

RICS CAP in a nutshell

Overview

RICS CAP is an independent, expert, and impartial dispute resolution mechanism. It is underpinned by the professional standards and global ADR expertise of RICS, the world's leading built environment professional body.

RICS provides over 150 years of experience as the world's leading professional body in land, property, construction and infrastructure and fifty years as the world's largest built environment-specific provider of ADR services. RICS is a Royal Charter institution which requires it always to act independently, impartially and to the public advantage.

RICS CAP panellists are overseen by RICS, sign specific service level agreements with RICS, are subject to its regulatory and complaints procedures, and are answerable to RICS for the efficient and impartial carrying out of their functions as CAP panellists.

The RICS CAP service guarantees an independent and transparent appointment process, giving all parties confidence that the CAP panellists are selected without bias, influence, or conflict of interest. This assurance is not always available when dispute resolvers are sourced by the parties themselves.

The cost of using CAP is a fraction of that involved in taking the matter to court or arbitration, and there is complete costs transparency from the outset. Parties understand in advance the basis upon which they will be charged.

RICS does not charge the parties for the provision of the CAP service – it recovers a percentage of the CAP panellists' fees to cover its expenses. Parties receive all the benefits of the institutional backing behind CAP without paying any more than they would were they to appoint dispute resolvers privately.



How RICS CAP works in practice

Agreement

Parties use the CAP process when they disagree on a matter, are unable to resolve it between themselves, and want to prevent their disagreement becoming a formal dispute.

They can either include a clause to use the RICS CAP process in their contract, or, when an issue arises, they can agree on an ad hoc basis to utilise CAP and seek assistance from RICS to source an impartial and suitably qualified CAP Panel

Process

RICS provides a two-part service:

1. Creating the ecosystem

RICS will work with the parties to:

- set up a comprehensive project panel designed for the project specifically, by
 - identifying the areas where disputes are likely to arise
 - finding people with the skills and experience needed to deal with areas of dispute
 - introducing them to the parties and providing them with an overview of the project
 - ensuring they are fully trained in CAP procedures and are subject to RICS ethics, professional standards, oversight, and complaints processes
- agree the fee structures for CAP on the project
- assist the parties to understand and prepare for using CAP, by
 - appointing CAP champions
 - providing information and training for users of CAP and their project teams
- help the parties draft the necessary CAP clauses for inclusion in their standard form contracts or as standalone agreements.

2. Dealing with the issue

RICS will consult with the parties and appoint a one or three-person dispute panel once a disputed matter has been identified and been referred to RICS

The dispute panel will engage with the parties, employing elements of evaluative mediation, adjudication and expert determination, but without the procedural limitations of determinative processes like arbitration or dispute boards.

This process will normally include a scoping meeting in which the dispute panel and both parties

- clarify the dispute and recommendations sought
- agree on process and schedule
- ensure mutual understanding

The timeframe of submissions is typically as follows:

- the referring party submits a written referral (within seven days)
- the responding party replies in writing (within seven days)
- further documents including expert reports, plans, accounts etc may be agreed with the dispute panel and exchanged by the parties
- the dispute panel provides a written recommendation (within seven days of these documents being shared)

The CAP panel may agree further steps (and time extensions) with parties as necessary – these may include:

- site inspection
- provision of additional documents or other physical evidence
- further separate or joint meetings to consider specific aspects more fully
- the taking of expert advice or opinion on specified points

The CAP process leads to a fully reasoned, clear and expert set of recommendations, which are non-binding but enormously persuasive.

Parties may choose to be bound by the recommendations or agree on a process by which, if neither party makes formal objection within an agreed period of time, the recommendations become binding.



Delivering confidence

We are RICS. As a member-led chartered professional body working in the public interest, we uphold the highest technical and ethical standards. We inspire professionalism, advance knowledge and support our members across global markets to make an effective contribution for the benefit of society. We independently regulate our members in the management of land, real estate, construction and infrastructure. Our work with others supports their professional practice and pioneers a natural and built environment that is sustainable, resilient and inclusive for all.

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