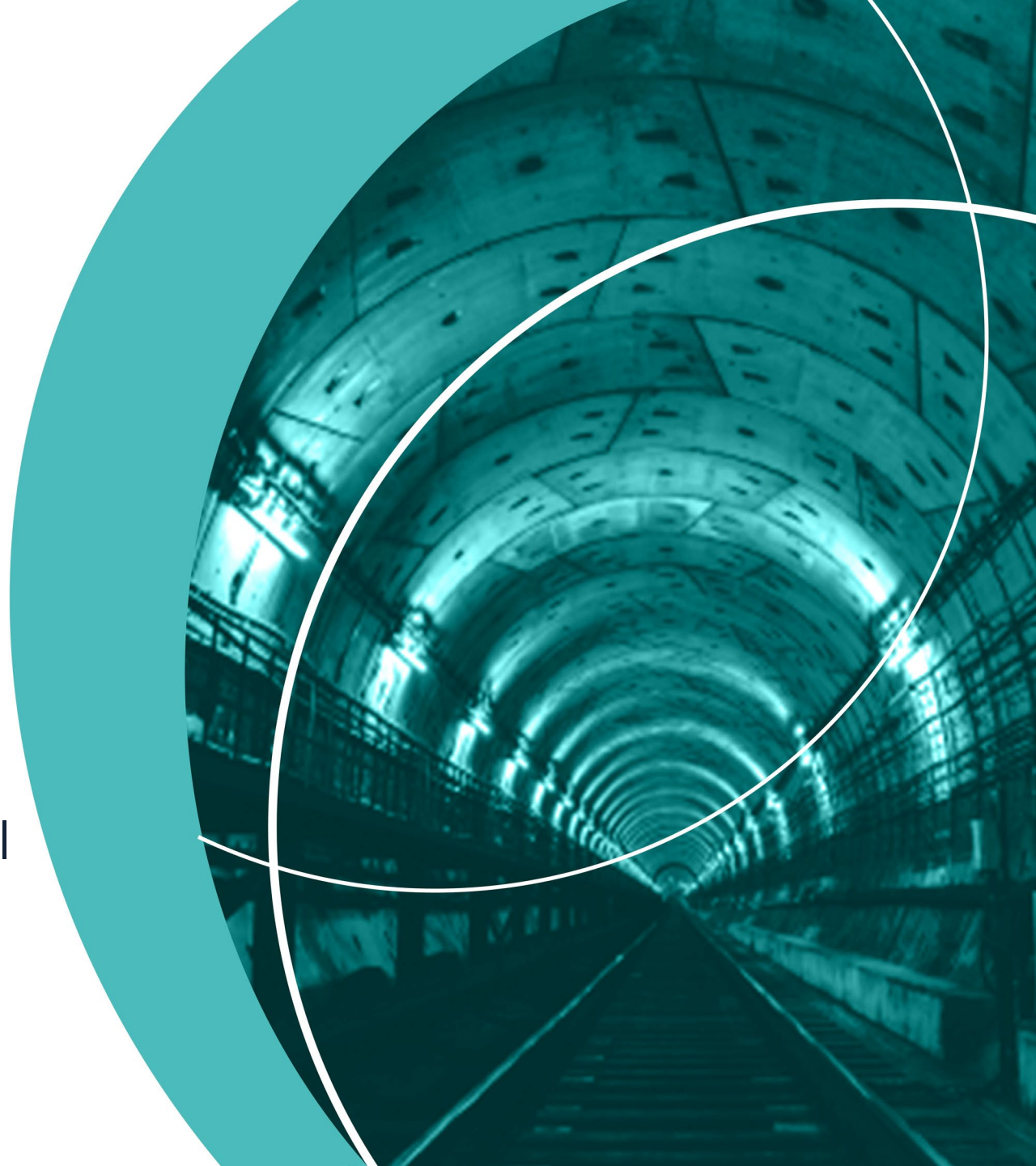




The Conflict Avoidance Pledge

Ed Schryver – VVB Group Commercial
Director



Why did we sign the pledge?

- Industry is challenging
 - Client and contractor solvency
 - Pricing – race to the bottom
 - Ts & Cs getting further amended
 - Disputes – construction hurting construction
- First-hand experience of FDR
- Pledge aligns with our values

Guidance

RICS Conflict Avoidance Process (CAP) – Sample Clause

RICS Dispute Resolution Service (DRS)



Formal Dispute Resolution – a painful lesson

- Headhouse installation project. 2 years late, Contract Price of c£10m
- Account management from client stagnated
- Non-response to claims, payments on account
- Spent 18 months providing papers and escalating collaboratively
- Delivered 98% of the project in the meantime, then...
 - LD's of £2.1m levied
 - Account payments removed
 - Final Account position provided
- Delta on the project, VVB @ £15.5m, Client @ £9.8m (paid to £12m).
- Last attempt at resolution, VVB sacrificed its fee and proposed a settlement @ £14.2m.



Formal Dispute Resolution – a painful lesson

- Client refused mediation, VVB had to adjudicate.
- 1 lawyer, 1 barrister (KC), 1 forensic planner, 5 internal personnel full time for 6 months.
- Process extended, 1 adjudication turned into multiple adjudications.
- Final outcome from the adjudicator:
 - **Awarded £14.0m**
- Cost of adjudication:
 - £938k of actual cost to VVB
 - Client relationship destroyed
 - Impact to staff
 - Negative Cashflow
- Estimated Client cost of FDR c£2m





Conflict Avoidance Process

- Mediation approach
- Pragmatic view of disputes
- Can involve impartial use of experts
- Focus of settlement by agreement, NOT judgement or enforcement
- Flexibility on legally binding
- Drive to ensure relationships remain intact
- Very cost-effective allowing CAP to be utilised earlier.



Conflict Avoidance Process (CAP) - Benefits



Avoid long and
damaging disputes

Take effect when
disputes are emerging

Impartial advice and
recommendations from
subject matter experts

Cost effective, flexible
and to scale

Parties agree to alert
each other and retain
control

Recognition that
disputes cannot always
be avoided



Conflict Avoidance Pledge

The Conflict Avoidance Coalition Steering Group (CACSG) launched the Conflict Avoidance Pledge 2018.

There are currently over 500 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.

The Pledge is endorsed by the UK government and is included in the Construction Playbook.

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



SKANSKA



HOUSES OF PARLIAMENT
RESTORATION & RENEWAL

Balfour Beatty
Rail





Conflict Avoidance Pledge

The Pledge – Initiated by the Conflict Avoidance Coalition Steering Group.



- Belief in collaborative working

- Conflict avoidance mechanisms

- Commitment to:
 1. work proactively.
 2. work with industry partners
 3. promote the value of collaborative working

www.rics.org/capledge



Conflict Avoidance Pledge



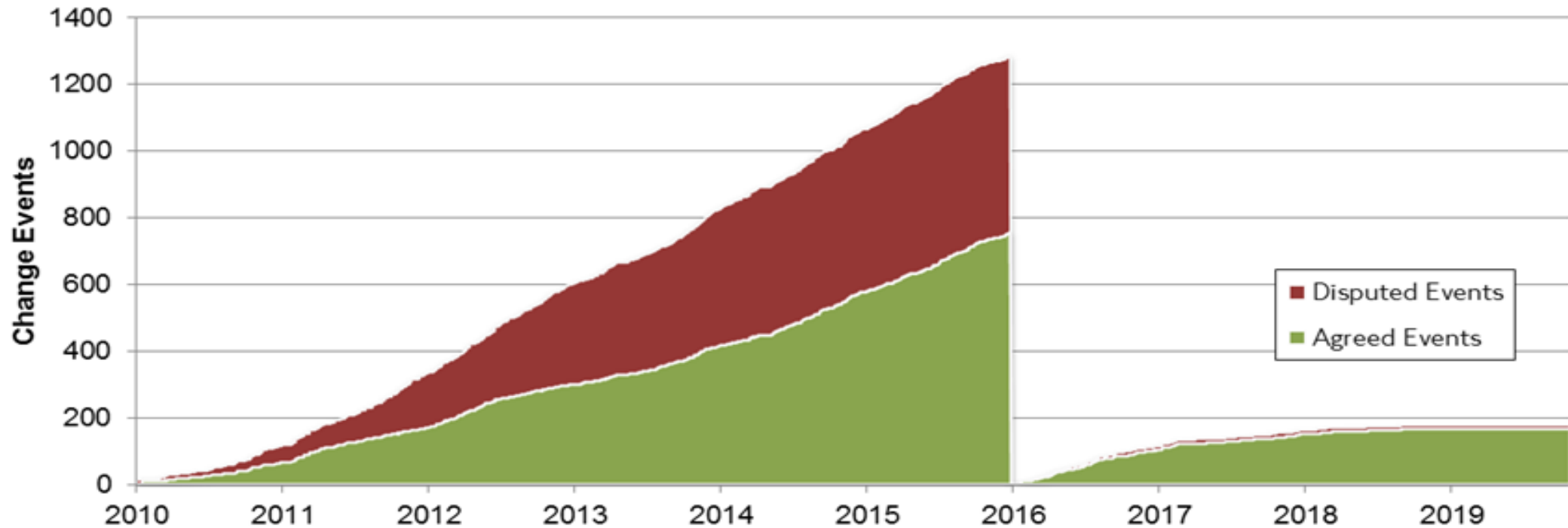
The Pledge:

- 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.



Case Study Transport for London

The decline in disputed events since the introduction of the Conflict Avoidance Process in 2016



CAP not only resolved the conflicts that had already accrued, but also dramatically reduced further claims developing.



What can you do?

- Sign the pledge www.rics.org/capledge
- Promote the pledge
- Mandate the pledge in your own standard agreements (we have)
- Become a silver or gold member
- Join the Coalition (steering group for CAP)



VVB

