

Property and Construction are an essential part of business; everything we do as human beings is affected by the property and construction industries. We live in homes produced by the construction industry and demanded by the property market. We travel to work in, or on, machines which use infrastructure produced by the construction industry and demanded by the property market. We work in offices, factories etc produced by the construction industry and demanded by the property market. We live, work and die in buildings. Property and construction transactions are a common and necessary part of business. Surveyors need to be competent in the techniques of conflict management and dispute resolution to ensure that clients receive value for money.

## Introduction

The property and construction industries in which chartered surveyors operate are dynamic and competitive environments; some might say cut-throat. It is often said that in such a commercial atmosphere conflict is inevitable; indeed conflict is a necessary part of the competition of commercialism. Theorists talk of functional and dysfunctional conflict; functional conflict or competition is the necessary life blood of open and free markets. Without competition and functional conflict the dangers of market abuse are real: price-fixing; cartels and monopoly abuse. All governments try to ensure that these abuses are not possible.

Dispute, or dysfunctional conflict, is an altogether different thing than functional conflict or competition. Disputes are time consuming, expensive and unpleasant and they can destroy client/supplier relationships. Governments around

the world realise this and try to avoid the dysfunctional aspects of conflict. See for example [www.ogc.gov.uk](http://www.ogc.gov.uk)

Functional conflict is good and must not be absent; dysfunctional conflict or dispute is bad and must be avoided. It is in everyone's interest to work at avoiding disputes in the first place, and surveyors emphasize improving relationships between the client and the supplier through teamwork and partnering. Inevitably, however, disputes do occur, and when they do, the importance of a fast, efficient and cost effective dispute resolution procedure cannot be overstated. Surveyors need to be competent in the techniques of conflict management and dispute resolution. Chartered surveyors, and the RICS, are justifiably proud of their role in facilitating effective conflict management and dispute resolution. This sheet outlines how the RICS Dispute Resolution Professional Group provides for the needs of surveyors through education and training.

## Education

The Dispute Resolution Professional Group influences surveyors' education through guidance on and accreditation of undergraduate and postgraduate courses at universities under the RICS partnership scheme with universities.

## Undergraduate

Undergraduate courses in surveying subjects, e.g. Building Surveying, Quantity Surveying and Estate Management have traditionally included substantial areas related to conflict and disputes.

## Postgraduate

All surveyors might be expected to use their skills of conflict management but dispute resolution often thought to be the domain of the eminent surveyor. Specialist post-graduate courses exist to serve the needs of surveyors who aspire to such eminence.

## Training

After entry to the RICS, as graduates, surveyors work towards achieving either chartered or technical status. To become a chartered surveyor candidates must be assessed as competent to practise via an assessment of professional competence (APC). To become a technical surveyor candidates must be assessed as competent to practise via an assessment of technical competence (ATC).

All routes to membership [i.e. for all surveyors] require candidates to satisfy a mandatory competence in conflict avoidance, management and dispute resolution procedures M006.

At level 1

Demonstrate knowledge and understanding of the techniques for conflict avoidance, conflict management and dispute resolution ... [for example adjudication and arbitration]

At level 2

Provide evidence of practical application...

At level 3

Provide evidence of the above in the context of advising clients in the various circumstances...

## The Future

Dispute Resolution Professional Group does not currently have an ATC or APC pathway, we have considered this and the debate continues. We are proud of the role of surveyors in conflict management and dispute resolution, indeed surveyors' expertise in these areas is instrumental in ensuring that relatively few formal disputes occur.

## Further reference

Arbitration Act 1996 –  
[www.legislation.hmso.gov.uk/acts/acts1996/1996023.htm](http://www.legislation.hmso.gov.uk/acts/acts1996/1996023.htm)  
(England & Wales & Northern Ireland)

RICS practice standards –  
[www.rics.org/guidance](http://www.rics.org/guidance) (downloads accessible to RICS members only)

Rent Reviews under the Agricultural Holdings Act 1986  
(RICS Rural Faculty briefing paper/CAAV numbered publication 190)

A draft Scottish Arbitration Bill is under consideration in the Scottish Parliament and is expected to become law in late 2009/early 2010.

In Ireland, the Arbitration Act 1954 is the primary statute although a new draft Bill to adopt UNCITRAL is under consideration.

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