

Assessment of Competence of duty holders engaged or appointed under the Management in Construction (Jersey) Regulations 2016



The Management in Construction (Jersey) Regulations 2016 (Construction Regulations) place an obligation on a number of duty holders to assess the competence of organisations and individuals engaged or appointed under the Regulations.

This information sheet is intended to provide general advice on carrying out such assessments of competence, as well as some more tailored advice on the assessment of key duty holders under the Regulations, namely Designers and Health and Safety Project Coordinators (HSPC).

Duty holders who are legally required to assess competence:

- **Commercial Clients:** have to assess the competence of all appointees
- **Designers (in the case of a domestic client):** have to assess the competence of all appointees
- **Health and Safety Project Coordinators (HSPCs):** have to assist a client with their duties
- **Principal Contractors:** have to assess the competence of all contractors
- **Contractors:** have to take reasonable steps to assess the competence of all contractors they engage and others engaged on the project
- **All persons engaged to carry out construction work:** must only carry out work they are competent to perform

Competence

Whilst there is no definition of 'competence' prescribed in health and safety legislation, it is generally described as **'the combination of training, skills, experience and knowledge that a person has, and their ability to apply them to perform a task safely'**.

The development of competence is an on-going process. Individuals will develop their competence through a combination of experience in the job and through 'life-long' training which includes refresher training or regular training updates through a pre-planned programme of learning.

To be competent to carry out a specific role, an organisation or individual must have:

- Sufficient knowledge of the specific tasks to be undertaken and the risks which the work will entail, and
- Sufficient experience and ability to carry out their duties in relation to the project; to recognise their limitations and take appropriate action in order to prevent harm to those carrying out construction work, or those affected by the work

It is essential that any assessments of competence focus on the **specific needs** of the particular project and be **proportionate** to the risks, size and complexity of the work.

Assessments of competence

Carrying out an assessment requires a judgement to be made as to whether an organisation or individual has the competence to carry out the work safely. This will involve the dutyholder making reasonable enquiries to satisfy themselves that the appointee is competent to do the relevant work and can allocate adequate resources to it.

What would constitute 'reasonable' enquiries will be proportionate to the complexity of the project and risks involved. If a judgement is considered reasonable, taking into account the evidence that has been asked for and provided, there would be no criticism if the appointee subsequently proves not to be competent to carry out the work.

Assessment of competence of organisations

Competence assessments of organisations should consider two key elements:

1. The company's organisation and arrangements for health and safety
2. The company's experience and track record

This does not necessarily mean that extensive paperwork is required. Small companies with less than 5 employees may not have a written health and safety policy, organisation and arrangements, but they still need to be able to demonstrate that their approach to health and safety management is adequate in relation to the type of work they do. Similarly, for smaller projects the level of detail required must be proportionate to the risks involved with the work.

Assessment of competence of individuals

As with organisations, assessing the competence of an individual should be a two-stage process:

1. An assessment of the individual's task knowledge to determine whether this is adequate to enable them to carry out the work safely (eg review the individual's qualifications and training)
2. An assessment of the individual's experience and track record to establish:
 - a. they are capable of doing the work
 - b. they recognise their limitations and how these should be overcome
 - c. they appreciate the risks from doing the work and how these should be controlled

Where the work is more complex than they have carried out before, or involves new risks, this should not automatically rule them out for consideration for the work. There should be, however, an appreciation of these circumstances, a demonstration of how they will be managed and an indication of how any shortcomings in current knowledge will be addressed.

Assessments of competence of individual designers

When carrying out an assessment for designers, membership of a relevant professional institution, for example CIBSE; ICE; IET; IMechE; IStructE; RIBA; RICS; CIAT; CIOB, is a strong indicator that a designer has the necessary task knowledge and an ability to recognise the health and safety implications of their design work. Membership of a relevant register administered by such an institution gives a more detailed indication that the individual has specific knowledge and experience.

Those who specify materials, equipment and standards of finish (for example interior designers) would also fall under the definition of a 'designer' under the Regulations, but may typically not be members of the above professional institutions. Relevant academic qualifications or evidence of past experience in the type of work involved can be used to provide an indication of competence.

Assessments of competence of individual Health and Safety Project Coordinators (HSPCs)

HSPCs need good inter-personal skills in order to encourage cooperation between the various duty holders involved with a major construction project. Whilst the Regulations require all those involved in a construction project to co-operate with each other, the HSPC has a specific duty to ensure it happens.

Co-operation facilitates good working relationships, clear communication and effective sharing of relevant information and is critical to the successful running of the project, but the specific arrangements should not be overly bureaucratic; they should be relevant and proportionate to the size and complexity of the work involved.

The level of knowledge and competence required by an HSPC will differ depending upon the nature of the risks involved, but needs to be relevant to the project and future use, maintenance, refurbishment or demolition of the structure. All HSPCs must have adequate competence across the following areas:

- health and safety in construction work
- the design process
- the importance of coordination of the design process and an ability to identify information which others will need to know about the design in order to carry out their work safely

HSPCs are not necessarily designers or somebody who undertakes any design work themselves, but they have a key role in ensuring that all those who do carry out design work on a project, particularly during the design phase, collaborate and pay adequate attention to their need to reduce risk wherever possible. The HPSC therefore needs sufficient knowledge of the design process in order to assess the health and safety implications of the design to enable them to hold meaningful discussions with designers, recognise when information about risks arising from the design needs to be passed on to others and participate fully in relevant design team meetings.

HSPCs also need to be able to advise clients about the competence of others, and be able to assess whether the construction phase plan prepared by the Principal Contractor is adequate for controlling the significant risks associated with the project.

Guidance on criteria which can be used to help assess competence

Core elements common to all	Examples of evidence
Health and Safety policy signed and dated by the Managing Director or equivalent	A signed, current copy of the company policy (indicating when it was last reviewed and by whose authority it is published) The policy should be relevant and proportionate to the nature and scale of work undertaken, and clearly set out the responsibilities and arrangements for health and safety management within the organisation.
The arrangements for carrying out risk assessments of significant risks and developing and implementing safe systems of work / method statements	Sample risk assessments and method statements relevant to the scope of work involved with the project
Training and information of employees	Evidence of a health and safety training culture including relevant headline training records (including refresher training), certificates of attendance, an active CPD programme (eg through toolbox talks) etc.

	Evidence of adequate employee training required by all construction workers such as asbestos awareness training, JSAT etc as well as the necessary technical qualifications and experience required for the tasks individuals will be required to undertake
Monitoring, audit and review	Evidence of recent monitoring, eg through audits or periodic site inspections and the management response
Accident reporting and enforcement action	Records of accidents and near-misses, plus confirmation of any action taken Details of any enforcement action taken by the Health and Safety Inspectorate over the past 5 years
Work experience	Examples of recent projects/ contracts undertaken to demonstrate relevant experience in the field of work being undertaken. Where there are significant shortfalls in previous experience, or risks associated with the project which the duty holder has not managed before, an explanation of how these shortcomings will be overcome must be included, eg by working under the supervision of another competent person
Designers	
Competence in hazard elimination and risk control	Samples of how risk was reduced through design, with the emphasis placed on practical measures which have been taken to reduce particular risks arising from a specific design, rather than lengthy procedural documentation highlighting generic risks
HSPCs	
Encouraging cooperation, coordination and communication between designers	Examples of how this has been achieved on past projects (these should be actual examples rather than generic procedures)
Adequate knowledge of the design and construction process	Attendance at an accredited HSPC course Membership of a relevant professional industry body
Adequate health and safety in construction knowledge	Accredited qualification in health and safety, eg NEBOSH Construction certificate