

Is a draft Final Statement final?

15 July 2026

Introduction

The decision in *Oakland Wantage Care Home Ltd v Stepnell Ltd*¹, handed down on 23 June 2026, dealt with clauses 4.24 and 1.8 of the JCT Design and Build Contract 2016 edition and, in particular, with the construction of a document purporting to be a Final Statement under clause 4.24, and the conclusivity effects that then follow under clause 1.8.

Sub-clause 4.24.6 provides that if either party gives notice disputing anything in the Final Statement, prior to the due date of the final payment, the conclusivity provision will not take effect. This notice route sits alongside a second, separate route under clause 1.8.2: proceedings (adjudication, arbitration or litigation) commenced within 28 days of issuance of the Final Statement will also suspend conclusivity, in respect of the matters those proceedings relate to.

The relevant case law

The relationship between these two routes was considered by the TCC in *CC Construction Ltd v Mincione*², under the equivalent 2011-edition wording (clause 4.12.6). HHJ Eyre QC held that the notice-of-dispute route and the proceedings route are alternative, not cumulative, means of avoiding conclusivity — a party need only do one or the other, not both. It follows that, absent proceedings, a valid notice under clause 4.24.6 given before the due date is, on its own, enough to keep the final account open.

Once the due date passes without either a valid notice or proceedings, clause 1.8 dictates that the Final Statement has effect as conclusive evidence of, among other things, all sums claimed by the Contractor in respect of loss and/or expense.

Background to the case of Oakland Wantage Care Home Ltd v Stepnell Ltd

In February 2022, following practical completion of the project and towards the end of the rectification period, the Contractor (Stepnell Ltd, “Stepnell”) submitted a draft Final Account Statement (“the 2022 Statement”), containing forecast figures, which was disputed by the Employer’s agent in March 2022.

Two years later, Stepnell submitted a further Final Account Statement (“the 2024 Statement”) against which neither a Final Payment Notice nor a Pay Less Notice was issued on behalf of the Employer, Oakland Wantage Care Home Ltd (“Oakland”).

An adjudication followed, in which it was decided that Stepnell was entitled to the sum due in its 2024 Statement. Oakland paid the sum decided and, in September 2025, sought declarations from the court under CPR Part 8, that: -

- i) the relevant statement pursuant to clause 4.24 (Final Statement) was the 2022 Statement, against which it had already given a notice disputing it; or
- ii) if, in the alternative, the 2024 Statement was the Final Statement, then Oakland had already given notice disputing the sums set out therein, by its March 2022 correspondence; and

¹ [2026] EWHC 1530 (TCC)

² [2021] EWHC 2502 (TCC)

iii) consequently, the 2024 Statement was not conclusive as to the sum due under clause 4.24 and Oakland was entitled to adjudicate or litigate in relation to the true value of Stepnell's final account.

The “reasonable recipient” test

In relation to Oakland's first argument, the judge considered the legal principles of construction of contractual notices, as summarised in the dicta of Joanna Smith J in *Advance JV v Enisca Limited* [2022] EWHC 1152 (TCC) (paraphrasing):

- i) the issue is how a reasonable recipient, in the same circumstances as the parties were, would have understood the notice;
- ii) the notice must be construed taking into account the contextual scene, including the recipient's assumed knowledge of the relevant contract;
- iii) the purpose of the notice will be relevant to its construction and validity;
- iv) the courts will be “unimpressed by nice points of textual analysis or arguments which seek to condemn the notice on an artificial or contrived basis”; and
- v) there is no principled reason for construing different kinds of payment notices differently.

The judge concluded that the 2022 Statement would not be regarded as being Stepnell's Final Statement by the “reasonable recipient”, given that:

- it was headed “Draft”;
- contained forecast information;
- it included figures which were, at that stage, an estimate; and
- it promised further information.

Conclusivity

As to Oakland's alternative argument that the sums contained in the 2024 Statement had already been disputed in its March 2022 correspondence (i.e. notice of dispute had already been given prior to the 2024 Statement due date), the judge examined the wording of sub-clause 4.24.6: in order to avoid conclusivity, the Employer was required to give notice disputing anything “in” the Final Statement. Thus, it was a precondition to the dispute notice that the Final Statement had been given first.

Therefore, the March 2022 correspondence, issued almost two years before the 2024 Statement, was not a notice pursuant to sub-clause 4.24.6.

On foot of the above findings, Oakland's relief sought was refused by the court.

Practical implications

For those pursuing final accounts, *Oakland* is a useful reminder to check two things before treating a sum as recoverable:

- First, is the document relied upon actually the Final Statement — or just a draft, forecast, or interim position dressed up as one? The *Mincione* case confirms an Employer only needs a notice of dispute or proceedings, not both, to keep the account open — so the real battleground is often whether a valid Final Statement exists at all.
- Second, does any dispute notice on file actually respond to the Final Statement being relied upon, or to an earlier draft that's since been superseded? An old objection doesn't travel forward. For claims built on stale correspondence or contested paper trails both questions are worth resolving before valuing the recovery.

For assistance in related matters, you can contact us at info@pronea.co.uk

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