**What are the legalities of a contract?**

This information sheet is designed to explain the key elements involved in making a contract. We will explore the fundamental concepts of offer, acceptance, intention to create legal relations and consideration. By the end of this activity, you will have a clearer understanding of how construction contracts are formed. Using real-world construction examples, such as agreements between a homeowner and a building company for building a home extension, we will examine how both parties commit to terms, the legal intention behind these agreements and the value exchanged (consideration).

# The basic elements of a contract

In order to have a valid contract, several elements must be present. These elements are **offer**, **acceptance**, **intention to create legal relations** and **consideration**. A contract does not necessarily have to be in writing, provided the elements listed below are present. However, a written contract evidences what has been agreed between the parties and is obviously preferable when dealing with disputes as to the arrangements between the parties.

The purpose of a building contract is to provide clarity, to provide a framework as to time, money and remedies, and to feature key issues agreed by both parties such as: a) quality and progress, b) programme, c) variations, d) damages/other remedies.

Health and safety is particularly important in construction contracts due to the high-risk nature of construction work, which often involves heavy machinery, hazardous materials and complex procedures. Including robust health and safety clauses in construction contracts serves several essential purposes:

* legal compliance;
* risk management and liability limitation;
* worker safety and welfare;
* project continuity and cost efficiency;
* reputation management.

Including detailed health and safety requirements in construction contracts is essential to protect lives, reduce risks, comply with the law and ensure the efficient and effective completion of construction projects.

## 1. Offer

An **offer** is a clear statement of the terms on which the offeror (the person making the offer) is prepared to be bound.

**Construction example:** A construction company offers to build a two-story extension on a homeowner’s property for £85,000. The offer includes details such as the timeline for the project, the materials to be used and the payment schedule.

## 2. Acceptance

**Acceptance** is an unqualified agreement to the terms of the offer. The acceptance must mirror the offer exactly, with no changes or conditions attached. If the terms of the offer are changed, this is considered a **counter-offer**, not acceptance.

**Construction example:** The homeowner agrees to the construction company’s terms and signs the contract, accepting the offer as is, with no changes or requests for further negotiation.

## 3. Intention to create legal relations

The parties involved must **intend** for their agreement to be legally binding. In most cases, contracts between businesses are presumed to have this intention unless otherwise stated.

**Construction example:** The construction company and the homeowner both sign a formal contract with the intent that their agreement will be legally enforceable. If one party does not follow through on their obligations, the other party can take legal action.

## 4. Consideration

**Consideration** refers to something of value that is exchanged between the parties. Each party must provide something of value in return for what the other party is providing.

**Construction example:** The homeowner agrees to pay the construction company £85,000 for the two-storey extension. This payment is the consideration the construction company receives for its services in building the extension.

It is particularly important in construction contracts to record what the parties have agreed should be covered by the contract, because householders frequently change their mind during the course of building works to their properties, as they see how things are unfolding, and have ideas about changes or extras that they may want.