

Let's Talk About Conflict

In a world where conflict is commonplace, the construction industry is no exception. In fact, it is an industry that constantly grapples with disputes and their resolution. But why do these conflicts persist? What makes us so resigned to this reality, and can we ever truly change as an industry? While change is a familiar concept to every construction professional, we must seriously question whether we are ready to fundamentally rethink how we approach conflicts and their resolution.

In every contract, unforeseen events will occur, alongside those that were considered and anticipated. Too often, we enter contracts without fully designed schemes, inadequate up-front planning, and with onerous and ambiguous contract conditions. This is compounded by a relentless race to the bottom line and the transfer of risk to parties ill-equipped to bear it. The fallout from such practices can be deeply unpleasant. It could be said that the construction industry harms itself as we turn on each other to defend our positions. We believe we're doing the right thing, but in reality, it damages relationships, disrupts continuity, undermines project success, and can take its toll on our own mental wellbeing.

To provide some context for these disputes, HKA's CRUX Insight Report of October 2023 presents striking statistics compiled from 1,800 projects across 106 countries, totalling \$2.247 trillion in value:

- Disputed costs average \$100 million, accounting for more than a third (33.6%) of capital expenditure.
- Time extensions add nearly 16 months, or two-thirds (67.1%) to a typical schedule.
- Inaccurate, incomplete, and late designs affect a greater proportion of projects (44.8%) than scope changes alone (38.8%)

Contracts are meant to foster collaboration within the industry, but do we truly work in cooperation? What does genuine collaboration look like? And are our perceptions of collaboration so varied that even the concept creates friction?

Contracts often include escalation clauses which appear to offer a friendlier resolution path. However, this process can be lengthy, and it takes a certain level of integrity and leadership to make decision that benefits the project, especially when parties are already in dispute and relationships have soured. The harsh reality is that no one likes to lose.

The alternative is traditional, adversarial dispute resolution, which is proven to be both time-consuming and expensive. It can easily draw in numerous individuals from within the business, further depleting scarce funds.

What are we left with when we go down this route? Parties that can no longer work together, a weakened if even non-existent supply chain as businesses face administration. We must also look at how we arrived at this point as an industry. The lack of design, inadequate upfront planning, and the desperate need to win work are all exacerbated by poor project management. With a skills shortage adding pressure, do we have the expertise and discipline needed for recovery? Are our records sufficient, and are we truly willing to administer the contract properly when it comes to instructing and managing change? We need comprehensive instructions and proactive management, not a reactive approach – often just a phone call. Otherwise, we're left scratching our heads months later, wondering where the money went, what was done, and why recovery seems out of reach.

The above is food for thought. As we navigate the future, it will be interesting to see how the industry and professionals that make us who we are choose to manage conflict and instil a culture of change that positively impacts us all.

For this month, we turn our attention to the Conflict Avoidance Pledge, and we encourage the construction industry to sign it and implement it. It's going to be an interesting month... watch this space.

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