



## How to avoid construction disputes

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The National Building Specification National Construction Contracts and Law Survey 2013 highlighted that almost 30% of respondents had one or more construction contract that went into dispute, a 6% rise from the previous year. The perception amongst respondents is that the number of disputes is on the rise, with over half saying the number of disputes has increased.

It is also clear from the survey, which took place from June-July 2013, that many disputes involve large sums of money and have a significant effect on the construction process. Half of the disputes were for in excess of £250k and 13% in excess of £5m.

There was a wide range of reasons for disputes arising, but most common was extension of time, followed by valuation of final account and then valuation of variations.

Whilst just over half of all disputes were solved through negotiation at site level, many ended up in court, a highly time consuming and potentially costly process. There are several steps that you can take to avoid construction contract disputes.

**Know your contract:** Over 30% of the survey respondents did not sign their construction contracts until after work had started and 3% did not sign one at all. It is important to always check the terms and conditions of your contract and be fully aware of specification of the works, payment terms, variations and extensions of time clauses and adjudication clauses.

**Keep in touch with clients:** Always give regular progress updates to clients and inform them of any factors that may delay the project. This is often achieved by regular agreed progress meetings and effective project management. Remember to be clear and specific in your wording. Before carrying out any additional work, ensure that you receive written instructions from clients and if you incur any additional costs do not wait until the end of the project to have them signed off.

**Keep everything:** You can never keep too many records. Try to record any verbal agreements or requests, or to ensure that your client puts requests for additional works in writing to you. Take pictures of the site, retain email conversations and, importantly, document any reasons for delayed progress. Keeping records can often flag up problems early on, helping you to resolve issues on site.

**Think ahead:** Issue a detailed programme of work, which should be updated and monitored daily, to highlight and record any delays or other problems as they occur. Also, don't wait until the end of the project to put together the final account. Monitor and review cost information and site details on a regular basis.

Remember that an unresolved problem often escalates. If something does go wrong, take remedial action early. The sooner you tackle the problem the less impact it is likely to cause, regardless of whether the problem is time, quality, or cost specific.

**Try going to the top:** If discussions at site level are not addressing a certain issue, then go to someone senior in your client's business. Senior management is often able to take a broader perspective and this wider view can often help resolve disputes before they escalate.

**Failing everything, seek help:** If you do encounter major problems, discussing things through with an expert legal adviser can be cheaper and simpler than trying to resolve an escalated dispute further down the line.

## Albie Passmore

This article is not intended to be a full summary of the law and advice should be sought on all issues.

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