

# The Rules of the Game



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**When I started out in the construction industry over 30 years ago, New Romantics ruled the music charts, the UK government was taking on Europe and Liverpool were a force in football.**

Whilst New Romantics have faded into obscurity, some habits die hard. The government continues to take

on Europe, Liverpool top the Premier League table and in construction the same disputes continue, centred around financial disagreements and arising from parties not adhering to their contracts.

Over the years various reports have highlighted concerns in the industry. Latham and Egan's criticisms of its failings 30 years ago promoted legislation devised to assist in dispute resolution – the Housing Grants, Construction and Regeneration Act 1996 (and 2011 amendments).

So, has the industry improved?

In my opinion, not really. Individuals still do not understand their contractual obligations and therefore cut corners when administering their contracts. To prevent this, we need to start with the basics.

To begin, read the contract! Sound simple? That's because it is. The process is no different to knowing the rules of the game when playing sports. It is imperative that those administering or complying with the contract know the rules and their responsibilities. Often, even

with significant amounts of money involved, contracts are entered into without full consideration of the implications. Why? Honestly, I don't know. What I do know is that to make any inroad on reducing disputes we need to understand our contractual obligations.

'Mirroring' or 'reflective behaviour' is a catalyst for contractual issues, this is when one party is not administering the contract correctly and so the other adopts the same stance. It is again borne of not reading or understanding contractual obligations and reacting too late because, for example, 'we have always had a good working relationship'. Occasionally, contract administration is just not made a priority; this is a recipe for further problems which could be easily prevented.

Let's return to the sports analogy. When playing sports the rules are a requirement, you comply and carry on. I would argue this is necessary in construction. By knowing and complying with the rules (contract), we can eliminate the disputes that keep occurring. Most importantly, knowing the rules means a better chance of a fair game.

If we read the contract, understand our risks, opportunities and obligations, and utilise external consultants at the start of the process, we can decipher risks before commitments are made, give advice before signatures are applied and strive for less turbulence in our working lives.

Whilst Liverpool, again, become a force in football and the UK government continues to take on Europe, let's try and reduce disputes to the low level of air play those New Romantics get these days!



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