



INTERNATIONAL
BUILDING
QUALITY CENTRE

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Good Practice Guidelines Regarding Dispute Resolution

Taming the wild world of
construction disputation

The Need

- Building disputes are problematic
 - Expensive
 - Time consuming
 - Commercial disputes
 - Undermine industry productivity and efficiency
 - Compromise the achievement of value for money
 - Residential disputes
 - Emotionally draining and damaging
 - Beyond the reach of many participants

The Philosophy

- Suitable for all types of disputes and projects
 - Major and minor projects
 - Large and small disputes
- Cross culture
- Suitable for all countries on the development spectrum
- Suitable for different legal landscapes

- Therefore
 - Simplicity
 - Flexibility

The Principles

- Principles 1 – The forum
 - Supporting Legislation
 - Generally open to the public
- Principle 2 – Adequately resourced
 - Avoid delays
 - Appropriate qualifications

The Principles

- Principle 3 – Respected members
- Principle 4 – Cost
 - Cost should not be a barrier
 - Administrative costs
 - Process costs

The Principles

- Principle 5 – Efficient processes
 - Pre issue
 - Initiation
 - Information exchange
 - Very limited discovery (civil law approach)
 - Case management
 - Evidence
 - Rules of evidence generally not to apply

The Principles

- Principle 6 – Experts
 - Not advocates
 - Practice notes
 - Tribunal engagement vs party engagement
 - Flexibility
 - Joint reports

The Principles

- Principle 7 – Appeals
 - Available
 - But very limited

The Principles

- Principle 8 – Process
 - Administrative and case management
 - Efficient
 - Short time frames
 - Target 120 days from issue to conclusion
 - Active mediation
 - Opinion expressed

The Principles

- Principle 9 – Early settlement encouraged
 - Short time frames
 - Early and active mediation
 - Trained personnel

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The views expressed in this paper are of the writer only and are not the views of any other body.

