Quigg Golden

Insight

ISSUE 51.1

RAISING THE BAR

FROM THE EXPERTS IN CONSTRUCTION & PROCUREMENT LAW

QuiggGolden.com

INSIGHT 51.1 IS HERE.

Welcome all, to the industry-renowned Insight magazine, from the experts in construction & procurement law, Quigg Golden.

Edition 51.1 is another enthralling read, with Claire McCarry providing an insight into adjudication, whilst Micheál O'Shea looks at the facts and figures of adjudication in Ireland. To accompany these, Quigg Golden will break down their successful adjudication process that has proved extremely effective for clients across the UK & Ireland. Get to know 'The People of Quigg Golden', familiarise yourself with the latest procurement updates from Harry King and check out the latest amendments to the Public Works Contracts from Claire Graydon and Ben Browne. Finally, James Sargeant discusses the critical topic of contract reviews.

This edition of Insight magazine, named '*Raising the Bar*', is a metaphorical reference to Quigg Golden's high-quality standards that we set ourselves and deliver on a regular basis for our clients in a range of industries. The adjacent page illustrates what our clients think of us, how we interact with them and most importantly, the results we deliver on a consistent basis. This is why clients keep coming back to us.

Should you wish to discuss any of the matters in this magazine, please contact the editor, Josh Bates at Josh.Bates@QuiggGolden.com

TABLE OF CONTENTS

Visit the Quigg Golden website at:
QuiggGolden.com

4.9/5 average rating on ReviewSolicitors

"I have always found them to be selflessly honest in their advice"

"As a repeat client, we cannot recommend Quigg Golden highly enough"

"We have used QG now for the last 10 years for sound and solid advice"

"Great to speak to guys who know the nuances of Construction Law, and the challenges of the real-world application of contractual relationships"

"QG advised us on the merits of proceeding to adjudication in a clear, concise, honest and professional manner. We dealt directly with James, Edward and Diana via meetings at offices or Zoom which were quick and easy to discuss individual points"

Our Services

- **Adjudication**
- **Arbitration**
- **Conciliation**
- **Contract Advice & Drafting**
- **Litigation**
- **Mediation**
- **Procurement Challenges**
- **Procurement Consultancy**
- **Training / Professional Development**

Sign up to our mailing list via the QR code to receive the latest Quigg Golden updates & follow us on our socials

AMENDMENTS TO THE PUBLIC WORKS CONTRACTS

Background
On 03 July 2023, a number of amendments to the Public Works Contracts were announced, which include:

- A new clause to limit Contractor's liability;
- Simplification of the price variation clause;
- Updates to Suitability Assessment Questionnaires; and
- Adoption of Building Information Modelling (*"BIM"*) and International Construction Management Standard (*"ICMS"*).

The new clauses for the Liability Cap and Price Variation apply to tenders received on or after 27 July 2023.

New limitation on Contractor's liability
Employers must now add a monetary amount (the *"Liability Cap"*) to the Form of Tender and Schedule. Where no monetary amount is added to the Schedule the Contractor's liability shall not be greater than the Contract Sum.

Section 2.2 of Guidance Note 2.3.5 provides detailed descriptions of the exclusions the Liability Cap is subject to.

Simplification of price variation clause
Clause PV1 which was based on the proven cost method e.g. invoice based calculations, has been removed from PW-CF1 to PW-CF5 and replaced with Clause 15. Clause 15 calculates adjustments to the Contract Sum on the basis of movements of the Central Statistics Office Wholesale Price Index for fuel and materials.

Fluctuations in the price of labour will no longer be calculated on the basis of the Consumer Price Index. Instead, any adjustments will be based on changes in the rates of sectoral employment orders made two years from the Designated Date.

Updates to Suitability Assessment Questionnaires (*"SAQs"*)
Similar to the amendments introduced to the SAQs for Service Providers last year, Amendments to SAQs QW1 to QW4 for Contractors have also been introduced. The objective of the revised SAQs is to:

- Improve user friendliness of the document suite;
- Reduce the administrative burden and volume of documents to be completed; and
- Facilitate delivery in digital format.

Simplification of price variation clause
Clause PV1 which was based on the proven cost method, e.g. invoice-based calculations, has been removed from PW-CF1 to PW-CF5 and replaced with Clause 15. Clause 15 calculates adjustments to the Contract Sum on the basis of movements of the Central Statistics Office Wholesale Price Index for fuel and materials.

Fluctuations in the price of labour will no longer be calculated on the basis of the Consumer Price Index. Instead, any adjustments will be based on changes in the rates of sectoral employment orders made two years from the Designated Date.

Claire Graydon
Senior Associate

Ben Browne
Junior Associate

Quigg Golden's Commentary
The introduction of Liability Caps for Contractors is welcomed. This amendment largely reflects some of the contractual practices now seen in the private sector. Any contract which can more efficiently allocate risk to Contractors should achieve better value for money.

The Price Variation amendments are likely to be welcomed by Contractors as material and fuel price increase claims can now be made without having to provide commercially sensitive information to the Employer, such as invoices and purchase orders. In addition, it is in neither of the party's interests for the Contractor to fall into financial difficulties, due to the Contractor being unable to claim for any price increases.

The changes to the SAQ structure will be welcomed by SMEs in particular as they lessen the administrative burden and Contractors can more easily rely on the resources of other entities.

It is estimated that approximately 37% of Ireland's carbon emissions are from the construction and built environment sector with 23% resulting from operational emissions and the remaining 14% coming from embodied carbon[1]. Ireland has yet to introduce any regulations governing embodied carbon, so the introduction of ICMS and BIM to improve its measuring is a step in the right direction to achieving Ireland's ambitious goal of a 100% reduction in net zero greenhouse gas emissions by 2050.

The PWC typically has a negative perception among the construction industry. However, its recent amendments are welcomed and will hopefully improve its reputation by bringing the PWCs more in line with the contractual practices used in the private sector whilst greatly assisting with Ireland's climate action goals.

THE PEOPLE OF QUIGG GOLDEN

Our practice comprises of engineers, quantity surveyors, lawyers and non-practising barristers. Most of our team are dual qualified, with hands on experience in construction. Our holistic approach gives us the experience and expertise required to provide advice in a practical and commercially focused manner that consistently delivers excellence for our clients.

"Our purpose is to serve our clients and achieve their commercial objectives"

SINCE OUR LAST INSIGHT...

- Claire McCarry has been promoted to Director
- Dermot Durack has joined Quigg Golden as an Associate Director. Dermot brings with him over 25 years of construction experience and is 1 of 3 Quigg Golden employees that sit on the Members of the Construction Contracts Adjudication Panel in Ireland
- Micheál O'Shea and Nouman Qadir are both retained as Junior Associates, having both initially been part of the Quigg Golden 12-month Internship
- Colleen McNamee Joins Quigg Golden as Practice Manager

THE PROCUREMENT BILL

WHAT YOU NEED TO KNOW

The new UK Procurement Act 2023 (*"the Act"*) has received Royal Assent and is expected to come into effect in late 2024. The Act is intended to streamline procurement and increase flexibility, while promoting transparency and accountability. It will repeal the following regulations:

- The Public Contracts Regulations 2011;
- The Public Contracts Regulations 2015;
- The Utilities Contracts Regulations 2016; and
- The Concession Contracts Regulations 2016.

Here, we delve into some of the key changes.

Pipeline Notices and One Portal for all Opportunities

A new central digital portal is being established for contracting authorities to publish pipeline notices on upcoming public contracts with an estimated value greater than £2m. The intention behind this change is to make it simpler for businesses to anticipate / access upcoming contracts by greatly reducing the number of portals in use and having a *"one stop shop"* for opportunities.

Social Value and the Most Advantageous Tender

The Act requires that public authorities have regard to *"delivering value for money, maximising public benefit, sharing information and acting with integrity"*. While the words *"social value"* are not explicitly mentioned, the Act changes the award process from the *"Most Economically Advantageous Tender"* (MEAT) to the "Most Advantageous Tender" (MAT). The removal of the word *"economic"* marks a shift to a greater emphasis on social value and value for money, beyond the simple lowest price offering.

Procedures

The number of procurement procedures is to be reduced from seven to three. The single-stage Open Procedure will remain, as it is viewed as the most efficient procedure for simple procurements. A mechanism for direct award will also remain, allowing contracting authorities to directly award a contract where justified.

The remaining procedures will be effectively replaced by the new competitive flexible procedure, which will allow contracting authorities to design their own procurement process, including limiting the number of participants across multiple stages, or introducing negotiation stages. It should be possible to replicate existing procedures such as restricted, competitive dialogue or competitive procedure with negotiation using the new flexible procedure.

Transparency

Considerably more information will be published and managed under the new regime. The single portal will display information on pipelines, competitions, contract awards, evaluation summaries, payments, and key performance indicators. Effectively, there will be greatly increased oversight over both the tendering stage and post-contract stage, with the details of contracts and the supplier's performance being readily available.

KPI's will need to be drafted carefully and pragmatically, as poor performance against the KPIs set could result in sensitive information such as termination, awards of damages, and breaches of contract becoming a matter of public record.

Exclusions

A publicly available debarment list will display suppliers who have been excluded for serious offences. Poor contractual performance, improper behaviour and environmental misconduct will also be defined and established as grounds for exclusion, making it easier for suppliers to be excluded for poor performance of previous contracts. This combined with the additional transparency and reporting requirements, should force suppliers to ensure proper performance so as to avoid future exclusion.

Harry King
Junior Associate

Quigg Golden Comment

Suppliers and contracting authorities have concerns around the increased transparency and flexibility provided for in the Act. The publishing of KPIs and other sensitive information, and uncertainty around the level of flexibility in the new procurement processes, may create risk that could deter some suppliers from bidding for public contracts.

As the competitive flexible procedure will still allow contracting authorities to continue with the processes they currently use, it is advisable to maintain course and make incremental changes over time to ensure familiarity is retained and the contracting authority and contractors alike remain comfortable with the process.

Quigg Golden, with its expertise in the procurement process and contract drafting, is ideally placed to provide practical advice in a changing procurement market.

Quigg Golden

Adjudication *the Insight*

Claire McCarry
Director

If you need your money and the other side are not paying you without good reason, adjudication is the place to go. But there are some key points to consider.

What is adjudication?

Adjudication is a dispute resolution process for construction contracts. An independent party is appointed to act as the Adjudicator. Often adjudicators are professionals such as engineers and quantity surveyors or construction lawyers. The aim is that the Adjudicator will decide the dispute within 28 days of it being referred. But there are key steps:

- The dispute must have crystallised – one party must have made a claim that the other side has rejected. A classic would be you have claimed payment and the payer has not paid it.
- The aggrieved party serves a *"notice of intention"* to refer the dispute to adjudication – you need to get this right. If the notice is not done correctly, you can run into all sorts of problems.
- Then you need to get the Adjudicator appointed. The contract might stipulate who to use, if not then there are adjudicator nominating bodies such as the Royal Institution of Chartered Surveyors (*"RICS"*) or the Institute of Civil Engineers (*"ICE"*).
- Then it's over to the Adjudicator. The Adjudicator will set the procedure and aims to reach a decision on the dispute within 28 days of its referral. There may be several submissions allowed by the parties during that time. Often the decision is reached based on these paper submissions only.
- The adjudication roller coaster can have several twists and dives, but it has proven itself in the UK and NI to be a successful and reputable dispute resolution procedure that has the support of the Court. Adjudication in the Republic of Ireland differs in some ways but it is predominantly the same and we are already seeing great support from the Courts in that jurisdiction as well.

Pay now, argue later

The Adjudicator's decision is interim binding – meaning that it is not absolutely final and conclusive, it is open to be superseded by a subsequent decision in arbitration or litigation proceedings. However, the vast majority of the time, the adjudication decision settles the matter.

The successful party is entitled to enforce the Adjudicator's decision. The unsuccessful party must pay, even if it is likely to be overturned later. So, the principle is *"pay now, argue later"*. If the payer does not pay, the courts are very reluctant to prevent enforcement.

The *"pay now, argue later"* mechanism means that adjudication is effective in protecting cash-flow. Adjudication was designed this way to provide a quick process which is cheaper and more accessible than litigation or arbitration – this helps to keep the contract period running and makes sure the parties are paid right.

When can you adjudicate?

Under UK legislation, parties have a statutory right to refer a dispute arising from a construction contract to adjudication 'at any time' – even if your construction contract does not include any provisions for dispute resolution procedures you can still refer your dispute to adjudication. The right to refer 'at any time' has been interpreted plainly and literally by the courts. For example, contractual agreements such as escalation clauses, which provide for a pre-adjudication procedure, cannot postpone or limit adjudication time frames. Even where the contract has been discharged, adjudication will be allowed to proceed. Under Irish legislation the dispute must relate to payment, but most can be related back to money in some way!

When should you adjudicate?

It is important to know what disputes are worth pursuing. So do speak to us about when it is appropriate (or less so). The amount you are claiming matters. So does the complexity of the issues and how good your evidence is. You should always think it through before starting into an adjudication process. The adjudication process differs from that of conciliation and mediation as each of these require a consensual approach. Instead, adjudication requires only the unilateral choice of one party to the construction contract. The other party must comply as adjudication is a statutory right in both the UK and Ireland.

It usually better to avoid any form of formal dispute resolution. So, have you attempted to negotiate on the dispute? You might be able to mediate or conciliate. These might be better options. Check that adjudication is the most suitable procedure to resolve the dispute. We can provide advice on the right path. If adjudication is appropriate then counter-claims, costs and commercial relationships should all be considered.

Things to note

- Consider all potential jurisdictional points.

- Follow the right procedure to appoint an adjudicator and adhere to the correct timings.

- Bear in mind the Adjudicator's job is to decide on the rights of the parties under the contract. They will decide the case (usually) on what is put forward by the parties. An adjudicator will not make a case for the parties. So, you need to be able to explain your case clearly and substantiate it.

- If you are the payer, be ready! A claimant can come at you at any time. Do not allow matters to fester.

So, what really matters in an adjudication? - Records, records, records!

The side with the best evidence wins. Preparation is key and should begin as soon as possible. Far too often parties fail to understand the importance of records – this includes payment records, labour allocation sheets, meeting minutes, site diaries and photographs, emails, programmes and more. A general rule of thumb – record everything.

Quigg Golden Comment

All in all, adjudication is a very powerful tool when used correctly. The processes of (a) commencing an adjudication; (b) responding to a notice of adjudication; and (c) challenging the enforcement of an adjudication decision are all actions which require strict adherence to the statutory provisions provided for in the Housing Grants, Construction and Regeneration Act 1996 and the Construction Contracts Act 2013 in the UK and Ireland respectively. Knowing when and how to use adjudication is fundamental to the process.

Quigg Golden is one of the market leaders in adjudication. We have been representing parties in adjudication since the process arrived in the UK over 25 years ago. We can assist you in understanding and maximising the benefits of this and many other procedures that help you sort out your problems as efficiently and painlessly as possible. Should you need any advice on adjudication, do not hesitate to contact us.

Quigg Golden's Adjudication Process

Adjudication is the most effective form of dispute resolution in the construction industry. A specialist expert can be appointed to decide a dispute within a period of just 28 days. Here is an insight into our process:

Stage	Description
Initial briefing meeting	We will set up a meeting and decide on your options. After having reviewed the contract and nature of the dispute, we may consider adjudication to be the most appropriate course of action.
Case Theory drafted and Risk Assessment issued	This is an objective overview that sets out the strengths and weaknesses of your case as well as making you aware of the risks of proceeding to adjudication. If you proceed to adjudication, you will be fully aware of our expected fees and timelines.
Referral Notice drafted and issued to you	This will set out your full claim and this will be underpinned by legal arguments, caselaw, site records, experts' reports (when necessary) and witness statements. We will ensure the Referral Notice is drafted before any Notice of Adjudication is issued and we will always issue a draft of the Referral to you before we issue it to any external party. This will allow for any comments to be fully addressed.
Notice of Adjudication issued to the Responding Party	This is perhaps the most important document as the Adjudicator's jurisdiction will derive from this Notice. This is also the first time the Responding Party will become aware of the adjudication. If you receive a Notice of Adjudication, get in contact with us immediately. There will be significant time pressure to respond, and we will set up a same day meeting to address the content of the Notice and begin preparation for the defence of your claim.
We will request the appointment of an Adjudicator	The Adjudicator Nominating Body will be determined by the relevant contractual provisions and/or the geographical region of the dispute. Leading adjudicator nominating bodies such as the Royal Institute of Chartered Surveyors will have an adjudicator appointed within a maximum of 2 days following an appointment request.
The Adjudicator will be appointed	The Adjudicator will issue its terms and conditions and will set a timetable for submissions in the adjudication. Jurisdictional challenges are a standard part of a Responding Party's defence that are commonly issued after the Adjudicator is appointed and must be addressed. If a valid jurisdictional challenge is raised, the Adjudicator will be forced to resign.
The Referral Notice will be issued	Under the statutory schemes in Northern Ireland, Scotland and England & Wales, the Referral Notice must be issued within 7 days of the Notice of Adjudication being issued. In Ireland, the Referral Notice must be issued within 7 days of the Adjudicator's appointment being made. Under all the abovementioned statutory schemes, the Adjudicator's decision must be issued 28 days after the Referral Notice is issued. The Referral Notice is generally the largest submission made by the Referring Party.
The Responding Party will then issue a Response to the Referral Notice	This is the first time the Responding Party's position will become fully apparent. At this stage, a number of new arguments (and counter claims) may be presented along with detailed records that the Referring Party may have never seen before. We will have a short period of time (normally less than one week) to respond to this submission. We will schedule a meeting with the client on this date after reviewing the response and will create an action list whilst commencing drafting the reply to the response.
Further submissions will be made by both parties	The further an adjudication goes on, the shorter period there will be in between submissions but the timeframe for submissions is at the Adjudicator's discretion and will change on a case-by-case basis. After the first round of submissions it is expected that further submissions are limited to new material presented during the course of the adjudication. Any further submissions are at the discretion of the Adjudicator.
The Adjudicator's Decision will be issued	Under all the above-mentioned statutory schemes, the Decision must be issued within 28 days of the Referral being issued. This can be extended by two ways: (1) the Responding Party is entitled to extend the timeframe by 14 days - to a maximum of 42 days; and (2) beyond that, further extensions can be made, but this requires the agreement of both the Referring and the Responding Party.
We will undertake a review of the Decision and issue you with our recommended course of action	The majority of disputes end at the date the Adjudicator's decision has been issued. However, in adjudications of significant value, it is not uncommon for a Responding Party to refuse to pay the sums ordered and seek to resist the enforcement of a decision in court or, if the contract allows, have the dispute decided in arbitration. We have recently acted for clients in enforcement proceedings as seen in the case of *Advance JV & Ors v Enisca Ltd* [2022] EWHC 1152 (TCC) in which Quigg Golden enforced a £2,717,992.88 decision in favour of our client Enisca Ltd.

CONSTRUCTION ADJUDICATION IN IRELAND: THE FACTS AND FIGURES

Micheál O'Shea
Junior Associate

Introduction

The Seventh Annual Report of the Chairperson of the Construction Contracts Adjudication (*"the Report"*) was recently published by Mr Bernard Gogarty and it has provided some useful insight to the operation of the Construction Contracts Act 2013 (*"the Act"*) in Ireland.

The Act is a piece of statutory legislation that applies to construction contracts (as defined by the Act) entered into after 25 July 2016 and, amongst other things, it allows parties to a construction contract to commence adjudication *"at any time"*. The Act is the law in Ireland, it cannot be circumvented, and its primary purpose is to improve payment practices in the Irish construction industry.

The Report centres around adjudication appointments made by Mr Bernard Gogarty between the period of 26 July 2022 to 25 July 2023. In this period, 57 appointments were made. The key insights into these 57 appointments are as follows:

- 33 adjudications were commenced by a sub-contractor claiming against a main contractor. This was by far the most popular category. The second highest category (12) was main contractors commencing adjudications against private sector employers. 78% of all adjudications fall into these two categories.
- 30 adjudications related to final payment disputes, 26 to interim payment disputes and 2 to *"other"* (variations and termination) payment disputes.
- 21 adjudications had a disputed value of €100,001 - €500,000. The next leading categories were €30,001 - €50,000 (10), €500,001 - €1m (9), €50,001 - €100,000 (7), €10,001 - €30,000 (6), €1m - €5m (4) and €5,001 - €10,000 (1).
- In 30 of the 45 decisions issued the referring party was successful, 9 decisions ended with the referring party being partly successful and in only 6 decisions, the responding party was successful.
- 18 of the 45 decisions were issued within a period of 28 days followed by 16 of the decisions being issued within 42 days and 11 decisions issued within another timescale agreed by both parties.
- 28 of the 45 fees were below a value of €14,999 with the most popular category by far being the range of €5,000 to €9,999.

Adjudication in Ireland is still in its infancy stages (just 7 years old!) but the recent development of caselaw in the High Court continues to support the process. The key takeaway from this year's report is that adjudication is more complex than you think as only 66% of the referring parties were successful in the claims that they referred.

Adjudication is a fast and furious process. It takes more than just a claim document, and many perceive adjudication to be more difficult than litigation considering that pleading, advocacy, and evidence all needs complied into one document that is generally submitted online only. That is, in most cases, the parties will not speak to, or come face to face with the Adjudicator, so the dispute will be decided on what you write. So, good legal drafting (supported by solid site records) is the key to success in adjudication.

Should you be unsuccessful in an adjudication, you may; (1) be liable for the adjudicator's fees; (2) be ordered to pay a significant sum in favour of the responding party; and (3) be unable to adjudicate on the dispute again and will be required to go to arbitration and/or litigation (which are significantly more expensive and longer than adjudication) to have the dispute ultimately decided. To take full advantage of this effectiveness, parties must be able to fulfil both; the entitlement and the quantum burden of their claim.

Adjudication is the most effective form of dispute resolution available to companies within the Irish construction industry and it is still being underutilised. Main contractors and primary sub-contractors are taking advantage of their adjudication entitlement, however, there is still a hesitation from parties lower down the contractual chain to utilise adjudication. These are the parties that are often subjected to worsened payment practices and for whom cashflow is critical.

At Quigg Golden, we are involved in adjudication under the Act, on a regular basis both, as a party representative for referring and responding parties. We have conducted over 500 Adjudications ranging from the small (€20,000) to the large (€120 million) and are responsible for securing around €0.5 billion worth of successful outcomes for our clients over the years. We currently have four acting adjudicators in our staff (Edward Quigg, James Golden, Claire McCarry, and Dermot Durack), this allows us to adopt a holistic approach using our experience from all 3 sides of an adjudication process to ensure commercial recovery for our clients.

THE IMPORTANCE OF A CONTRACT REVIEW

James Sargeant | Associate Director

The contract is at the heart of every construction project. Prior to entering into the contract, the parties can spend weeks, or even months, negotiating the terms of the contract. When instructed to carry out a contract review, Quigg Golden check the terms to identify potential risks which are then highlighted and explained. This could include any unenforceable and/or unfair terms that seek to transfer an unreasonable amount of risk to the contractor.

What is the purpose of a contract review?

1. To enable clients to make informed decisions when they are negotiating and entering into agreements; and
2. To ensure the relevant persons know their obligations under the contract such as the timeframes within which notices must be served.

Why is a contract review important?

Construction is inherently risky. How that risk is allocated between the parties can often be a deciding factor in whether a project goes well or is a failure.

These risks arise not just from the wording/form of the contract, but also any omissions, and in the minutia of law. Seemingly unassuming wording or omissions can have significant cost implications further down the line.

Grey areas and uncertainty within contracts are a breeding ground for disputes. High risk and onerous clauses that were not identified prior to contract execution could have significant consequences affecting payment and/or claims for additional time and/or money under the contract.

Legal professionals who specialise in construction contracts and disputes have the experience to identify the risk(s) posed by clauses that might otherwise seem innocuous or inconsequential. By seeking professional contract review advice, and spending a relatively modest amount, contractors can manage the risk they are exposed to, and hopefully avoid an expensive dispute.

Payment

Payment is important for all businesses.

Heightened risks could include unusually long payment terms or impediments to receiving payment, including any condition precedents and/or time bars which could completely remove entitlement to payment unless certain terms are first complied with by the payee within a specified timeframe.

Change Management

Change management, and how change is dealt with by the parties is one of the most common causes of disputes. Change management includes claims for any extensions of time and additional payment (delay/disruption claims and/or variations).

Again, any condition precedents and time bars should be identified and, if necessary, negotiated out of the contract.

Liquidated and Ascertained Damages

It is important to understand how a LAD clause functions, what the purpose of these clauses are and how they can be negotiated to limit the risk to your company such as negotiating caps on liability.

Design Liability

Different forms of contract have their own way of allocating design risk between the parties. Typical examples of the transfer of additional design risk include:

- The Contractor assuming responsibility for any designs produced by the Employer / others;
- The Contractor assuming responsibility for any designs;
- The Contractor being responsible for ensuring that all designs conform with statutory requirements, and any subsequent changes to those statutory requirements (clauses such as this can have serious cost consequences, for example, cladding requirements post Grenfell); and
- *"Ground conditions"*.

Termination and Dispute Resolution

At contract negotiation stage, there is a tendency for little attention to be paid to termination and dispute resolution provisions. However, these provisions are extremely important, and can pose significant risk. For example, the contract could include a *"termination for convenience"* clause, which allows one of the parties (usually the Employer) to terminate the contract, without the need for the Contractor to have committed a breach and without there being any cost consequences i.e, the Contractor is prevented from bringing a claim for loss of profit on the remaining works.

What can Quigg Golden do for you?

When reviewing standard form and bespoke contracts, it takes a trained and experienced eye to identify all the above risks (and many more we have not mentioned for the sake of brevity). Quigg Golden have a dedicated contract review team (led by James Sargeant), with years of experience, who would be happy to discuss whether your contract could benefit from these services that we offer.

Quigg Golden

NETWORKING & EVENTS

Locations

London
London@QuiggGolden.com
+44 (0)20 7022 2192

Maidstone
Maidstone@QuiggGolden.com
+44 (0)16 2254 1700

Dublin
Dublin@QuiggGolden.com
+353 (0) 1 676 6744

Belfast
Belfast@QuiggGolden.com
+44 (0)28 9032 1022

QuiggGolden.com