

COMMERCIAL MANAGEMENT

Construction Law Competencies

To exhibit an understanding of contract and civil engineering construction law, to support and recommend appropriate strategies to other members of the construction team. This requires knowledge of contract documentation, standard forms of contract in common use, understanding of various forms of guarantee, production and settlement of contractual claims, the performance of advisory and administrative functions and a good knowledge of dispute resolution techniques.

Range Indicators

Competency will be demonstrated in the application of relevant knowledge, understanding and skills set out in the following construction law competencies. Such knowledge and skills will normally be obtained through a structured development scheme.

This area of specialism includes the following core areas:

- To be able to demonstrate knowledge of contract law in the context of construction.
- To be able to demonstrate knowledge and experience of contract structures and documentation.
- To be able to demonstrate a sound working knowledge of construction standard forms of contract.
- To be able to demonstrate understanding of guarantees, bonds, warranties and insurances.
- To be able to demonstrate an understanding of entitlement to, and preparation and negotiation of, contract claims.
- The ability to understand and use commercial management and administration skills.
- To be able to understand various types of dispute resolution.

Evidence Guide

Evidence of successful achievement of these competencies should be provided in the detailed CV, experience report and CPD records. They will be tested during the review interview.

Owing to varied areas of individual specialism, the candidate is expected to have achieved level "E" or above in at least 20 activities (that is 14 activities in addition to the 6 indicated in the construction law group of competencies CM43 to CM49).

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		CM 43	COMPETENCIES AND RANGE OF ELEMENTS				
		Competency	Demonstrate knowledge of contract law in the context of construction.				
	Reference	Optimum Standard	Activity Details	Date of Assessment			
				A	K	E	B
	A	K	Knowledge of appropriate contract law.				
	B	K	Latent defects and the statute of limitations.				
	C	K	Contract formation and letters of intent.				
	D	K	Supplemental agreements, heads of terms, memorandum of understanding.				
	E	K	Understanding the effects of final account statements and completion certificates.				
	F	K	Understand extensions of time, liquidation damages and penalties.				
		1 st Review	Supervisor's signature				
		2 nd Review	Supervisor's signature				
		3 rd Review	Supervisor's signature				

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		CM 44	COMPETENCIES AND RANGE OF ELEMENTS				
		Competency	Demonstrate knowledge and experience of contract structure and documentation.				
	Reference	Optimum Standard	Activity Details	Date of Assessment			
				A	K	E	B
	A	K	Understand tender documentation and the preparation of estimates.				
	B	K	Interpretation of contract documents, including specifications, preambles, drawings, technical reports and bills of quantities.				
	C	A	Allocation of risk within a contract.				
	D	E	Advising on contractual matters and preparation of documents and correspondence.				
	E	K	Levels of documentation precedence, dealing with ambiguity and conflicting information.				
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		CM 45	COMPETENCIES AND RANGE OF ELEMENTS				
		Competency	Demonstrate a sound working knowledge of construction standard forms of contract.				
	Reference	Optimum Standard	Activity Details	Date of Assessment			
				A	K	E	B
	A	K	Engineering and Construction Contract (options A-F).				
	B (I)	K	ICE conditions of contract (for UK projects).				
	B (II)	K	Standard forms in use in a territory, e.g. FIDIC (for non-UK projects).				
	C	K	Other standard forms and bespoke contracts including framework contracts.				
	D	K	Subcontracts.				
	E	K	Professional services contracts.				
	F	K	Amendments to standard forms of contract.				
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		CM 46	COMPETENCIES AND RANGE OF ELEMENTS				
		Competency	Demonstrate knowledge of construction programmes.				
	Reference	Optimum Standard	Activity Details	Date of Assessment			
				A	K	E	B
	A	K	Understanding of various types of construction programmes.				
	B	E	Use of programmes for planning the works and monitoring progress.				
	C	E	Use of programmes for preparation of extension of time and disruption claims.				
	D	K	Methodologies of prospective and retrospective programming and understanding of relevant case law.				
	E	A	Benchmarking and performance indicators (KPI).				
		1 st Review	Supervisor's signature				
		2 nd Review	Supervisor's signature				
		3 rd Review	Supervisor's signature				

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		CM 47	COMPETENCIES AND RANGE OF ELEMENTS				
		Competency	Demonstrate an understanding of guarantees, bonds, warranties and insurances.				
	Reference	Optimum Standard	Activity Details	Date of Assessment			
				A	K	E	B
	A	K	Understanding of the principles of indemnity and common types of insurance found in the construction industry.				
	B	K	Understanding of the principles and structure of performance, retention and advance payment bonds.				
	C	K	Understand the principles and structure of parent company guarantees.				
	D	K	Understand third party rights and the reasons for, and structure of, collateral warranties.				
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		CM 48	COMPETENCIES AND RANGE OF ELEMENTS				
		Competency	Demonstrate an understanding of entitlement to, and preparation and negotiation of, contract claims.				
	Reference	Optimum Standard	Activity Details	Date of Assessment			
				A	K	E	B
	A	E	Understanding of entitlement and principles of causation.				
	B	E	Be involved in the preparation and negotiation of delay and extension of time claims.				
	C	K	Understand the principles of disruption.				
	D	E	Involvement in the preparation and negotiation of quantum.				
	E	K	Understand contractual rights and obligations in respect of acceleration.				
	F	K	Global claims.				
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		CM 49	COMPETENCIES AND RANGE OF ELEMENTS				
		Competency	Understand various types of dispute resolution.				
				Date of Assessment			
	Reference	Optimum Standard	Activity Details	A	K	E	B
	A	K	Understand the principles of mediation, conciliation and third party determination relating to construction disputes.				
	B	K	Understand the process of adjudication relating to construction disputes.				
	C	K	Understand the concept of arbitration relating to construction disputes.				
	D	K	Understand the concept of litigation relating to construction disputes.				
	E	K	Understanding the use of expert evidence in all forms of dispute resolution.				
	F (I)	K	(For UK contracts) Understand the provisions of the <i>Housing Grants (Construction and Regeneration) Act 1999</i> .				
	F (II)	K	(For overseas contracts) Understand the relevant provisions relating to rights of action for non-payment.				
		1 st Review	Supervisor's signature				
		2 nd Review	Supervisor's signature				
		3 rd Review	Supervisor's signature				