

Direct the resolution of design disputes

---

**Overview**

This unit is concerned with the key responsibilities for managing disputes on design projects.

A "dispute" in this unit is a disagreement that may or may not be settled without external assistance. It could involve preparation for adjudication, arbitration or legal action. You must have a deep knowledge of relevant contractual details and processes, and you must demonstrate how you decided upon strategies for settling disputes. You must demonstrate your command of contractual detail, your skills of communicating and your judgements to others. You must demonstrate your ability to manage the resolution of disputes; to persuade all parties of the strength of your case and to reach acceptable settlements.

---

## Performance criteria

You must be able to:

### **Evaluate potential implications for the resolution of disputes**

- 1 define the type and nature of the dispute and its legal context
- 2 assess the strengths and weaknesses of the case and make a judgement about the potential outcomes
- 3 identify what expertise and support will be needed at different stages of the dispute
- 4 assess the implications of proceeding with the case
- 5 identify potential options for settling the dispute which are based on relevant information and accurate assessments
- 6 identify potential responses to the options for settling the dispute and assess the risk involved
- 7 recommend a process for settling the dispute which is likely to be acceptable to all parties involved and which meets legal requirements
- 8 specify, clearly, the process for settling the dispute which has been agreed and prepare written terms and conditions
- 9 decide against proceeding where the dispute is neither valid nor credible, and offer realistic advice on alternative approaches

### **Direct the progress and resolution of a dispute**

- 10 ensure that documents and supporting valid information about the dispute are prepared with a clear rationale
- 11 keep regular contact with the parties involved in the dispute and investigate and propose options and processes for settling the dispute, which are likely to be acceptable to them
- 12 review reactions and proposals from opposite parties and recommend a response
- 13 ask questions to test the consistency and resilience of the opposite party's position and to probe for possible movement
- 14 ensure that points of agreement and disagreement are summarised and recorded
- 15 recommend acceptance of offers which are judged to be the best available
- 16 draft formal acceptance letters accurately and in a suitable style, and ensure that they are promptly sent to all parties
- 17 suggest realistic options and processes for settling the dispute when offers are not acceptable and assess the advantages and disadvantages of each alternative

## Knowledge and understanding

You need to know and understand:

### **Evaluate potential implications for the resolution of disputes**

- 1 how and why to define the type and nature of the dispute and its legal context (evaluation)
- 2 how and why to assess the strengths and weaknesses of the case (analysis)
- 3 how and why to make a judgement about the potential outcomes of the case (evaluation)
- 4 what to identify as the expertise and support which will be needed at different stages of the dispute (understanding)
- 5 how and why to assess the implications of proceeding with the case (analysis)
- 6 what to identify as potential options for settling the dispute (understanding)
- 7 what to identify as potential responses to the options for settling the dispute (understanding)
- 8 how and why to assess the risk involved in potential responses to the options for settling the dispute (analysis)
- 9 how and why to recommend a process for settling the dispute (synthesis)
- 10 how and why to specify the process for settling the dispute which has been agreed (evaluation)
- 11 how to prepare written terms and conditions (application)
- 12 how and why to decide against proceeding where the dispute is neither valid nor credible (synthesis)
- 13 how and why to offer realistic advice on alternative approaches (synthesis)

### **Direct the progress and resolution of a dispute**

- 14 how to ensure that documents and valid supporting information about the dispute are prepared with a clear rationale (application)
- 15 how to keep regular contact with the parties involved in the dispute (application)
- 16 how and why to investigate options and processes for settling the dispute (analysis)
- 17 how and why to propose options and processes for settling the dispute (synthesis)
- 18 how and why to review reactions and proposals from opposite parties (analysis)
- 19 how and why to recommend a response to reactions and proposals from

Direct the resolution of design disputes

---

opposite parties (synthesis)

20 how to ask questions to test the consistency and resilience of the opposite party's position and to probe for possible movement (application)

21 how to ensure that points of agreement and disagreement are summarised and recorded (application)

22 how and why to recommend acceptance of offers which are judged to be the best available (synthesis)

23 how and why to draft formal acceptance letters (evaluation)

24 how to ensure that formal acceptance letters are sent to all parties (application)

25 how and why to suggest realistic options and processes for settling the dispute when offers are not acceptable (synthesis)

26 how and why to assess the advantages and disadvantages of each alternative (analysis)

**Scope/range**

**Evaluate potential implications for the resolution of disputes**

1 Dispute - types:

- 1.1 land
- 1.2 property
- 1.3 construction
- 1.4 contracts
- 1.5 agreements
- 1.6 third party claims
- 1.7 intellectual property

2 Expertise and support in:

- 2.1 surveying
- 2.2 valuation
- 2.3 town planning
- 2.4 environmental health
- 2.5 environmental management
- 2.6 legal
- 2.7 financial
- 2.8 design
- 2.9 construction

3 Options and processes for settling the dispute:

- 3.1 re-negotiation
- 3.2 negotiations at higher levels of authority
- 3.3 conciliation and arbitration services
- 3.4 formal dispute resolution
- 3.5 legal action

**Direct the progress and resolution of a dispute**

4 Responses:

- 4.1 accepting
- 4.2 rejecting
- 4.3 clarifying
- 4.4 providing additional information

Direct the resolution of design disputes

---

**Developed by** Construction Skills

---

**Version Number** 2

---

**Date Approved** December 2014

---

**Indicative Review Date** November 2019

---

**Validity** Current

---

**Status** Original

---

**Originating Organisation** Construction Skills

---

**Original URN** COSBEDPO08

---

**Relevant Occupations** Architects; Architectural Technologists; Architecture; Civil engineers; Construction Project Manager and Related Professions; Production Managers and Directors in Construction; Associate Professionals and Technical Occupations

---

**Suite** Built Environment Design and Consultancy Practice

---

**Keywords** Disputes; dispute resolution; design; contract

---