

Avoiding disputes – practical tips

Disputes arising out of software development projects have unfortunately become increasingly common, as businesses have ever more complex IT needs with often a matrix of complicated contracts and relationships with various suppliers.

The eager adoption of new technologies by customers can have a significant impact on pre-existing agreements, and any new software or technology needs to be carefully considered and discussed with existing providers to ensure that any compatibility issues are addressed and resolved before the new technology goes live.

How do disputes arise?

As our [note](#) explains, there are varying methodologies used to manage software development. These can be difficult for customers to understand, but in order for the project to work effectively a certain level of understanding and engagement is essential for success and to avoid disputes arising during the course of the project. In our experience this is the cause of the majority of misunderstandings and disagreements in software projects.

Disputes can arise out of:

- Unrealistic pre-contract promises (over-selling).
- Underquoting on the part of the developer without considering the true cost of development.
- A disconnect between the developer and customer as to what was agreed in terms of deliverables and/or services.
- Misunderstandings on the part of the developer as to the customer's requirements.
- Poor project and/or service management.
- Scope creep and/or inadequate change management.
- Inadequate resourcing from the supplier and/or customer side.
- Inadequate co-operation from the customer.
- Inadequate involvement or buy-in from users
- Failure by the supplier to deal with issues promptly.
- Lack of effective communication between the parties.

Due diligence

A relatively simple preliminary step to take when considering entering into a software development project

(either as a developer or customer) is to undertake some due diligence on your counterparty. This will help avoid some of the more catastrophic ways in which a project can fail, such as a customer's inability to pay invoices or a developer being unable to resource or deliver the project due to financial difficulties.

Check the other party's credentials:

- Are they well established?
- Do they have a good reputation – can you obtain any recommendations or follow up on positive reviews?
- Do they have sufficient financial resources to cover their financial commitments?
- Where are their assets?

This information can be gleaned from simple searches on Companies House and credit checks, and more in depth information can be obtained from inspection of accounts, due diligence and even enquiry agents.

Top tip: a search at <http://www.companieshouse.gov.uk/> ('Find Information' tab, select 'Access WebCheck') is free, and will indicate whether a company's accounts are overdue. This can be a warning sign that a company may be in financial difficulty.

Practical ways to avoid disputes

Many of the types of disputes listed above can be avoided by ensuring there is clear and effective communication between members of the project team, and that good records are kept so that if things are disputed then evidence of meetings and other communications can be produced and referred to.

Make sure you:

Customer

- Know what you are buying and what will be delivered, at what price, and when.

- Understand the contract and all members of the customer project team engage and know what their role is.

- Ensure your chosen supplier has good credentials and experience of delivering projects within your particular industry.

Developer

- Are clear about what is being delivered, at what price, and when.

- Explain the technical aspects of the project adequately and that the key members of the customer team are supported.

- Any technical issues or slippage to the timetable or costs are communicated promptly and clearly to the customer so that they can quickly be resolved.

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