

Key Considerations for Developers, Employers and Contractors

Before seeking legal advice on a professional appointment, it is helpful to consider the following points and gather the relevant project information.

-  **The Consultant's Role and Scope of Services**
A clear understanding of exactly what the consultant is expected to deliver helps ensure the appointment properly defines their responsibilities and reduces the risk of gaps or overlaps between different members of the professional team.
-  **The Wider Project Structure**
Providing details of the building contract, other consultant appointments and the overall procurement structure allows your solicitor to ensure the appointment works effectively alongside the rest of the project documentation.
-  **The Required Standard of Care**
The appointment should establish an appropriate standard against which the consultant's performance will be assessed, taking account of their professional role and the requirements of the project.
-  **Planning and Conditionality**
Consider which matters need to be resolved before the project can proceed.
-  **Liability and Contractual Risk**
Consider whether there are proposed financial caps, exclusions of liability or other restrictions that could affect your ability to recover losses if the consultant fails to meet their contractual obligations.

Third-Party Requirements

Funders, purchasers, tenants and other parties may require collateral warranties, third-party rights or the ability to rely on the consultant's work, so these requirements should be identified as early as possible.

Assignment and Novation

Consider whether the benefit of the appointment may need to be transferred or whether the consultant could later be novated to another party, particularly where a project involves design and build procurement.

Programme and Appointment Status

Let your solicitor know whether services have already started and whether the appointment needs to be agreed urgently, as retrospective appointments can raise additional practical and contractual considerations.



Chester Office
Knights Court
1 Weaver Street
Chester, Cheshire
CH1 2BQ
01244 354 800



Liverpool Office
3rd Floor
No. 4 St Paul's Square
Liverpool
L3 9SJ
0151 321 0000