



The UK Experience
by
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Historical Experience

- Started in 1980's
- The presence of a DB clause “avoided” disputes
- DOM/1
- The Latham Report
- Dartford River Crossing & Channel Tunnel
- Statutory Adjudication

Historical Experience

The Channel Tunnel Group v Balfour Beatty 61BLR1

- Based on equivalent to FIDIC Red Book
- Panel of Three
- CTG commenced litigation
- Stay to Panel of Three
- If a reasonably clear ADR process Court will require the Parties to use it.

Historical Experience

Parsons Plastics (R&D) Ltd v Purac 2002 BLR 334

- Parties agreed to adjudicate a dispute
- Parsons won Purac refused to pay alleging a set off relating to further dispute.
- TCC and Court of Appeal refused to enforce Adjudicator's Award.

Current Trends

Swiss Supreme Court Case 4A_124/2014

- FIDIC
- Standing DAB not appointed
- Parties went to Arbitration
- Clause 20.8
- Court was not willing to require Parties to Adjudicate

Current Trends

Peterborough Borough Council -v- Enterprise Managed Services [2014] EWHC 3193

- FIDIC Contract
- Standing DAB not appointed
- PBC commenced legal proceedings
- Review of Clause 20.8 :

“I conclude that the Council has not made out a sufficient case for resisting a stay”

Current Trends

PT Perusahaan Gas Negara (Persero) TBK v CRW Joint Operation

- DAB Decision
- Arbitrators required compliance with DAB
- Court has enforced Arbitration Award

Current Trends

- Courts seem willing to require parties to follow the agreed process.
- Not so willing to enforce DB decisions that fall outside Statutory Adjudication

Current Trends

- London 2012
- TfL CAP
- FIDIC in the UK

My Experiences

- Chartered Construction Manager & Lawyer
- Since 1984 UK & Internationally
- UK Statutory Adjudicator since 1998
- Arbitrator and Mediator
- FIDIC President's List
- Sole DB's

My Experiences

To DRBF:

- Education of Users
- Sharing Best Practice
- Increasing the Pool
- Sole Standing Dispute Boards

My Experiences

To DB Members:

- Lonely
- Phone a Friend
- Added Value
- Communication
- My No 1 Tip



Questions

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