

Good morning everyone, welcome to the 2nd Conflict Avoidance Coalition conference

My name is Richard Bayfield, and I am the current Chair of the CAC. It's a real pleasure to be here today, with our sponsors, speakers, guests and supporters. You will see the programme is varied and extensive.

Some history. The Conflict Avoidance Coalition began life over 10 years at a joint meeting including the RICS and the ICE. The RICS has since been the senior partner and brought many other Institutions and Businesses into the coalition. The RICS trinity of Len Bunton, Martin Burns and Ysella Jago deserve special mention for their determination in establishing a significant and serious Coalition comprising all parts of the construction and infrastructure sector. Whilst we are individually small in number we punch above our weight. My perspective is that we are at a tipping point where you attendees and speakers will have huge influence on next steps. My hope of today is that many of you may see the potential of the Coalition to help inform Government Policy.

One simple Coalition message is to improve Construction performance by reducing contractual points of friction and in doing so save the Client costs, including us as tax payers. For example, the Competition and Markets Authority earlier this year advised that **“..... procuring authorities should conduct a zero-based review of Z clauses in NEC / model contracts, to remove historical clauses altering how risk is allocated that are no longer required”**. As we know, the contract is simply the tool for managing the risk.

As a Vice President at the ICE, I am delighted that that the ICE is well represented today through Thomas Telford which publishes contracts on behalf of the Institution of Civil Engineers. Thomas Telford first published the New Engineering Contract / NEC in 1993, the author was the late Martin Barnes, a Civil Engineer specialising in Project Management. This was an interesting time in the construction arena as the late Sir Michael Latham published his report one year later. Sir Michael endorsed many features of the NEC including a duty for Client and Contractor to deal fairly with each other and the supply chain, to use easily comprehensible language, to take all possible steps to avoid conflict on site, to separate the role of contract administrator from the referee or adjudicator who would resolve disputes by spending a day on site!

In 1994 Latham wrote “The NEC contains virtually all the assumptions of best practice in a contract”. Latham also wrote about the important role of clients. So, I am delighted to see so many clients speaking here today, including those from the Environment Agency, the Houses of Parliament Restoration project, NHS England and Network Rail. I believe they are the kind of ambassadors Latham had in mind when he talked about the Client’s role to set the tone and to lead projects.

In legacy terms Adjudication became public policy on Latham’s recommendation and is enshrined in our laws. History shows that Adjudication in 2026 is a long way from the process envisaged by Martin Barnes and Michael Latham (and that’s another discussion). **However, both Latham and Barnes saw the potential of conflict avoidance processes and dispute resolution at the earliest possible stages** in a project to improve project delivery and limit unnecessary costs. They knew, as most of us do, that small problems grow and grow, until they can be mega problems. To the lawyers here today, you are very welcome to be part of the discussion. Many of us see the need for more legal input at the front end of the procurement process and not at the end of the project resolving disputes!

On that note I will introduce Jeremy Glover, a renowned lawyer and dispute avoider who deserves great credit for creating today’s programme and attracting so many eminent and authoritative speakers. Jeremy’s colleague, Tom Lee at Fenwick Elliot, has also brought in an equally eminent and authoritative audience who will hopefully pepper us with questions, challenges and comments throughout the day.

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