

The HSE places great emphasis on competence (Approved Code of Practice, L8, paragraphs 48 to 52). The LCA Code of Conduct also emphasises the need for employers to ensure that their staff and contractors are competent to carry out each task assigned to them (Service Provider Commitment 2. Training and Competence of Personnel). This guidance note provides information to help the Service Provider to understand competence and what to do to develop and assess it.

1. Service Provider's Duty

As an employer you have a duty to ensure that any person who carries out a task as part of their employment is competent. An employee in training must be supervised by a competent person until they can carry out their work effectively and safely. This duty extends to those who employ sub-contractors.

You must also be able to show that your organisation has done enough to reassure itself that any sub-contractors it has engaged are competent. This might involve assessing the sub-contractors' own competence assessment records, or in some cases, conducting your own assessment.

2. What is Competence?

Competence is defined as having the ability, knowledge, understanding and skill to complete a task successfully, effectively and safely. A competent person requires not only the ability to carry out and complete tasks effectively and to work safely alone and / or with others, but also the knowledge of their limitations, and for many tasks, the ability to communicate well, both verbally and in writing. Additional qualities that might be required for some tasks include the ability to work successfully, effectively and safely in unusual situations, and the ability to manage time efficiently and to meet deadlines without compromising safety.

3. What is the difference between Competence and Training?

Many companies consider that all they have to do is provide training to their staff in a classroom environment. This alone does not make someone competent.

The best approach to developing a person's competence is to:

- i) provide them with the theoretical knowledge and understanding by classroom training provided either in-house or by the appointment of an external training provider and by training on-the-job
- ii) provide details/copies of all relevant operating procedures and record keeping systems to be used and ensure they are understood
- iii) show them what to do and how to do it
- iv) let them practise the tasks under supervision
- v) provide constructive coaching and answer questions
- vi) check progress throughout by observation, discussion, questioning, etc.

In order to assess ability to carry out a task successfully, effectively and in a safe manner, and to assess ability to communicate well, practical 'on-the-job' assessment is essential.

4. Training and Competence Procedures

The LCA expects companies to have a procedure whereby each member of the team has comprehensive and appropriate training, which is recorded and regularly updated.

In addition to this, the LCA also expects companies to have a procedure for assessing an individual's competence whereby line managers (if suitably competent), or external assessors check the efficacy of the individual's work on site and maintain records to demonstrate that this has been done.

5. Guidance on how to conduct a Competence Assessment

The first step in assessing a person's competence is to define the elements required for the task being assessed.

The questions that need to be asked are:

- i) What knowledge and understanding is required to complete the task?
- ii) What operating procedures, forms, instructions, etc., are required?

- iii) What practical skills and abilities are required?
- iv) What are the criteria indicating the successful completion of each element of the task?

Once the elements have been defined, the next step is to conduct the competence assessment. Each element will have its own success criteria and the work done by the person being assessed will need to be measured against each success criterion. Having done this, it is vital to keep records to demonstrate that the assessment has been carried out and then to maintain and update these records to demonstrate that competence is being reviewed on a regular basis.

6. What records should be kept?

The records of competence assessments that should be kept might vary from task to task, but the following is an indication to give guidance:

- i) Who was assessed and their position in the company
- ii) Where were they assessed
- iii) Date of assessment
- iv) What task was being assessed
- v) The successful (or otherwise) completion of each step of the process against all identified knowledge, understanding and skill elements
- vi) An assessment conclusion, e.g., in the form of an assessment mark or level
- vii) Identification of any further training and/or skill development needs
- viii) The assessor's name and position and their signature
- ix) The signature of the person being assessed
- x) An indication of when the assessment is to be reviewed
- xi) The outcome of the assessment

7. How frequently should Competence Assessments be conducted?

i) Initial assessment

Each individual should have an initial competence assessment for each task they are required to complete. The initial assessment of competence should be completed before the operative takes responsibility for task completion. Initial assessment of competence should take place for any new employee and this may include an element of review of prior competence records in the case of an experienced new starter or a TUPE transfer where records are available.

Should it be found through competence assessment that an individual is below the competence standard required for the task, training and skills development should be implemented and the individual's competence re-assessed at the end of this programme. This process should be repeated until the individual's competence is consistently demonstrated.

ii) Reactive review

The competence of an individual should be automatically reviewed whenever

- They progress from requiring supervision to working unsupervised, to supervising or assessing others etc.
- There is a significant change to operating techniques or procedures or relevant published guidance or regulations
- An individual is assigned new tasks
- A complaint regarding the individual's work, attitude, etc. has been received
- There is reason to doubt the individual's competence

iii) Regular competence validity check

Once an individual is deemed competent for a task this should be formally validated at least annually to determine whether the basis of the previous assessment remains valid or whether a full re-assessment is required.

In stage 1 of a validity check process a knowledgeable supervisor / line manager should consider whether, since the original assessment or previous review, any of the points in **ii)** above apply.

In stage 2 of a validity check process a knowledgeable supervisor / line manager should consider evidence to support competence such as records of tasks completed and compliance with procedures, work activity audits and feedback from customers and more experienced colleagues. If this doesn't provide an adequate indication of the individual's competence, then a full reassessment of their competence should be carried out.

Provided the original competence assessment was correct and the outcome of stage 1 and 2 supports the assessment is still valid – the process should be recorded but no further action is needed.

If the outcome of stage 1 or stage 2 above shows the assessment is no longer valid then their competence should be re-assessed as above at **i)**.

The outcome and process of competence assessment, validity check and review should be documented.

An example of how a competence assessment validity check might be recorded is given at **Appendix A**. **NB** This template is for example purposes only and service providers may develop their own alternate system for recording competence validity checks (either manual or electronic).

8. Are there other ways in which individuals can demonstrate competence?

If you are a small company or sole trader wishing to demonstrate competence to your principal, you might consider approaching your customers. It is good practice to develop a habit of asking for references and testimonials. You should hold a portfolio of evidence that supports your competence when considered with records of qualifications, training, CPD seminars and examples of previous work output.

9. How should sub-contractors demonstrate competence?

Sub-contracting companies may be LCA members, in which case they should have the records of competence assessment and validation readily available as detailed above in 7. Any LCA member subcontracting to another LCA member should request the records of competence associated with the relevant tasks prior to employing the subcontractor.

Where subcontractors are not LCA members suitable evidence of competence should be sought. Members subcontracting legionella control services should satisfy themselves that their subcontractor has a suitable level of competence for the subcontracted tasks. This may mean that members employing subcontractors have to complete their own competence assessment of the relevant subcontractor staff and keep records as if they were a direct employee.

The legal duty to comply with relevant health and safety legislation (including avoidance or control of risk to exposure to Legionella bacteria) rests solely with the statutory dutyholder, being either the employer or the person in control of the premises or systems where any relevant risk is present, and this cannot be delegated. Specific functions (e.g. carrying out risk assessment) can be delegated and the Legionella Control Association (LCA) Code of Conduct is designed to help service providers, who also have duties under health and safety legislation, to establish appropriate management systems for the prevention or control of risk from Legionella bacteria. The LCA assesses the management systems of LCA members upon initial registration, reviews annually upon re-registration, and re-assesses by annual company audits. The LCA cannot and does not carry out other regular supervision of its members' commitments to the Code of Conduct nor their compliance with other LCA guidelines. A valid LCA certificate of registration (which is only valid if the Company named is listed on the LCA website www.legionellacontrol.org.uk/directory.php) confirms only that a service provider has satisfied LCA requirements at registration, re-registration and its most recent company audit. It does not confirm the service provider's actual or continuing compliance with their commitments to the LCA Code of Conduct and/or other LCA guidelines. The LCA does not approve specific products or services as being effective in controlling Legionella or verify the competence of service providers' staff and sub-contractors, which is the duty of the service provider and the statutory dutyholder. The LCA accepts no liability for any omission or any act carried out in reliance on the LCA Code of Conduct or other LCA guidelines, or any loss or damage resulting from non-compliance with such documents.

Appendix A

Competence Assessment Validity Check

This should be carried out annually by the employee's knowledgeable supervisor / line manager in discussion with the employee for each task/role the employee undertakes.

Employee: _____

Validator: _____

Task/role: _____

Date: _____

Location: _____

Since the last validity check or full competence assessment:

i) Has the individual progressed from requiring supervision to working unsupervised, or to supervising others, or assessing others etc. **Y/N**

Notes:

ii) Have there been significant changes to company operating methods or procedures associated with the Task/Role **Y/N**

Notes:

iii) Have there been significant changes to relevant published guidance or regulations associated with the Task/Role **Y/N**

Notes:

iv) Is the individual performing new tasks **Y/N**

Notes:

v) Has a complaint regarding the individual's work, attitude, etc. been received **Y/N**

Notes:

vi) Is there reason to doubt the individual's competence **Y/N**

Notes:

If the answer to any of the above questions is YES then a full review of the Competence Assessment for this task is indicated.

Appendix A - Continued

**DECLARATION to be signed by employee and validity checker
I agree with the conclusions and comments above.**

Employee Signature: _____

Print Name: _____

Title: _____

Date: _____

Validator Signature: _____

Title: _____

Print Name: _____

Date: _____

For and on behalf of: