

# Conflict Avoidance Week 2025

*Promoting cooperation  
in construction*



Conflict Avoidance Coalition

# Speaker



**Len Bunton**

Conflict Avoidance Consultant, Bunton Consulting

Chair of the Conflict Avoidance Coalition

# Speaker



Anthony Armitage

Legal Counsel, Thirdway Interiors

# Speaker



Iain McIlwee

CEO, Finishes and Interiors Sector

The construction industry spends around 1.6% of its total expenditure in the UK on legal services, double economy's median spend of 0.8%.

# What is our reality?

Conclusion from the Reading Report 2023

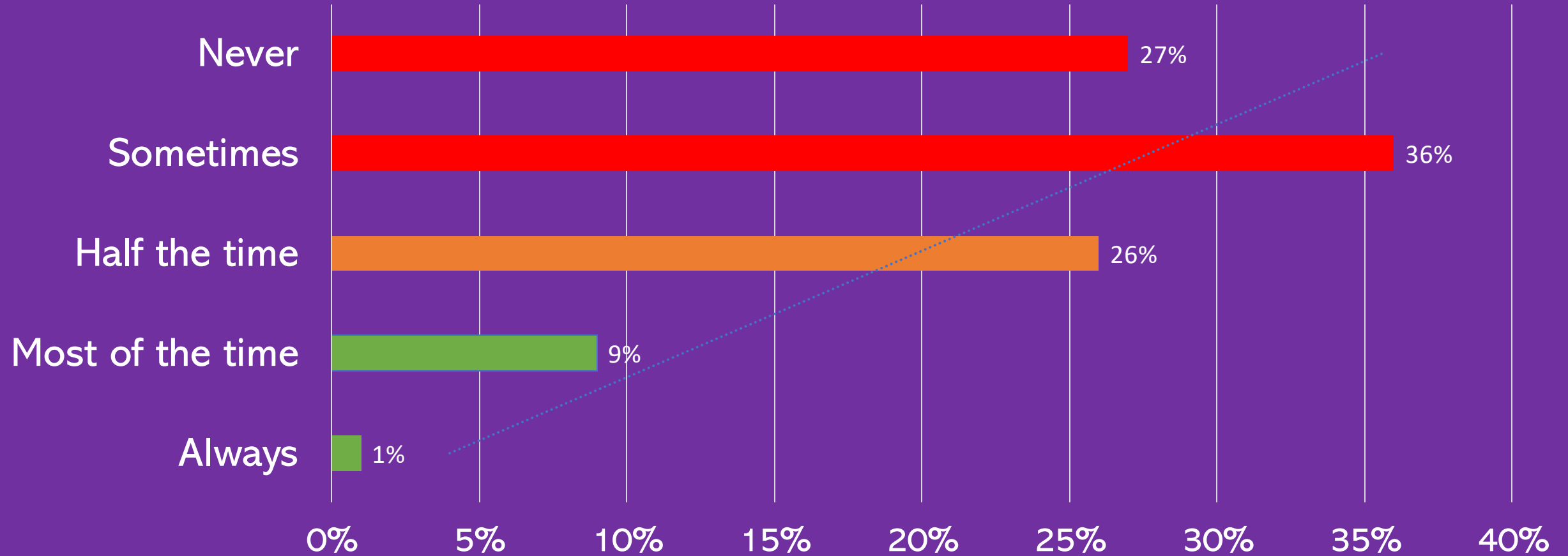


“

The concept of a standard form of contract is dead, to all intents and purposes. Unreasonable risk displacement is legitimised through the routine amendment of standard form contracts and the inclusion of onerous clauses. Of key concern is the cascading of responsibility for design detailing.

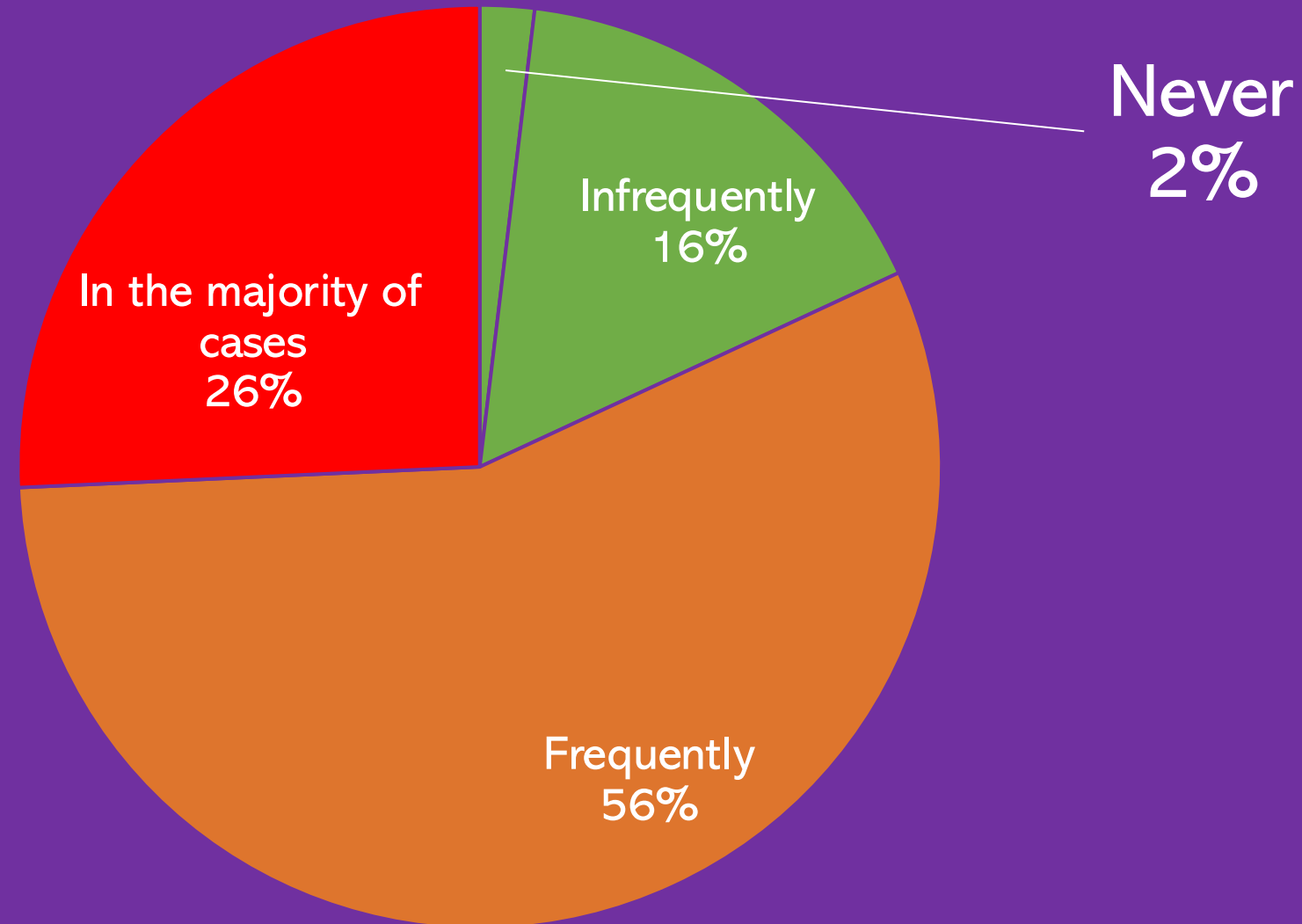
Professor Stuart Green, The University of Reading

If required to submit design information for approval, how often do you receive a decision within the specified contractual limit?



Source: University of Reading

How often are you asked to commence with construction without sufficient design details to adequately detail the construction?





**17% of Drylining is re-work**

# Confusion over responsibilities

“

*“Studio E (Architect), Rydon (Main Contractor) and Harley (Cladding Specialist) all took a casual approach to contractual relations. They did not properly understand the nature and scope of the obligations they had undertaken, or, if they did, paid scant attention to them.*

*They failed to identify their own responsibilities for important aspects of the design and in each case assumed that someone else was responsible for matters affecting fire safety. Everyone involved in the choice of the materials to be used in the external wall thought that responsibility for their suitability and safety lay with someone else.”*

# If the builder is not insured .....the building is not insured

“ The CLC’s Professional Indemnity Insurance Working Group has identified that too often standard form contract terms are being amended, to include liabilities and obligations that are disproportionately onerous for the nature of the work ....

This means that if a client seeks to claim for loss or damage, it cannot be relied upon that it will be settled by the PII insurers, and the consultant/contractor potentially faces financial ruin, and the client left with a claim that cannot be recovered. This is not in the best interest of any party.



Construction  
Leadership  
Council

# A Risk Managed Approach

**FIS**

FINISHES & INTERIORS SECTOR

The Responsible

**NO**



Conflict Avoidance Pledge



# Speaker



Edward Schryver

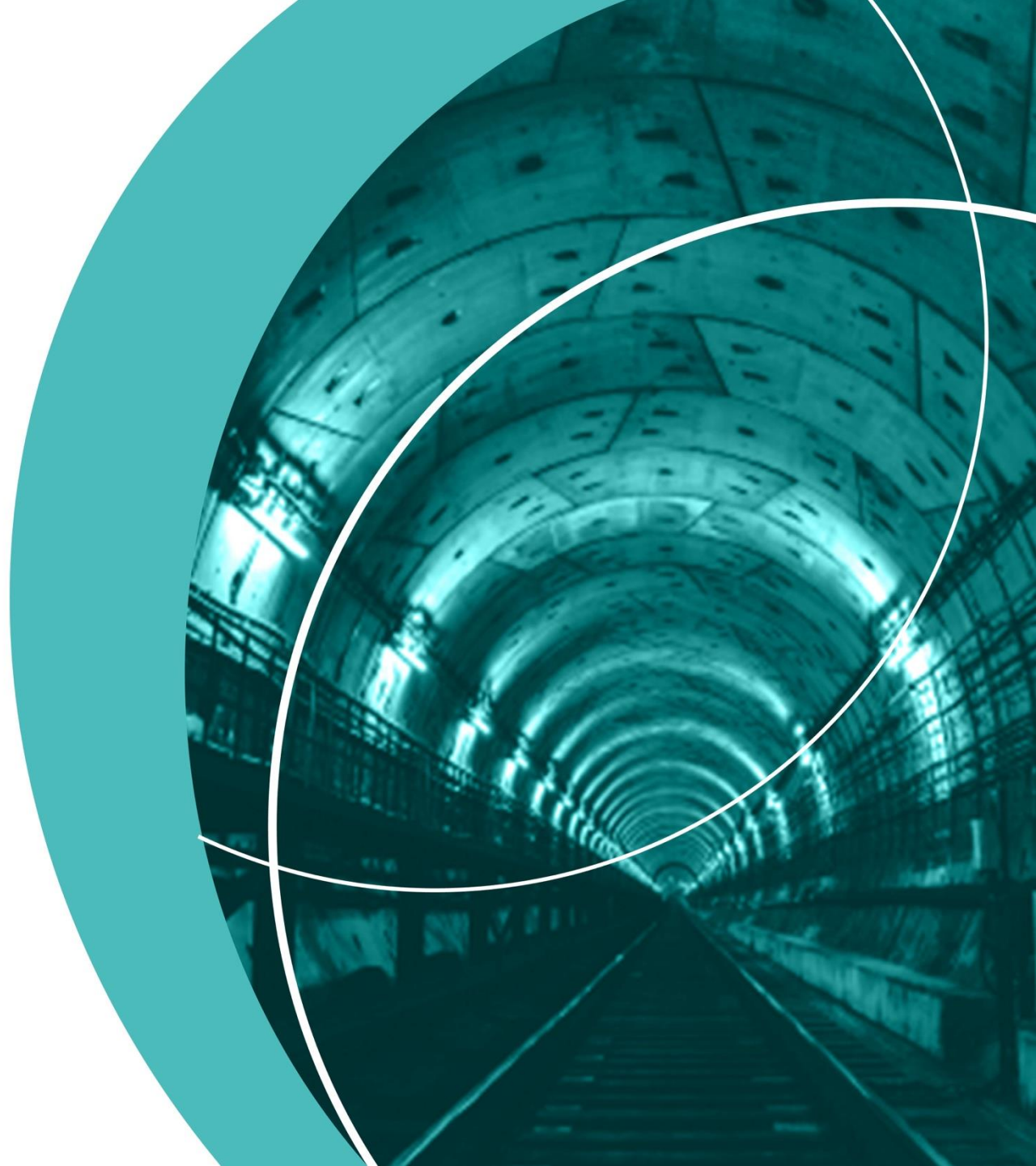
Commercial Director, VVB Engineering





# The Promotion of the Conflict Avoidance Pledge to Contractors and Clients

Ed Schryver - VVB



# How we (VVB/Anthro), embedded CAP

- Lead by example, we have **mandated** the use of CAP in our contracts and agreements with our suppliers and subcontractors.
- Collaboration – not just good words, live by them.
- Embedded principles of CAP into our **Values**

## Guidance

RICS Conflict Avoidance Process (CAP) – Sample Clause

RICS Dispute Resolution Service (DRS)



# Promotion to Contractors and Clients

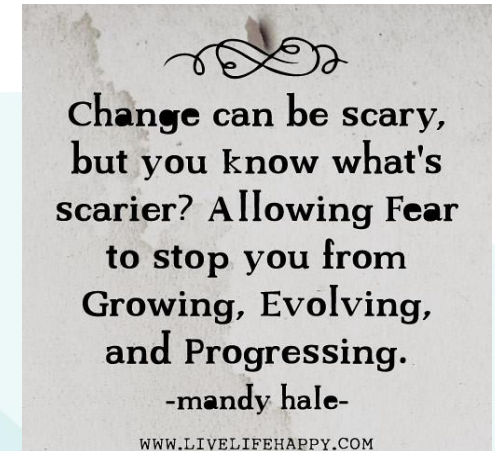
- 38 different clients for which we have live projects
- A further 20+ new clients we are currently bidding projects with
- Stepped process:
  1. Raise Awareness
  2. Demonstrate our own commitment to CAP
  3. Deliver the presentation
  4. Negotiate the mandated inclusion in the T's & C's
  5. Sign the Pledge
  6. Support Bronze/Silver/Gold status





# Challenges

- Getting buy-in without patronising
- Recent difficulties eroded trust
- Strategic approach relying on FDR
- Getting to the decision makers
- Fear of change
- Consistency within organisations
- Awareness of CAP



- CAP mandated in all VVB Supplier & Subcontractor agreements
- Mandated on HS2 Old Oak Common station with our supply chain £110m+
- Achievement of use with clients across 6 contracts for a project value in excess of £80m
- Supporting 3 Contractors to Bronze/Silver/Gold accreditation





**VVB**



# Speaker



Liam Forry

Managing Director, Forry Consulting

1

## Pattern

- Design issues emerge early after the MEP contractor is appointed.
- Initially, parties cooperate because there's time and goodwill.
- As time and cost pressures increase, positions harden: "It's your risk!" vs. "No, it's yours!"
- Issues remain unresolved, leading to delays and inefficiencies.
- Poor documentation makes matters worse.
- By the end, disputes, claims, and reputational damage are inevitable.

2

## Impact

- Delay and disruption to works.
- Significant financial losses due to inefficiency and poor working drawings.
- Damage to relationships and reputations.
- Lower quality outcomes on-site.

3

## CAP

- Instead of arguing over fault, parties submit the "point of principle" (who owns the risk) to an independent third party.
- The third party provides a recommendation on how a tribunal might view the responsibility.
- If both parties accept the recommendation, a clear way forward emerges.
- The issue is resolved early rather than left to escalate.

4

## Benefit

- Resolves differences quickly and fairly before they become a disputes.
- Provides certainty and keeps projects on track.
- Minimises financial losses.
- Preserves relationships.
- Improves productivity and quality.
- Provides outcomes for all stakeholders.

# Speaker



Stephen Blakey

Strategic Commercial Director, Network Rail

# Conflict Avoidance in Rail

**Stephen Blakey,**  
**Strategic Commercial Director, NW&C, Network Rail**

24<sup>th</sup> March 2025



# Conflict Avoidance - A Client's Perspective

Genesis of Conflict

2 Dominant Themes

Conflict Avoidance

Insights





# Genesis of Conflict

- Prolonged disagreement as to entitlement as a matter of principle
- Prolonged disagreement as to entitlement as a matter of quantum

- Errors & omissions
- Ambiguities & scope change
- Shortcomings in design integration & timing
- Shortcomings in delivery integration & constructability
- Opaque risk allocation & management
- Poor / 'habitual' contract administration
- Insufficient skilled resource
- Insufficient assurance
- Inability to demonstrate entitlement
- Transactional culture

## 2 Dominant Themes

1. Increased focus on Affordability and 'MVP'
2. Increased focus on Benchmarking to better answer '3 key questions' (should cost/will cost/did cost & why)
3. Increased focus on Cost Capture & Data to drive progress & efficiencies
4. Deeper supplier integration with lighter project management and raised expectations of Audit & Assurance
5. Incentivising Outcomes, not turnover



**Cash**

**Carbon**

1. Increased weighting on Sustainability
  2. Raised expectations of Supplier's Corporate Sustainability Strategies
  3. Use of Sustainability Based Targets
  4. Increased expectation on suppliers to innovate e.g. Electric Plant
- New Metrics & KPIs for Social Value, embedded carbon, ED&I etc to determine value, performance & capability

# Conflict Avoidance



**DAP** - An expert panel to review key programmes & provide an 'Observations Report' on matters that have the potential to become a claim

*DAP is about being on 'fire watch', looking for the smouldering embers of dispute.....*

DAP Panel formed with fees split equally

Technical & Behavioural Expertise

Pre-read pack review - standard list, no bespoke items

DAP site visit & team interviews

## Observations Report

3 categories; Critical, Essential, General

Action planning & response

Planned re-visit to agreed 'Drum-beat'

*...and inviting the team to snuff them out before the fire can begin....*

*DAP is NOT constituted to give an opinion, mediate or decide upon an issue, argument or dispute.....*



# Insights

- *Infrastructure clients want predictability and value creation*
- *Claims & Disputes and the associated conflict are a threat to these aspirations*
- *Dispute resolution techniques are mature & established, but do little for predictability & value creation*
- *Genuine avoidance & early intervention techniques offer more for predictability & value creation and sit well with collaborative forms of contract and enterprise delivery models*
- *We incorporated DAP into the RICS toolkit, enrolled many of our key suppliers to the Conflict Avoidance Pledge and baked dispute avoidance & early intervention processes into our standard contract terms.*
- *Network Rail has been at the heart of cross-industry collaboration, working with the RICS and the Conflict Avoidance Coalition to drive industry change. It was turning sentiment into practice that led the RICS to recognise Network Rail as a 'Gold' standard client in our pursuit of conflict avoidance*
- *Any organisation that sets out to refine, promote and demonstrate the value of avoidance and early intervention techniques is contributing to our drive for industry change.*

# Thank you



Conflict Avoidance Coalition

Sign the pledge: [rics.org/capledge](https://rics.org/capledge)

E: [capledge@rics.org](mailto:capledge@rics.org)