

Guidance

RICS Conflict Avoidance Process (CAP) – Sample Clause

RICS Dispute Resolution Service (DRS)



Sample clause - RICS Conflict Avoidance Process (CAP)

The following is a sample clause, prepared by RICS, which can be adopted (or adapted) by parties who wish to include in their contracts a Conflict Avoidance Process to help manage and resolve emerging disputes.

Parties may also utilise this clause to help them manage and dispose of legacy disputes.

1. The Employer and the Contractor, and any Subcontractor(s) will co-operate with each other in the early identification and notification of any potential or actual disagreement between them that may lead to a dispute. Where necessary this may be achieved by using the Conflict Avoidance Process (CAP) as detailed below:

2. **Conflict Avoidance Process (CAP)**

Any issue likely to lead to a dispute may, prior to referring the dispute to Adjudication, and by agreement of both Parties, be referred to a Conflict Avoidance Process (CAP) for a recommendation on how to resolve the issue.

Prior to the referral of an issue, the Parties should endeavour to agree upon:

- a) which Party assumes the role of starting the CAP procedure by setting out the issues on which the CAP Panel member(s) will be asked to provide a report and recommendation(s);
- b) a clear definition of the issue(s) at hand and the nature of the recommendation(s) sought from the CAP Panel member(s); and
- c) any person(s) whom the Parties consider suitable to act as the CAP Panel member(s).

Once agreement has been reached on the roles of the Parties, the CAP Panel member(s) and the definition of the issue, the Parties will jointly complete and submit a 'Request for Nomination of CAP' to the Royal Institution of Chartered Surveyors (RICS). This request should include a brief description of the issue to enable RICS to determine if the proposed CAP member(s) are suitable.

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