. It should provide an agreed system for identifying problems early and dealing with them in an environment that is not an adversarial and encourages compromise and avoidance of escalation over formal dispute resolution.

Key Features

CLARITY - The contract should be written in plain, simple English, avoiding legal terms and jargon. The objective is that the contract should be understood by all the people using it.

APPLICABILITY - The contract should be suitable for the type of works and location it is intended to cover. It should avoid unnecessary clauses copied from forms which do not apply to the project.

EARLY WARNINGS - The contract should include obligations for parties to identify and communicate problems early, and commit to achieving quick and amicable resolution. The parties should be required by their contract to work together to find solutions and establish necessary actions to the mutual benefit of all those involved.

GOOD MANAGEMENT - The contract should provide specific tools for managing the project risks in the way which best meets the objectives of the particular project. Control of risks can be achieved through the use of a continuously updated programme, and early warning procedures.

VIABLE CEP - The contract should include a viable compensation event procedure (CEP) which aims to establish the cost and time effects of changes at the time each change occurs. The procedure should enable parties to either agree the level of compensation for the change, or identify the reasons for any disagreement at an early stage.

Pre-Contract
Preparation

Dispute Avoidance

Early Intervention

Amicable Resolution

Dispute Resolution

Conflict Avoidance Toolkit

Avoiding Conflicts and Resolving Emerging Disputes



Dispute Avoidance

Parties can utilise avoidance or early warning systems which identify potential conflict and prevent disputes from occurring

Identifying Potential Conflict

A forward-looking approach to risk management and avoiding confrontation saves money and ensures projects are delivered on time and on budget. When used in accordance with agreed principles and rules for co-operation, a viable dispute avoidance system will reduce numbers of potentially costly disputes and settle emerging problems at an early stage. It also helps to maintain positive working relationships between employers and the supply chain.

Dispute avoidance involves setting up a system that explores potential risks connected to a project. It often includes the use of contractual procedures which are designed to mitigate problems arising and settle differences before they crystallise into formal disputes.

Often, dispute avoidance systems entail routine information gathering by impartial professionals. This normally begins early on, even before a contract is signed. It can sometimes continue through the lifetime of a project, e.g. were parties desire a neutral insight into how identified risks are performing over time. Its primary aim is to identify emerging issues, and ensure that there is a coherent understanding of the risks across the relevant project team.

A viable dispute avoidance system will always involve open and honest communications between parties on how to deal with potential risks. Parties who regularly connect with each other freely and openly are more informed and able to tackle problems collaboratively, without fear of negative consequences.

Key Features

EARLY ENGAGEMENT - All parties should agree and engage in the Dispute Avoidance process early, and all parties should be properly informed and allowed to be heard

REDUCED RISK - Dispute Avoidance focusses on "horizon scanning" and identifying risk areas so that parties can deal with potential problems before they happen. It can be used through the lifetime of a project to continually spotlight problem areas and/or assess how risks already identified are performing over time

FLEXIBILITY - Contracting parties can agree the procedure and timetable for including Dispute Avoidance methods into their contract in advance, and can agree any changes to it during the course of the project

PREVENTION - Dispute Avoidance ensures parties are wholly informed and cognisant of all matters relating to the project. It is usually underpinned by a commitment by the parties to collaborate and ensure conflict situations do not arise and, if they do, that they are resolved quickly and amicably

CO-OPERATION - Dispute Avoidance helps parties to work collaboratively. It incentivises them to strive for a negotiated resolution of emerging issues before they become disputes

Pre-Contract
Preparation

Dispute Avoidance

Early Intervention

Amicable Resolution

Dispute Resolution



Early Intervention

Parties can adopt a procedure that fixes problems early and enables them to retain control of decisions and outcomes

Identifying and Dealing With Emerging Disputes

Disputes cannot always be avoided. When differences emerge, it is sensible to use procedures which facilitate an early review and disposal of the disputed issues. Early intervention techniques are effective at preventing disagreements from becoming full-blown disputes.

Early intervention mechanisms safeguard against commercial managers and directors losing the capacity to choose how differences will be resolved as they are moved into the hands of lawyers.

Generally, the procedure would involve an impartial review of issues on which parties do not agree. The review would be undertaken by an independent person who is a highly credible and experienced subject matter expert. He or she will usually engage with all relevant parties and undertake an investigative role. In some cases, typically where issues are complex and/or involve significant amounts of money, parties can choose to use a panel of independent persons.

Parties can opt for early intervention procedures that yield binding or non-binding recommendations. Where they are non-binding, recommendations can be used to inform discussions between the parties and stimulate settlement. In addition, parties can choose a procedure where, if either party declines to accept a non-binding recommendation, they will be required to provide written reasons. This can dissuade a party from unilaterally declining a recommendation simply because they do not like it.

Key Features

EARLY ENGAGEMENT - When disputes begin to emerge, parties should engage a process to intervene early. Any party to a contract should be able to invoke early intervention procedures set out in the contract

PARTIES RETAIN CONTROL - Early intervention techniques ensure commercial directors/managers retain involvement in matters and decide outcomes. Parties can make informed decisions that stop disputes from escalating to adversarial procedures

FLEXIBILITY - There are many varieties of early intervention techniques that parties can choose from. Procedures such as CAP and ENE can be adapted to meet specific priorities of contracting parties

COST EFFECTIVE - Parties can agree timetables and procedures that suit them. Parties can set up procedures on a "pay as you go" basis rather than a standing cost. The cost of the procedure, and who pays, can be agreed at the outset (usually settled in the contract)

AGREED OUTCOMES - Parties can choose the type of outcome they prefer, e.g. a binding or non-binding recommendation. Parties can decide that non-binding recommendations will become binding, e.g. if not challenged after a specified time.

Pre-Contract
Preparation

Conflict Avoidance

Early Intervention

Amicable Resolution

Dispute Resolution



Amicable Resolution

Parties can opt for mediative method help them to resolve their dispute that is private and not adversarial

Resolving Established Disputes Collaboratively

In cases where parties can neither avoid a dispute, nor resolve it early and quickly, mediative procedures exist that enable them to achieve a settlement without going "eyeball to eyeball" in a confrontational procedure such as arbitration or court action.

These procedures are usually private and confidential. They involve the appointment of neutral subject matter experts who help both sides to negotiate their way to an agreed settlement.

Parties would be wise to use a mediative procedure that uses a third-party neutral (mediator, conciliator, etc) who has a track record in the subject matter of the dispute. This will give the parties confidence in the process. It ensures that the mediator, conciliator or similar, is suitably equipped to understand matters that go to the heart of the dispute and can, if required, provide the parties with knowledgeable and effective guidance on settlement options.

Mediative procedures can be employed quickly and effectively. They are remarkably cost-effective and will usually be significantly cheaper than adversarial procedures such as courts or arbitration.

Key Features

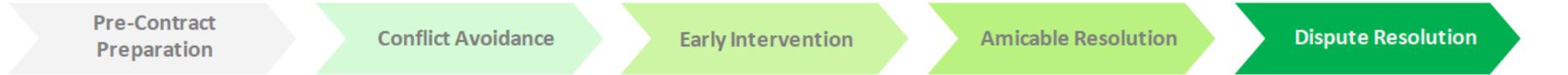
CLARITY -Provides opportunity for parties to set out their case and understand the other side's point of view.

EXPERTISE -The person appointed to facilitate an agreed outcome will be an expert in the subject which is at the heart of the dispute. Expertise lends credibility to the mediator, conciliator, etc. and gives the parties confidence in the process

PRIVACY - The procedure and outcomes of amicable dispute resolution are inherently private and confidential. Mediative procedures allow parties to decide what information they will share with their opponents.

SPEED - Amicable resolution is usually considerably quicker than litigation. When managed correctly, e.g. pursuant to procedural rules and timetable it is usually cheaper too

FINALITY - Agreed outcomes facilitated by a neutral subject-matter expert will be satisfactory to all parties and end dispute.





Dispute Resolution

Parties can opt for final and binding determination of their disputes that is quicker, cheaper and more private than the Courts

Determining disputes quickly and finally

In cases where parties can neither avoid a dispute, nor resolve it early and amicably, determinative procedures exist that enable them to achieve a settlement quickly and cost-effectively.

Procedures, such as arbitration, adjudication and expert determination involve parties putting their case to a third-party decision-makers who are highly experienced in the disputed subject matter. Decisions are usually binding, either in the interim or with immediate and permanent effect. Parties will often have a contractual and/or statutory right to refer their disputes to the binding decision of an adjudicator or arbitrator.

These procedures are optional (parties can jointly choose to use other early intervention or dispute resolution methods). When using adjudication or arbitration, parties would be wise to appoint an adjudicator or arbitrator who is trained in the relevant procedure and is a recognised expert in the subject matter in dispute. Where parties opt for an appointment by a third party, they should choose an appointing body which ensures the appointed person is suitably qualified and impartial.

Adjudication, when utilised effectively, can be swift - thus saving parties time and money. It provides a decision which is binding in the interim.

Key Features

FINALITY - Determinative procedures result in binding outcomes and will usually end disputes

EXPERTISE - The person appointed to determine dispute would normally be an expert in the subject which is at the heart of the dispute. Expertise lends credibility to the arbitrator, adjudicator, expert, etc and gives the parties confidence in the process

PRIVACY - The procedure and outcomes of dispute resolution are inherently private and confidential

SPEED - Determinative procedures such as adjudication are considerably quicker than litigation. Arbitration and expert determination, when managed correctly, e.g. pursuant to procedural rules and timetable can be comparatively quick and cheap

CHOICE - Parties can agree the identity of their adjudicator, expert or arbitrator, or choose an appropriate organisation to appoint someone who is suitably qualified and impartial, and is available to act as and when the parties require

Pre-Contract
Preparation

Conflict Avoidance

Early Intervention

Amicable Resolution

Dispute Resolution

Conflict Avoidance Toolkit



Avoiding Conflicts and Resolving Emerging Disputes

Conflict Avoidance Pledge

In January 2018, the Conflict Avoidance Coalition Steering Group (CACSG) launched the Conflict Avoidance Pledge. The purpose of the Pledge is to drive behaviour change in the way relationships and disputes are managed throughout the construction and engineering sector. There are currently around 80 industry organisations signed up to the Pledge.

The Pledge is the focal point of the Coalition's campaign to reduce the financial and other costs associated with disputes. This involves promoting cooperation between contracting parties; and helping people and organisations to understand and use conflict management measures to reduce numbers of disputes and ensure infrastructure and property development projects are delivered on time and on budget.

The CACSG has prepared this Toolkit to provide information about measures which help avoid disputes arising and, when differences do arise, techniques to deal with issues early, quickly and cost effectively. The purpose of the toolkit is to educate people working across the industry, at every level, about the lifecycle of conflict avoidance and early intervention to prevent disputes. The objective is to help reduce the damage disputes cause to commercial and personal relationships, finances, project delivery and brand reputations.

For more information about the Pledge, see who has signed it to date and to sign up, go to www.rics.org/capledge



From: [Martin Burns](#)
To: [redacted]
Cc: [redacted]; [Len Bunton](#)
Subject: Conflict Avoidance Pledge
Date: 27 April 2021 10:21:35
Attachments: [redacted]

Dear [redacted]

I hope you are well and continuing to manage in these challenging times.

At our recent meeting with you and [redacted], Len and I sought support for the pan-industry initiative to promote greater collaboration and reduce conflict in the construction and engineering sector. Our chief aim is to encourage people, businesses and organisations to sign up to the Pledge, which was conceived by the Conflict Avoidance Coalition. You, understandably, raised concerns about the Scottish Government being seen to point businesses to a website that promoted RICS commercial offerings. I understand your suggestion was that we (RICS) "de-couple" references to RICS commercial products from the CA Pledge web-page [Conflict Avoidance Pledge \(rics.org\)](#).

I have looked at the web page content. On the face of it, it is mostly concerned with the Pledge and refers to the fact that it was conceived by the CA coalition. As you may know, Members of the Conflict Avoidance Coalition Steering Group, (ICE, RIBA, ICES, ICC, CIArb, Network Rail, The Urban Growth Company and Transport for London) asked RICS to host the webpage to give individuals, businesses and organisations a central point to sign up to the Pledge. The same web page provides background information about the Pledge and there is a link to all those who have signed up.

I saw that, at the bottom of the page there is an advertorial for the RICS Conflict Avoidance Process (CAP), which is a commercial offering. It seems this was added to the web page by our e-commerce people as a cross promotional box. I have asked them to remove it, and to ensure the web page does not include any content that promotes commercial products or services. This will not be a problem. Hopefully, this action will address your concerns.

As you know, the CA Pledge and the third party intervention procedure we call CAP are, in principle, two separate things. The Pledge is something produced by members of the CA Coalition, and its purpose is to encourage government and industry to buy-in to the principles of conflict avoidance and early intervention in general. There is no direct commercial imperative attached to the Coalition's promotion of the Pledge. The members of the Coalition are motivated by a desire to help improve the industry by encouraging businesses to change the way they manage emerging conflict and resolve disputes.

Naturally, each coalition partner may be separately engaged in offering methods for implementing principles set out in the Pledge, and CAP is a bespoke RICS offering. However, it should not be promoted via [Conflict Avoidance Pledge \(rics.org\)](#), which is intended solely to enable businesses to sign up to the principles set out in the Pledge and to learn more about what they can do to avoid, manage and resolve conflicts. In this regard, the Coalition has prepared an information toolkit, which is also available via [Conflict Avoidance Pledge \(rics.org\)](#). I have attached a copy of the Toolkit for your convenience. I have also attached a copy of the CA Pledge for reference.

It seems sensible that we should de-couple references to RICS CAP from the CA Pledge web page. It will help draw out the distinction between the Pledge, which is part of the pan-industry initiative to reduce conflict in the industry, and CAP, which is a bespoke RICS commercial offering that is designed to enable parties to address emerging disputes early and quickly.

Let me know if this addresses the concerns you raised when we spoke,... or not. I am happy to join you in a call if you think it would be helpful.

Regards

Martin

Martin Burns BA (Hons) LL.B (Hons) Barrister
HEAD OF ADR RESEARCH AND DEVELOPMENT, RICS

t +44 20 7334 3805 m [redacted] drs helpline +44 207 334 3806
e mburns@rics.org w rics.org



This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure. It is strictly prohibited to disseminate, distribute or copy this communication if you are not the intended recipient, or an employee or agent responsible for delivering the message. If you have received this communication in error, please accept our apology and delete all copies. Please telephone the sender on the above number, +44 (0)247 686 8555, or email them by return. Royal Institution of Chartered Surveyors (RICS) Registered office: RICS, Parliament Square, London SW1P 3AD Registered Company no 000487 VAT No GB 584940013 This email message has been scanned for malware by Exchange Online Protection

Minister for Local Government, Housing and Planning
St. Andrew's House
Regent Road
Edinburgh
EH1 3DG

By Email: Scottish.Ministers@gov.scot

05 February 2020

Dear Minister

Scottish Construction Industry – Conflict Avoidance Pledge

We wrote to you in May 2020 regarding our activity on addressing issues affecting the construction industry during the covid-19 emergency; specifically, on avoiding and resolving disputes in the construction industry post COVID-19.

In response, you outlined how the Scottish Government had indicated its commitment to conflict avoidance, which was welcome; as was your personal support for the work of the Construction Industry Coronavirus Forum (CICV Forum), to which the Royal Institution of Chartered Surveyors (RICS) is a key contributor.

Since then, we have undertaken a significant programme of engagement on the pan-industry Conflict Avoidance Pledge and the RICS Conflict Avoidance Process (CAP), and we wish to highlight our progress on this agenda

The reason for our uplift in activity is because there are clear signs that post Covid-19 Scotland will be immensely problematic for the construction industry. There will be considerable management issues relating to the progress of projects, and there will be many disputes between employers and contractors across the whole of the supply chain. There is genuine concern across the industry that 2021 and beyond will see a tidal wave of disputes.

The Royal Institution of Chartered Surveyors (RICS) has been participating with a wide range of professional and industry bodies, including the CICV Forum, to promote greater collaboration between employers and suppliers, and avoidance of disputes which are often slow and costly to resolve. We are also conscious of the need to for a longer-term strategy to ensure the industry is more efficient and cost-effective in dealing with conflict post Covid and Brexit. This includes cultivating a change from the traditional adversarial and claims conscious culture to a more collaborative attitude, where parties actively engage with each other to avoid disputes and, when differences emerge, deal with them early and amicably.

We have produced the Conflict Avoidance Pledge, which has been endorsed by over 200 organisations across the UK and signals their commitment to reducing the level of construction disputes, resolving any problem issues at the earliest stages and ensuring a positive future for an industry that will be even more crucial to our economy in the coming years.

In Scotland, the CICV Forum, SELECT, SNIPEF, Scottish Building Federation and the Federation of Master Builders have all signed the Pledge, as have all the Hubs in the Scottish Futures Trust.

Encouraging progress is being made by NHS estates Scotland, who we understand are actively introducing conflict avoidance and management procedures into frameworks and contracts.

We believe that effective guidance and a light touch of regulatory intervention will help mitigate against impending increases in numbers of disagreements between employers and suppliers and pave the way for a more effective and profitable industry.

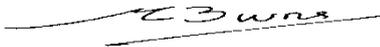
The Chair of the RICS Conflict Avoidance Group – Scotland, Len Bunton, and our Head of ADR Research and Development, Martin Burns would welcome the opportunity to discuss these issues with you, and Martin (mburns@rics.org) will happily organise a mutually convenient time for a virtual meeting.

Yours faithfully



Len Bunton FRICS FCI Arb Hon FRIAS

For and on behalf of the RICS Conflict Avoidance Group – Scotland



Martin Burns Barrister (Head of ADR Research and Development, RICS)

Enc.



Minister for Local Government, Housing and Planning
St. Andrew's House
Regent Road
Edinburgh
EH1 3DG

By Email: Scottish.Ministers@gov.scot

15 May 2020

Dear Minister

Avoiding and resolving disputes in the construction industry post COVID-19

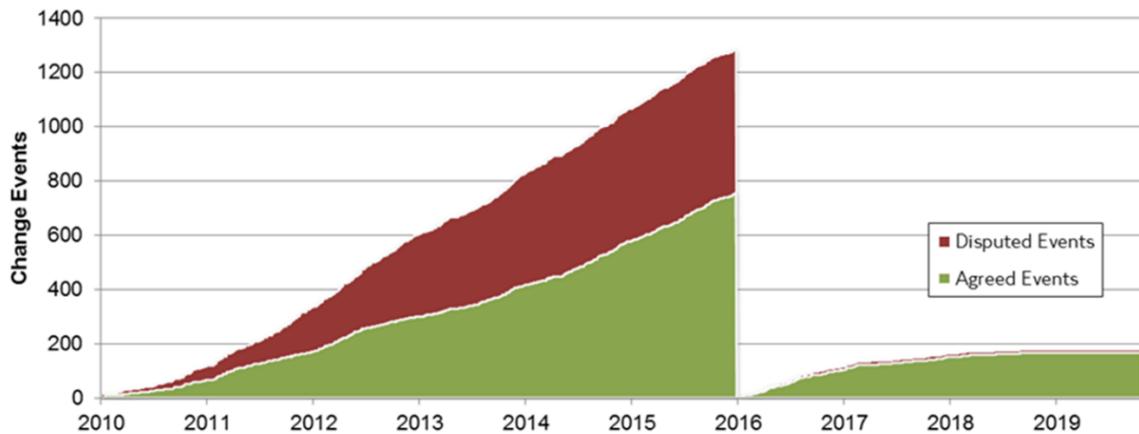
The Scottish Government has indicated its commitment to addressing issues affecting the construction industry during the covid-19 emergency, and we welcome your personal support for the work of the Construction Industry Coronavirus Forum (CICV Forum), to which the Royal Institution of Chartered Surveyors (RICS) is a key contributor.

In particular, we would like to offer the support of the RICS Dispute Resolution Service (DRS), which has a 40-year plus track record in developing and delivering successful conflict avoidance and dispute resolution services for government and industry.

The governments in London and Edinburgh have stated that avoiding disputes in the industry and dealing with emerging issues quickly and effectively is now the essential action.

DRS is currently working to help employers and suppliers address the immense challenges posed by the Covid-19 crisis. In March, we implemented a low value adjudication service, which is already helping struggling SME's to resolve payment disputes valued at £50,000 or less, and thus free up vital cash flow into the industry. In the past week we have launched an ultra-low-cost adjudication service targeted at disputes of less than £20,000 with decisions within 14-days.

An example of what can be achieved on larger projects is the Conflict Avoidance Procedure (CAP) we implemented for Transport for London (TfL). Since 2015, CAP has been embedded into contracts worth about £10bn, and it has helped reduce the number of disputes between TfL and its contracting partners significantly. The graph overleaf, produced by TfL, shows the effect of the 2016 implementation of the process on cases going to adjudication (red) and those requiring massive investment of time and energy before settling (green).



As a consequence, there have been far fewer delays caused by disputes on major refurbishment and engineering contracts, and projects have been delivered on budget. TfL and contracting parties across the supply chain have seen major reductions in their legal spend, and less manpower and other resources being allocated to dealing with disputes.

It should be mentioned here that the CICV Forum has been tremendously supportive of both CAP and the Low Value Adjudication services. The Forum has actively promoted these services as tools that will improve the ability of the industry to manage and resolve disputes and avoid long-term damage to commercial relationships.

In light of this, we would welcome the opportunity to meet with you to consider how RICS DRS can contribute even further to developing measures to ensure construction projects in Scotland are delivered on time and on budget.

If you wish to discuss any of these matters, please email Hew Edgar at hedgar@rics.org who can organise a mutually convenient time for a virtual meeting.

Yours sincerely

John Fletcher
RICS, Director of Dispute Resolution

John Edwards
Chair, RICS in Scotland

From: [REDACTED]
Sent: 14 March 2019 09:15:14
To: [REDACTED]
Subject: Equitrac Scan-to-Me

Attachments: [REDACTED]



07 March 2019

Mr Jamie Hepburn MSP
Minister for Business, Fair Work and Skills
Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

18 MAR 2019
10:00 AM

RECEIVED 08 MAR 2019

Dear Minister,

Reducing costs of construction projects through effective management of disputes

On the 26 February, the Economy, Energy and Fair Work Committee took evidence on the matter of Construction and Scotland's Economy from key stakeholders drawn from the industry. The evidence given to the Committee supports a widely held view that confrontation and disputes are innate characteristics of the construction sector, and they cause immense damage to the wider economy.

The Scottish Government has indicated its commitment to making the construction sector work more efficiently. Key to the success of this undertaking will be developing ways to reduce the number of costly disputes, many of which arise because of the way contracts are awarded by employers and delivered by contractors.

In this regard we would like to offer the support of the Royal Institution of Chartered Surveyors (RICS) which has a long-established reputation for developing and delivering successful dispute avoidance and resolution services for government and industry.

RICS is currently collaborating with six other leading institutions and two of the UK's biggest employers in construction and engineering to help the industry tackle the rising financial and resource costs of disputes, and growing dissatisfaction with established forms of dispute resolution.

The Conflict Avoidance Coalition is comprised of the following organisations:

- Royal Institution of Chartered Surveyors (RICS)
- Institution of Civil Engineers (ICE)
- International Chamber of Commerce (ICC) United Kingdom
- Royal Institute of British Architects (RIBA)
- Chartered Institute of Arbitrators (CIArb)
- Dispute Resolution Board Foundation (DRBF)
- Chartered Institution of Civil Engineering Surveyors (ICES)
- Transport for London (TfL)
- Network Rail (NR)

The Coalition promotes the value of conflict avoidance and early intervention techniques, and their use in construction and engineering contracts. Transport for London and Network Rail have both benefitted

immensely from using such techniques in recent years to underpin strategies to promote collaborative working with their supply chains.

We would be most grateful if you could agree to meet with the Chair of the RICS Conflict Avoidance Working Party (Scotland), Bob Davis, and our ADR Director, John Fletcher, to discuss how we can help to reduce the damage disputes cause to commercial and personal relationships, finances, project delivery and brand reputations in Scotland's construction sector.

Len Bunton, FRICS who is a key member of the Working Party, and Martin Burns, RICS Head of ADR Research and Development, would also be willing to attend.

Yours faithfully,



Ian Fergusson, FRICS
Chairman RICS Scotland

Please reply to: (sgibson@rics.org)