

# Managing Contractual Risk [L5M3]

**Target Audience:** Provides senior buyers, contract and supply chain managers with the expertise to improve organisational procurement and to fulfil organisational objectives. It gives you the knowledge base to reduce cost, improve quality and timescales, manage the supply chain and deal with legal issues

**Hours:** 60 Hours

**Pre-requisite:** You will need to have achieved the CIPS Level 4 Diploma in Procurement and Supply.

## 1.0 Understand the legal and process issues relating to the formation of contracts

1.1 Identify the issues relating to the formation of contracts and the associated risks

- Offers
- Counter offers
- Acceptance
- Precedence of documents
- Contract change
- Contract variations

1.2 Analyse the implications of the various elements of contractual documentation and process on overall risk

- Indemnities and liabilities
- Insurances
- Guarantees
- Liquidated damages
- Payment
- Delivery and completion

## 2.0 Understand the impacts of breach of contract and coping strategies and provisions that are available

2.1 Analyse the different levels of breach of contract and their impact

- Minor breach

- Major breach
- Fundamental breach
- Anticipatory breach

## 2.2 Compare and contrast the tools and techniques

available to resolve a breach of contract

- Negotiation
- Mediation
- Conciliation and expert determination
- Adjudication
- Arbitration
- Litigation and legal implications
- Formal vs. informal action

## 2.3 Explain different organisational responses to a breach of contract

- Subcontracting
- Penalty clauses
- Reputational damage
- Claims management process

# 3.0 Understand the legal implications of contractual nonconformance in procurement and supply

## 3.1 Contrast remedies that apply to the non-performance of contracts in procurement and supply

- Contractual provisions on performance
- Clauses for default
- Penalties, liquidated damages and unliquidated damages
- Assessment of consequential loss
- Service credits
- Serving notices

## 3.2 Analyse the legal consequences of terminating a relationship in procurement and supply

- Assessment of damages
- Contractual warranties and conditions
- Specific performance
- Termination clauses

3.3 Compare mechanisms for dispute resolution for resolving conflicts in procurement and supply

- Mechanisms for dispute resolution such as:
- negotiation, alternative dispute resolution (ADR), adjudication, arbitration and litigation involving lawyers