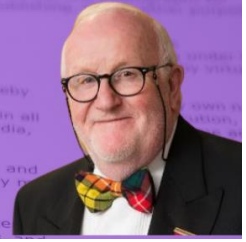


# Len's Blog



## Getting paid

Continuing on the theme of payment or non- payment, what steps can FIS members take if they are simply not getting paid. As I have set out previously, some of this is self-induced, and that is why I have been working with a number of organisations to help them improve their financial management of contracts. I emphasise again that your payment applications need to be made on time and be fully detailed – if you fail to do either of these, or even worse, both of these, then you will not get paid what you think you are due. However, there are other actions you can take.

Keeping records on projects is absolutely critical. This includes letters, and emails and make sure they are located somewhere safe. Sometimes people move on from projects, or leave the company, so records need to be preserved. Other key documents include notes and minutes of meetings, site instructions, variation records and photographic/video records. Just remember that you may have a dispute developing months, or even years, and someone like me will want to see your records. I was on a site before the pandemic, and the site manager had a camera on his hard hat and was walking around taking photos and dictating notes. He was able to successfully demonstrate the extent of disruption caused by the client wanting a significant design change. There is a piece of kit called Go Pro or Site Audit Pro on the market to assist, so have a look.

One trend I have noticed recently, as an Adjudicator, is seeing matters being referred to adjudication on contracts that were completed 2-3 years ago. I do not know if this is down to contractors just chasing old issues, or if it because of cash flow problems. Anyway, the point is that if the records are good, and had ben archived, then this was major step forward.

Assuming a worst-case scenario, what can you do if you run into a brick wall and cannot get paid. I greatly favor keeping talking to try and narrow the issues down if you can. One of the difficulties I see all the time is that the contractor is probably having his concurrent battles with the employer and his

consultants, and below that there are a line of sub-contractors all arguing with the contractor. The issues keep getting batted back and forward for months.

I strongly favor the **Conflict Avoidance Process – CAP**. FIS has signed the **Conflict Avoidance Pledge** and are encouraging its members to do likewise. This is an early intervention process to prevent live issues developing on a project into a dispute. It is a collaborative way in which to get matters resolved.

However recently there has been a trend to use CAP to resolve payment issues. This would involve bringing in an experienced construction person to talk to the parties and to make a non-binding recommendation to both sides, and it is very cost effective and quick. In one case I was involved in we decided that the CAP recommendations would be binding, so that the parties could get finality and move on – it worked very well. I really encourage all FIS members to sign the **RICS Conflict Avoidance Pledge**.

Next time round I will talk about Adjudication, and remember – records, records, records!!