DISPUTE RESOLUTION SERVICE



RICS Conflict Avoidance Process for the rural sector - a user guide

RICS®

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This user guide is supplemented by the "RICS Conflict Avoidance Process for the Rural Sector: FAQs".

Definition of terms

CAP	The RICS Conflict Avoidance Process
CAP Panel	An RICS list of professionals with technical expertise and knowledge of the rural sector. An Impartial Professional Person appointed to an individual case will be drawn from the CAP Panel.
Impartial Professional Person (IPP)	The individual(s) (typically one or three) appointed to work with the parties, act inquisitorially and deliver a report with recommendations on how parties should proceed.
Recommendation Report	A fully reasoned written report prepared by the IPP and provided to all parties, which contains the IPP's conclusions and non-binding recommendations for resolution of issues in dispute
Recommendations	The Impartial Professional Person's non-binding proposals for resolving the issues in dispute, as set out in the Recommendation Report.
RICS	Royal Institution of Chartered Surveyors
Rural CAP	Rural Conflict Avoidance Process, a dispute management mechanism for the rural sector to help those in the rural property sector to avoid prolonged and damaging business-related disputes





Introduction

The RICS Conflict Avoidance Process for the Rural Sector (Rural CAP) is cost-saving mechanism for those in the rural property sector. It is a dispute management tool designed to prevent lengthy and damaging disputes between parties. Its aim is to address emerging issues early, avoiding more formal and adversarial proceedings, which can strain finances and damage business relationships.

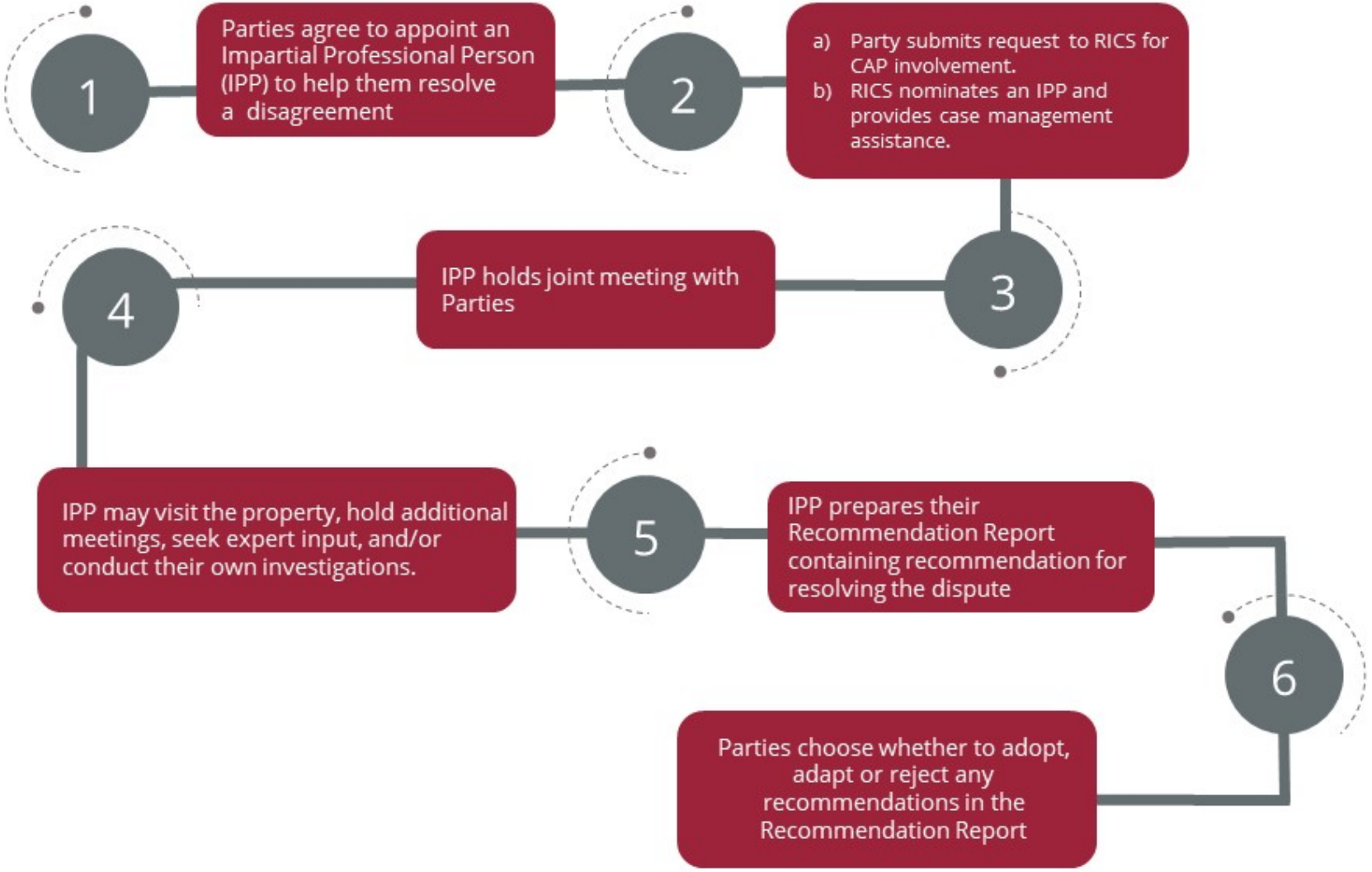
The process involves the introduction of an impartial professional (IPP) who is an expert in rural matters and an experienced dispute resolver. The IPP will work with the parties and prepare a CAP Report containing pragmatic recommendations to resolve the issue(s) in dispute.

The service is accessible to all who wish to use it including landlords, tenants, owner-occupiers, family members, and business partners.

Rural CAP can be applied to disputes at various stages, including those already advanced towards legal action. A key benefit of CAP is that it provides parties with an impartial risk analysis and assessment of how their matter is likely to be decided if it were referred to more formal, adversarial dispute resolution.

Rural CAP aligns with the recommendations of the Rock Review and is consistent with the Agricultural Landlord and Tenant Code of Practice for England, promoting a collaborative way to resolve disputes.

Conflict Avoidance Process for the Rural Sector



The CAP procedure

CAP is a flexible process and can be adapted to suit the needs of the parties. There is no "one size fits all" procedure.

This is an indication of how a typical referral to Rural CAP may progress.

Step 1 – A dispute emerges

Upon identifying an issue with the potential to escalate into a dispute, parties can agree to refer the matter to CAP and appoint an IPP to assist them in its resolution.

Parties can agree at any stage that they want to refer an emerging dispute to CAP. This can include disputes in their very early stages, or those already advanced towards legal action.

Step 2 – RICS appoints an IPP

I. To appoint an IPP, one of the parties should contact RICS, and complete a Rural CAP Application Form, copying in the other party.

II. If the one or both of the parties wish more than one IPP to be appointed, for example because they consider that there are multiple issues that require a wide range of expertise, they should indicate this on the application form.

III. Parties may have already agreed who they want to appoint as their IPP. In such cases, they should inform RICS of the identity of the preferred IPP and, subject to satisfactory completion of RICS diligence checks, RICS will appoint them.

If RICS identifies any problems with the qualifications or impartiality of the IPP proposed by the parties, RICS will discuss these with the parties and agree next steps.

IV. If parties cannot agree whom they want as their IPP, RICS will carefully select and appoint an appropriate IPP for them.

V. In all cases, RICS will only appoint an IPP if satisfied that they are

- free from conflicts of interest
- are qualified and experienced in the subject matter at the heart of the issue between the parties, and
- are available when the parties require them.

Note: Parties who have included CAP in their contracts will have worked with RICS to establish a 'IPP Panel'. The IPP Panel consists of professionals such as surveyors, lawyers, and other professionals, who possess the necessary technical expertise to address the potential issues that may arise. RICS and the parties will work together to create and agree this panel.

It is from the Panel that the IPP will be selected to handle an emerging disagreement. RICS will appoint their IPP from a register of technical experts who are all experienced and high-quality dispute resolvers.

Step 3 –The IPP's preliminary steps

Within five working days of appointment, the IPP will contact the parties and set out the basis on which they propose to proceed.

The IPP will normally invite the parties to:

- Elaborate further on the nature of the issues between them
- Participate in a joint initial meeting. Typically, this meeting will occur within two weeks of the IPP's appointment
- Agree the fees to be charged by the IPP where those differ from the CAP standard costs schedule
- At least one week before the initial meeting, the parties will
    - inform each other and the IPP as to who will attend the meeting with them.
    - share with each other and the IPP any documents they deem necessary to clarify the issues.

The IPP and parties may agree to work on a 'documents only' basis if the issue(s) lend themselves to it.

When there is more than one IPP appointed, they will operate as a panel and will act collectively and collaboratively to make the CAP as effective and user-friendly for the parties as possible. Each IPP will be solely responsible for considering and making recommendations to the parties on the issues in respect of which they have been appointed and for their own report, and each IPP will be entitled to charge a fee in accordance with the CAP fee scale.

Step 4 – Parties' initial joint meeting with CAP Panel

During the initial joint meeting, which may be held online or in person, **the parties** will:

- Set out their understanding of the dispute
- Talk through the documents they have provided
- Work with the IPP to narrow and define the issues. This can also include excluding any issues from consideration by the IPP.

During the initial joint meeting, **the IPP** will:

- Help the parties to explore realistic options for settlement of some or all issues
- Determine whether any further lines of enquiry are necessary
- Identify any concessions that may require authorisation from individuals not present at the meeting
- Specify any additional documentation that may be required
- Decide whether the involvement of third parties or experts is required
- Establish an agenda and timetable for the remainder of the CAP process.
- Determine, if appropriate, who the representatives of the parties will be for subsequent stages of the CAP process.

Step 5 - After the initial joint meeting

After the initial joint meeting has taken place, the IPP may:

- Visit the relevant property, either alone or with parties and/or their representatives
- Hold joint or separate meetings with the parties to examine their positions and/or options for settlement
- Issue a 'statement of agreement' of any matters agreed by the parties
- Invite the parties to:
  - provide written explanations on identified issues
  - provide further documents
  - meet for further discussions
- Seek views of experts in the field
- Make their own enquiries or conduct investigations as they see fit.



Step 6 – The IPP's Recommendation Report

The IPP will prepare a recommendation report which will contain recommendations for resolving the issues between the parties.

The IPP will aim to complete the CAP process, including the delivery of recommendation(s) within one calendar month of the appointment date. If it becomes apparent that more time is needed, the parties will be asked to agree an extension to allow any phase of the CAP to be completed. This may include referring one or more matters to mediation or expert determination as may be agreed by the parties. Unless all parties agree, the IPP must conclude the CAP process within two calendar months of the appointment date.

The Recommendation Report will:

- be in writing and fully reasoned
- be delivered to the parties by the IPP at a face-to-face or virtual meeting.

The IPP will be entitled to payment of fees after delivering the Recommendation Report.

Step 7 - Implementing the Recommendation Report

The recommendations in the Recommendation Report will not be binding on the parties unless they agree otherwise.

Parties can choose whether to adopt, adapt or reject any recommendations in the Recommendation Report.

Parties may agree to implement the recommendations of the Recommendation Report in whole or in part.

Parties may use the recommendations in the Recommendation Report to negotiate a settlement on all or some of the issues between them. They can use the recommendations to assess the likely outcome of proceeding to formal, adversarial dispute resolution or litigation.

Step 8 – Agreeing with the Recommendation Report

If both Parties are satisfied with the recommendation(s) of the IPP as they stand, they can record and implement them in a contract between them.

In cases where the parties may value further clarity regarding the implementation of the recommendation(s), the parties may, either prior to or after the recommendation(s) are made, request guidance from the IPP on how the recommendation(s) should be implemented promptly and efficiently.

Once implemented, the recommendation(s) is/are contractually binding on the Parties.



Step 9 - Implementing the Recommendation Report

If either party decides it does not intend to comply with the recommendations, either in whole or in part, it will as part of the CAP procedure:

I. give notice to this effect to the other party within five working days of receipt of the Recommendation Report.

II. provide the other party with fully reasoned grounds, in writing, for not doing so within two weeks of receipt of the Recommendation Report.

In the event of the above, either party may:

a. Make suggestions for compromise, taking into account the recommendations in the Recommendation Report.

b. Propose that aspects be referred to the IPP for further advice and recommendations. If both parties agree that the matter should be referred to the IPP, then either (or both parties) will notify RICS and RICS will arrange for the IPP to resume the appointment.

c. Please note that the IPP can also act further in a mediative capacity to facilitate a negotiated settlement of issues, drawing on the recommendations in the Recommendation Report.

d. Make a “without prejudice” offer to settle based on the recommendations in the Recommendation Report, which offer will be admissible as to costs in arbitration or litigation.

e. Elect to leave the process altogether and to proceed to adjudication, arbitration or court.



*If both parties agree that the matter should be referred to the IPP, then either (or both parties) will notify RICS and RICS will arrange for the IPP to resume the appointment.

Costs

The IPP's fees (exclusive of VAT and expenses and disbursements reasonably incurred) will be capped as set out below:

Dispute value**	CAP Fee**
Up to £10,000	£2,500
£10,001 to £25,000	£3,000
£25,001 to £50,000	£4,000
£50,001 to £75,000	£5,000
£75,001 to £100,000	£6,000
Over £100,000	Negotiable

* When it is not reasonably possible to determine the "dispute value" of the issues that are being referred to CAP, the parties and the IPP will discuss and agree a suitable fee structure, which may or may not include a fee cap. The IPP must confirm the agreed fee structure and any fee cap that will apply in writing to the parties at an early stage of Step 3 of the CAP process.

Until such time as an IPP's fees have been agreed and confirmed in writing, the IPP must not proceed with the CAP. If it is not possible for an IPP's fees to be agreed, the IPP must inform the parties and RICS in writing that no agreement has been reached. RICS will try to resolve this with the parties and the IPP. If fees cannot be agreed, RICS will discuss with the parties if it is appropriate for the parties to request RICS to appoint a different IPP or to discontinue the CAP process.

** The scale of fees for the CAP set out in this section are capped amounts, they are not fixed fees.

The CAP fee does not include the RICS appointment fee which is currently **£195 + VAT.** This fee will be made directly to the RICS at time of application.

If the IPP charges an hourly rate, the maximum permissible hourly rate is determined by either the IPP's current contractual hourly rate or £300.00 per hour, whichever is greater. VAT (where applicable), as well as reasonable expenses and disbursements accrued during the CAP process, are chargeable in addition to the fee.

If any party withdraws from the CAP process, or if the parties settle the dispute before the IPP provides their report, the IPP will be entitled to fees for any work they have carried out prior to the settlement/withdrawal.

Unless agreed otherwise, each party will bear their own costs and will bear in equal shares the expenses of the IPP and the fees of RICS for making the appointment. The RICS application fee must be paid by the applicant party, but half may be recovered from the non-applicant party.

Delivering confidence

We are RICS. As a member-led chartered professional body working in the public interest, we uphold the highest technical and ethical standards. We inspire professionalism, advance knowledge and support our members across global markets to make an effective contribution for the benefit of society. We independently regulate our members in the management of land, real estate, construction and infrastructure. Our work with others supports their professional practice and pioneers a natural and built environment that is sustainable, resilient and inclusive for all.

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