



Construction disputes arising from COVID-19

The potential for disputes in construction projects has risen sharply with the performance and enforcement of contracts directly impacted by COVID-19. Lockdown restrictions and consequent delays in the supply chain has led to related delays and losses.

In many cases projects have been suspended altogether. In others, smaller ancillary programmes of works may have been agreed to ensure progress does not stall altogether. However that in itself has paved the way for potential disputes with, for example, delays in the supply chain impacting the manner in which those works are delivered and/or ancillary programmes and re-sequenced works not being documented properly.

Many other issues may arise in the course of a construction contract and, more often than not, a failure to properly manage 'bite-sized' frustrations and issues at the outset can lead to larger, multi-faceted, costly disputes further down the line. An open and frank dialogue early on between the parties steered as a form of informal mediation/collaboration can quickly put an end to frustrations and disputes and lead the way for a successful, more cost-effective solution to any dispute that may arise, however big or small.

5 things to know about construction disputes



Review your existing contracts and carefully consider the effect of COVID-19 when negotiating new contracts



Act fairly and reasonably when administering contracts, bearing in mind the impact of COVID-19 for example, how might additional costs be shared; can works be re-sequenced or sectional completion added? Do you need an extension of time? Have relevant notices been properly issued?



Adopt a conciliatory approach to unfulfilled commitments – establish a dialogue. Reality test and optimise your position – weigh up the time and cost of an adversarial approach with the cost saving and benefit of a collaborative approach



Keep careful records. Carefully document any discussions/agreements e.g. if agreeing to suspend or vary works, carefully record any discussions and agreement



If agreement cannot be reached or looks unlikely, consider engaging the assistance of Ogier

5 things about Ogier's construction disputes team



Our property expertise goes beyond transactional work – we are specialists in planning, construction and environmental law, including health and safety requirements



We regularly advise developers and landowners, providing a clear, responsive and commercially minded service that enables clients to take advantage of opportunities and mitigate risks



We specialise in advising clients through the pre-application, application and appeals process, delivering targeted and pragmatic advice based in thorough and detailed knowledge of the law relating to property and planning in Jersey and Guernsey



We provide appeals advice and representation, and Health and Safety and environmental regulatory advice. We also advise on change of use applications on land and development, sales and lettings of large scale commercial and residential projects



Our property disputes team advises on insolvency issues, include construction disputes, lease dilapidations, planning appeals and realising security over real property



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