

# Conflict Avoidance on Major Projects

*Webinar for:*



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## Today's Discussion :

- Causes of Dispute on Major Projects
- The Work of The Conflict Avoidance Coalition
- The Objectives of The Conflict Avoidance Pledge
- RICS Conflict Avoidance Process (CAP)
- NEC Conflict Avoidance Clauses & Practice Note
- Why Conflict Avoidance Matters

# Causes of Disputes on Major Projects

# Causes of Dispute on Major Projects

- Introduction
- Major construction projects are complex, high-risk undertakings involving multiple stakeholders, tight deadlines, and significant financial investment. As a result, they are particularly prone to **disputes** and **claims**.
- Typical Causes of Dispute:
  - Ambiguities in contract terms
  - Poor communication and coordination
  - Design errors or changes
  - Delays and schedule overruns
  - Unclear allocation of risk
  - Payment issues and cost overruns

# The Work of The Conflict Avoidance Coalition

<https://conflictavoidance.org/>

# Conflict Avoidance Coalition

The coalition's objective is to increase awareness in the construction sector of conflict avoidance and early intervention techniques and processes, and thereby create a market for conflict avoidance and early intervention processes, lead by:



... and 90+ other businesses and organisations

# The Work of The Coalition

## Promotes Collaborative Working

By engaging with

- Industry Associations and Institutions,
- Government Departments,
- Developers and Employers,
- Main Contractors and Specialist Subcontractors,
- Consultants,
- Lawyers.

## Generates Awareness

- Conflict Avoidance Pledge
- Conflict Avoidance Week
- Annual Conflict Avoidance Conference;
- CA Website
- Social Media Platforms
- Webinars /Guest Presentations
- Industry media /press

## Produces Guidance

- CAP Toolkit
- Case Studies
- RICS CAP
- NEC Practice Note

## Domestic & International Reach

The coalition has subgroups that target the domestic markets and international markets including Australia, Canada, UAE /Middle East

## Client Engagement

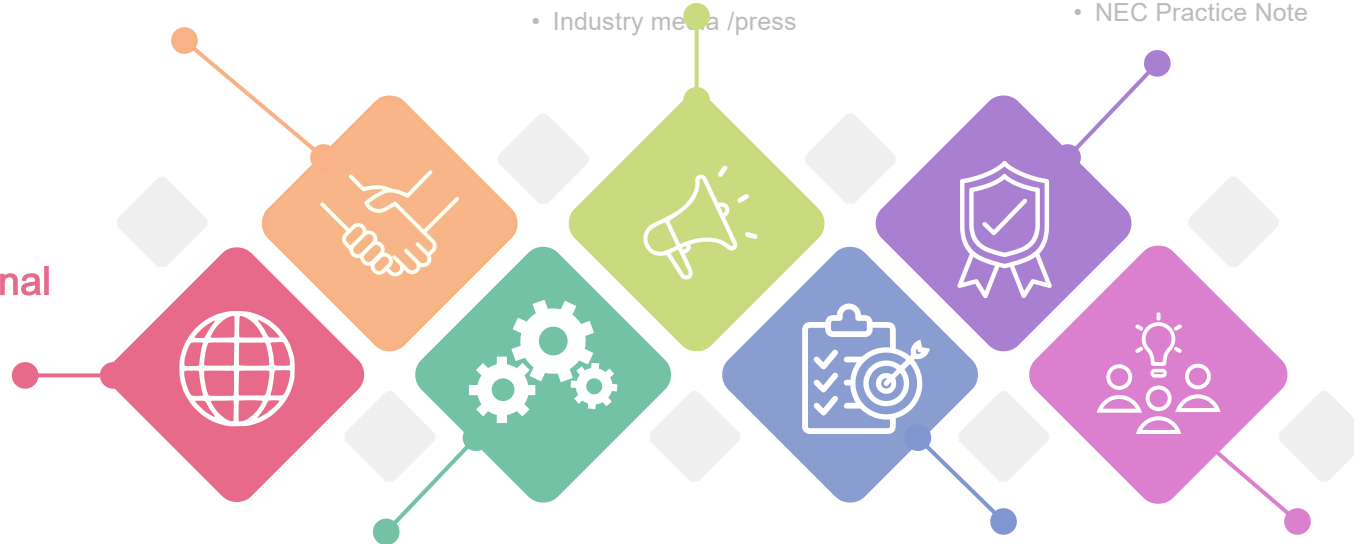
Has a dedicated group that work with Public and Private Sector clients to help them introduce CAP into their day-to-day business activity.

## Contracts Group

Has formed a dedicated group that liaise with JCT and NEC and work with industry to make contracts more balanced.

## CAP Directory

Maintains a directory of all organisations and individuals that sign the Pledge and allocates Bronze, Silver and Gold membership based on certain criteria



# The Conflict Avoidance Pledge





## Conflict Avoidance 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.

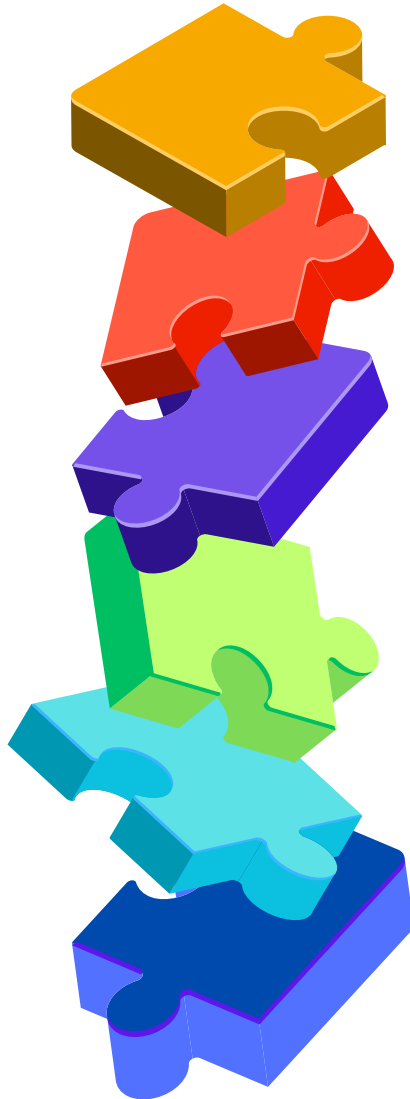
We commit to work with our industry partners to identify, promote and utilise conflict avoidance mechanisms.



*Sign the Pledge:*

[www.conflictavoidance.org/pledge](http://www.conflictavoidance.org/pledge)

# The Pledge Objectives



## **Proactive Conflict Prevention**

Commit to identifying and addressing issues early to prevent disputes from escalating.

## **Collaborative Working**

Promote a culture of cooperation and open communication between all project stakeholders.

## **Early Intervention Techniques**

Support the use of structured early resolution methods to manage differences before they become formal disputes.

## **Embedding Conflict Avoidance in Projects**

Integrate conflict avoidance mechanisms into project processes and contracts from the outset.

## **Capability Development**

Enhance internal skills and capacity to identify and manage potential conflicts effectively.

## **Industry-wide Engagement**

Work with partners across the sector to champion and apply conflict avoidance best practices.

# Why sign the Pledge?

Signing the Pledge signals that a business or organisation:

- Believes in collaborative working and the use of early intervention techniques, with the aim of resolving differences before they escalate into damaging disputes.
- Recognises the worth of embedding conflict avoidance measures into projects with the aim of identifying, controlling and managing emerging and manifest conflict whilst trying to prevent the need for costly, formal, dispute resolution procedures.
- Is committed:
  1. working proactively to avoid conflict and facilitate early resolution of emerging disputes.
  2. working with clients and industry partners to identify, promote and utilise conflict avoidance measures
  3. promoting the value of collaborative working to prevent issues developing into disputes

[www.conflictavoidance.org/pledge](http://www.conflictavoidance.org/pledge)

## The Pledge encourages signatories to:

Adopting early intervention techniques throughout the supply chain, to try to avoid, manage and/or resolve issues before they escalate into disputes

Embedding conflict avoidance mechanisms into projects with the aim of identifying, controlling and managing potential conflict, whilst preventing the need for formal dispute resolution procedures

Early identification of potential disputes and using conflict avoidance measures in practice

Working with the industry to identify, promote and use these mechanisms

# Conflict Avoidance Directory

- Businesses that sign the Conflict Avoidance Pledge become members of the Conflict Avoidance Coalition and are listed in the Conflict Avoidance Coalition Directory.
- The Directory is a published list of businesses committed to collaborative working and the use of early intervention techniques throughout the supply chain, to try to resolve differences of opinion before they escalate into disputes.
- The Directory lists members of the Conflict Avoidance Coalition at three grades: **Bronze, Silver, Gold**

# Pledge Membership Criteria



Bronze

Has signed the Conflict Avoidance Pledge



Silver

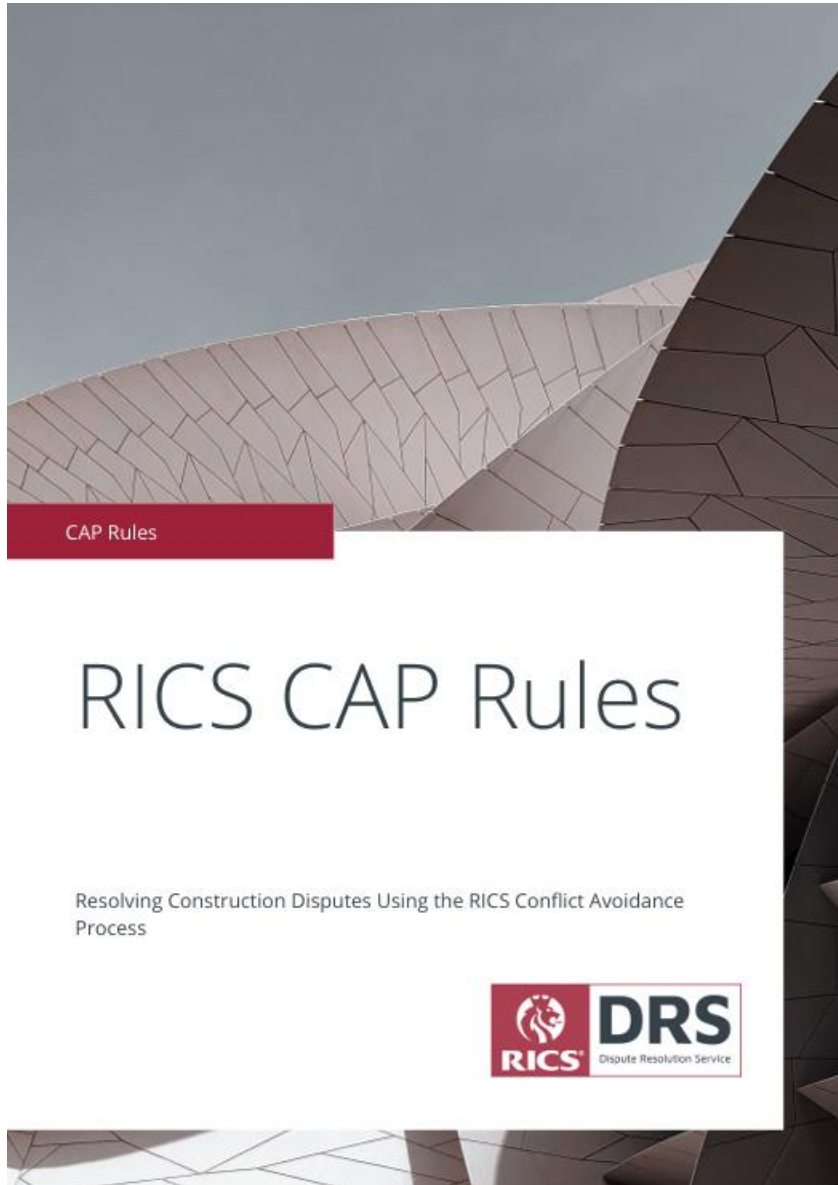
Has signed the Conflict Avoidance Pledge  
Includes conflict avoidance procedures/clauses in framework agreements and/or contracts  
Declares their membership of the Conflict Avoidance Coalition in marketing and other business collateral



Gold

Meets Silver criteria  
Introduced conflict avoidance procedures across contractual matrices  
Integrated collaborative working arrangements into standard business practices.  
Actively promotes collaborative working and/or use of conflict avoidance procedures.  
Ensures that colleagues are trained on the conflict avoidance measures and policies adopted by the business.  
Has engaged in at least one conflict avoidance procedure.

# RICS Conflict Avoidance Process



RICS published their new Conflict Avoidance Process Rules in March 2025 to coincide with Conflict Avoidance Week

[https://www.rics.org/content/dam/ricsglobal/documents/dispute-resolution-service/Conflict-Avoidance-Process\\_Rules\\_March-2025.pdf](https://www.rics.org/content/dam/ricsglobal/documents/dispute-resolution-service/Conflict-Avoidance-Process_Rules_March-2025.pdf)







# Conflict Avoidance Process (CAP)

1

## Better relationships

CAP helps parties avoid getting entangled in long and damaging disputes impacting the project

2

## Early Resolution

CAP is designed to deal with disputes early, collaboratively and cost effectively before they escalate

3

## Retain Control

CAP draws on impartial expert recommendations, to inform negotiations to achieve an agreed settlement and maintain control over the outcome

4

## Cost Effective

CAP rates agreed beforehand (usually hourly or daily rate). It is paid for by the parties in equal shares, and only when it is used

# Primary benefits of CAP



It's flexible and can be scaled to fit issues of varying complexity and value



All parties work together with an impartial subject matter professional to achieve agreed outcome



Is used early, before matters escalate to formal disputes requiring adversarial procedures



Preserves commercial relationships and brand reputations



Cost effective and parties pay only if it is used



Parties retain control of the process and outcomes

# RICS CAP Implementation on Projects

No need to amend contracts in many cases

The CAP procedure and timetable can be included in the main contract between the parties or agreed by the parties separately.

CAP operates alongside the main contract. It does not suspend the operation of the main contract unless the parties agree that it should.

Any notices, steps or processes under the main contract will continue as if CAP was not in place - save that parties will inform/provide copies to the CAP Panel without delay.

CAP is voluntary, and any party may withdraw from it at any time.

CAP is confidential (unless parties agree otherwise)

CAP has been adopted by businesses and organisations including

Transport for London

Network Rail

NHS Scotland

Environment Agency

to name a few.



**Transport  
for London**



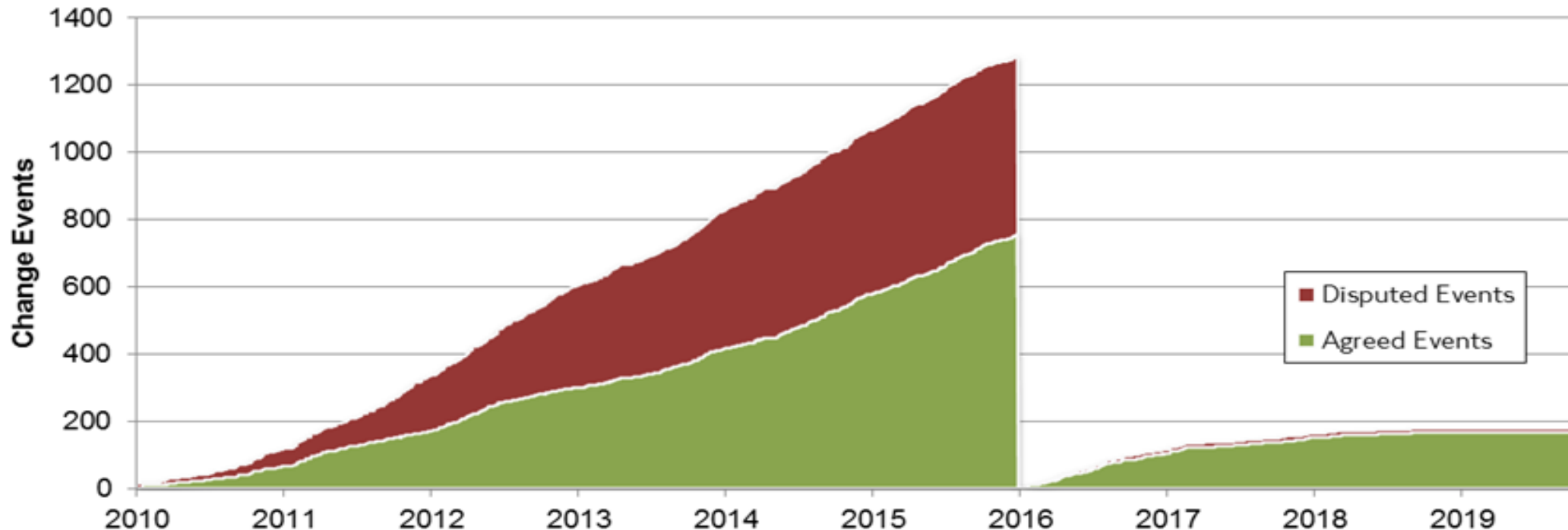
**Environment  
Agency**



# 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.



# NEC Conflict Avoidance Process

PRACTICE NOTE  
MARCH 2025

## NEC4 Engineering and Construction Contract conflict avoidance clauses

The NEC has produced a CA procedure to be used in a NEC4 Contract to resolve disagreements at an early stage by using a conflict avoidance panel.

Versions are provided for contracts incorporating dispute resolution Option W1 and Option W2 (HGCRA).

By introducing these clauses into the contract the parties agree to cooperate in the early identification, notification and avoidance or resolution of any disagreement that may lead to a dispute.

### THE CONFLICT AVOIDANCE PLEDGE

We believe in collaborative working and the use of early intervention techniques throughout the supply chain, 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 working proactively to avoid conflict and to facilitate early resolution of potential disputes.

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 developing into disputes.

We commit to work with our industry partners to identify, promote and utilise conflict avoidance mechanisms.

The following clauses provide a procedure to be used in a NEC4 Contract to resolve disagreements at an early stage by using a conflict avoidance panel. Versions are provided for contracts incorporating dispute resolution Option W1 and Option W2.]

The clauses can be used in any of the main forms of contract or subcontract.

To incorporate this clause into the contract, adjust the numbering to accommodate other "Z clauses", include "Option Z" in Contract Data part one in the list of Secondary Options and include the renumbered clause in Contract Data part one.

As an alternative to using this clause, dispute resolution Option W3 provides an equivalent procedure by using a Dispute Avoidance Board; the board carries out the functions of the conflict avoidance panel. For contracts in the UK which are subject to the Housing Grants Construction and Regeneration Act 1996, NEC Practice Note 5 - Using an independent Dispute Avoidance Board - provides a clause to use a Dispute Avoidance Board with option W2. A copy of this practice note can be found on the NEC contract website.

### CLAUSE FOR USE IF OPTION W1 APPLIES

<b>Conflict Avoidance</b>	<b>Z1</b>	
<b>Defined Terms</b>	Z1.1	(1) Conflict Avoidance Panel means the panel selected by the Parties or nominated by the <i>conflict avoidance nominating body</i> to provide a recommendation to resolve a disagreement between the Parties.
<b>Conflict Avoidance</b>	Z1.2	The Client and the Contractor cooperate in the early identification, notification and avoidance or resolution of any disagreement that may lead to a dispute. Where necessary, a dispute is referred to a Conflict Avoidance Panel.
<b>Conflict Avoidance Panel</b>	Z1.3	(1) A Party who disagrees with a matter in relation to the contract may notify the other Party of the disagreement it wishes to resolve within two weeks of the disagreement arising. If a matter is referred to a Conflict Avoidance Panel, the periods in the Dispute Reference Table for referral of the dispute to the <i>Senior Representatives</i> are deleted and replaced by the period for referral in this clause.

## Based upon the W2 Option







## Key Differences Between RICS & NEC CA Process

RICS	NEC
The recommendation is not binding.	If parties are satisfied with the recommendation, it is binding.
Nomination of the CA Panel is through RICS only.	Parties free to agree CA Panel through any appropriate nominating body.
Timetable to be agreed.	6 week-time table.
Express powers are given to the CA Panel (including power to appoint experts).	CA Panel powers not expressly detailed.
Written submissions by CA Panel discretion.	Written submission prescribed.

# Why Conflict Avoidance Matters

# Why Conflict Avoidance Matters

- Early identification and resolution of potential issues avoids escalation.
- Proactive measures promote collaboration and transparency.
- Conflict avoidance saves significant time, legal costs, and project delays.
- It supports smoother project delivery and protects commercial relationships.
- The cost of conflict is always higher than the cost of prevention.