

DISPUTE RESOLUTION SERVICE



RICS Conflict Avoidance Process (CAP)

Introduction

The **RICS Conflict Avoidance Process** (RICS CAP) is an innovative approach to dispute management. It helps parties avoid lengthy and costly disputes on construction projects.

CAP is a tried and tested measure designed to provide expert, impartial, real-time recommendations to contracting parties on issues where there is disagreement. This keeps disputes away from adjudication, arbitration or court, and so saves time and money.

In the United Kingdom, CAP has been used by Transport for London (TfL, The London Underground) Network Rail and the National Health Service (NHS), as well as others, and has proven to be effective at resolving complex, high value, issues, quickly and amicably. CAP has been endorsed by the UK government and is integral to the UK Government Construction Playbook.

RICS CAP forms part of a global pan-industry shift towards collaborative contracting and the integration of conflict avoidance mechanisms into contracts and project processes. RICS developed the [Conflict Avoidance Pledge](#) and established the sector-wide [Conflict Avoidance Coalition](#) in 2014. Over five hundred leading companies have signed up to the CAP Pledge and RICS is participating in a global campaign to encourage construction businesses around the world to sign the CAP Pledge and adopt the principles that underpin it.



How CAP works

Full details of how CAP works are provided in the *RICS CAP Rules*.

In summary, 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.

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 provide 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 familiarisation 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.

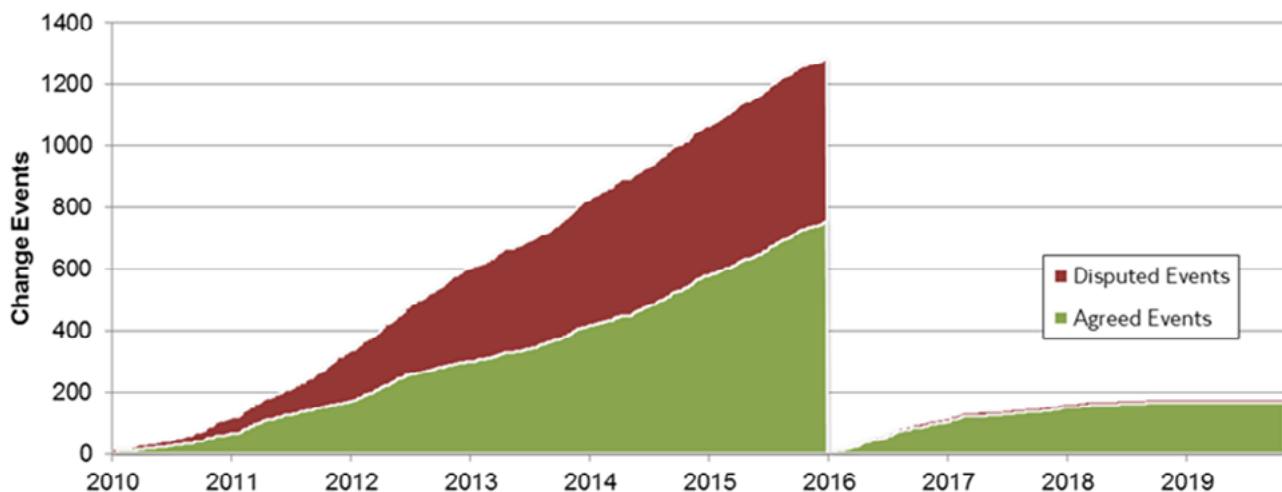
The CAP Panel will be highly credible technical experts, experienced in the specific issue that is causing the disagreement between parties.

The CAP Panel has an investigative role – they will hear from the parties but may also gather information by speaking with others involved in the issue, conducting their own inquiries, and visiting the site if required. This information, coupled with the CAP Panel's professional expertise, will help the CAP Panel to produce a comprehensive CAP Report.



Why people choose CAP

CAP works. It has proved enormously effective in practice. This graph, developed by Transport for London, shows how the introduction of RICS CAP reduced the number of change event claims being brought against the organisation. The effect was sustained after implementation with disputed events being reduced to almost zero and agreed events to manageable and anticipated levels.



By addressing disagreements early, before they escalate to full-scale disputes requiring formal intervention, CAP can improve project outcomes, save costs, and protect business partnerships and working environments.

RICS CAP in essence does three things:

- it provides parties with an opportunity rigorously to test their cases before going down the hugely disruptive and expensive court or arbitration route. (The CAP Report provides a fully reasoned, informed assessment of how they may fare if the matter goes to arbitration or litigation.)
- it provides a fresh perspective on and often solution for the issue from a panel of independent, experienced subject matter experts focused on finding a sensible, cost-effective way forward
- it provides parties with the reassurance that this process all takes place under the oversight and within the professional regulatory framework of one of the world's leading Royal Charter Institutions.



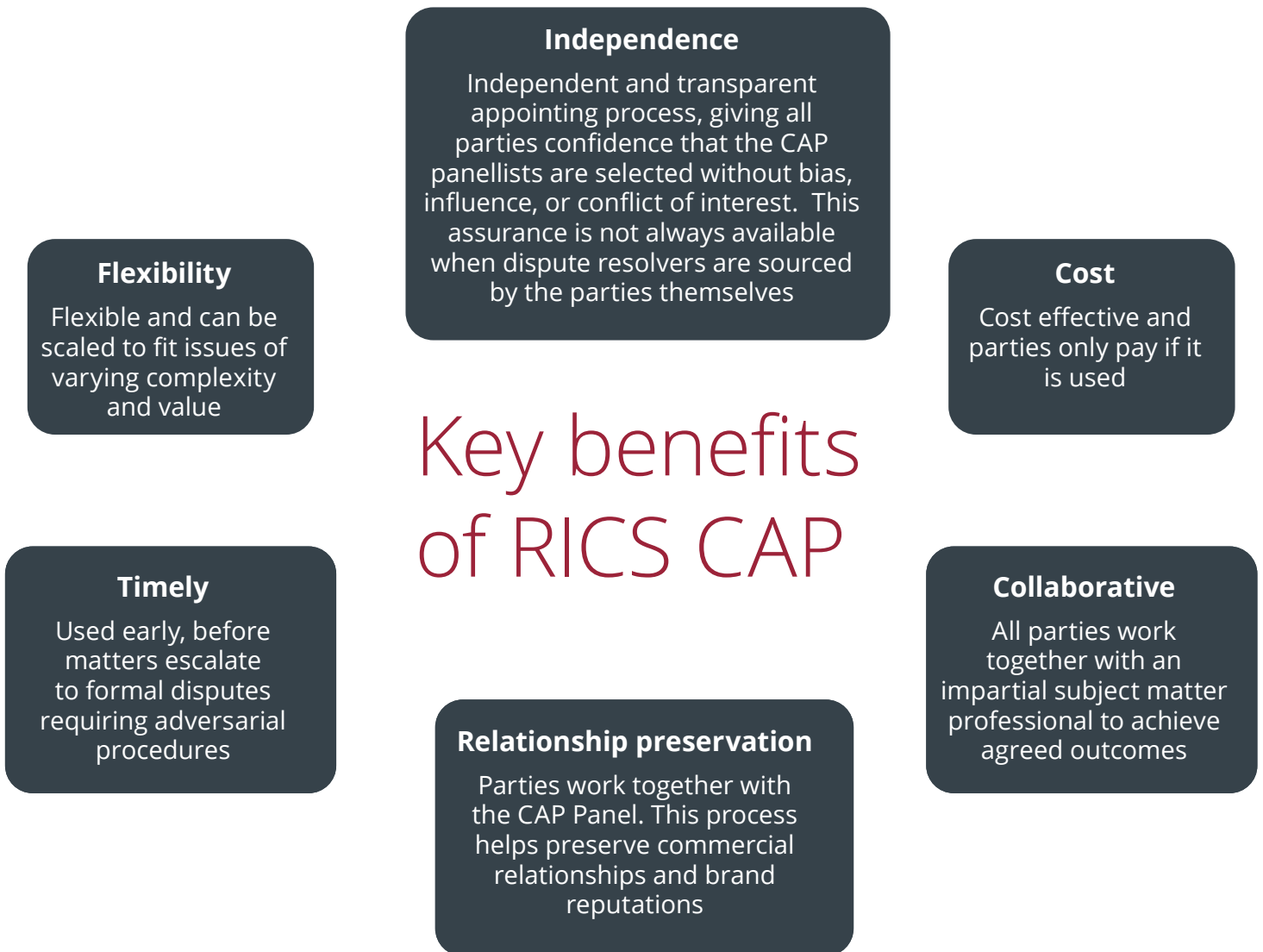
“CAP offers a number of advantages over other forms of dispute resolution. In particular, potential disputes can be **“nipped in the bud”** before they escalate, meaning that **working relationships can be maintained** and **legal costs can be minimised**, if not avoided altogether. Furthermore, CAP offers **complete flexibility** in the processes which can be adopted.”

Jonathan Cope - CAP Panellist



“We chose to integrate the RICS Conflict Avoidance Process within our NHS Scotland Frameworks Scotland 3 framework agreement contracts for use on all our projects across Scotland. We believe this will offer a positive and best practice approach to managing conflicts and disputes on projects, should they arise. We believe this process will enable an early intervention opportunity for Client and Contractor to come together at an early stage of a dispute, helping to preserve relationships and allowing for a quick resolution to be established and agreed.”

Steven Sanzone - NHS National Services Scotland



Project Panels

A Project Panel is a curated register of professionals jointly established by RICS and the parties for a specific project. It comprises experts selected for their specialist knowledge in areas where disputes are most likely to arise.

Dispute Panels

A Dispute Panel is a one or three-person “tribunal” which is appointed to conduct the CAP process and help parties resolve an emerging dispute that has arisen on a project. Dispute Panel members are selected from the Project Panel according to the issue in dispute and the expertise required. Dispute Panels can also be used on an ad-hoc basis where a Project Panel has not been established.

The role of RICS in the provision of CAP

CAP Project and Dispute Panels

The success of the RICS Conflict Avoidance Process depends on the expertise of skilled construction professionals who specialise in conflict prevention and resolution. These professionals form the CAP Panels who are used to conduct the proceedings. By working with RICS and its trusted CAP Panels, parties gain access to industry-leading expertise, helping to resolve disputes efficiently and foster successful project outcomes.

RICS helps parties to assemble and appoint an appropriate CAP Project and Dispute Panel, providing access to its curated list of qualified professionals. These professionals are experts from diverse fields, including law, surveying, engineering, and planning, as well as other technical specialties.

RICS CAP Panels operate under the oversight and within the professional regulatory framework of one of the world's leading Royal Charter Institutions, RICS.

RICS CAP panel members:

- Are bound by RICS published Professional Standards, Guidance and Ethical requirements
- Sign individual Service Level Agreements with the RICS Dispute Resolution Service (DRS)
 - confirming their possession of relevant and up to date knowledge and expertise in the matter in dispute and of RICS professional guidance and procedures relating to CAP
 - governing their conduct and their commitment to being competent, properly available to do the work, independent of the parties and free from other conflicts of interest, and subject to the DRS Complaints and disciplinary procedures
- Fall under the independent scrutiny of both the RICS Dispute Resolution Appointments Board and the RICS Standards and Regulation Board
- Are obliged to charge reasonable fees under RICS Professional Guidance and to adhere to the fee structures agreed with the parties either direct or RICS will facilitate these negotiations if required.
- Will act speedily and adhere to any timetable and procedures that may have been agreed with the parties to ensure the efficient and cost-effective delivery of the service.



Fees and costs

Each party pays their own costs.

The hourly/daily rate of fees will be settled by RICS at the outset, ensuring transparency for the parties. RICS can facilitate this negotiation between the parties and the CAP Panel.

Each party pays half of the CAP Panel's fees and expenses, unless they agree otherwise.

No fees are payable by parties to RICS, which will recover its administrative costs from the Dispute Panel

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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