The Construction (Design and Management) Regulations 2007: Industry Guidance

Annex A: Competence and training

Competency can be a complex subject: it often means different things to different people. However, the key aim of the Regulations is to exclude the incompetent from being engaged on construction work. The ACoP, together with this guidance, is designed to provide a simple, repeatable method for assessment: a baseline level of competence that will satisfy the law.

This guidance is concerned with corporate competence. Standards of individual competence for:

- contractors
- designers
- CDM co-ordinators

are covered in the respective duty holder guidance texts.

Corporate competence standards apply to organisations of any size, of any type (e.g. limited company, partnership, charity, local authority, trust) and when engaged in any of the duty holder roles.

This guidance is structured to follow Chapter 6 and Appendix 4 of the ACoP.

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Introduction

A constant thread running through Chapter 6 of the ACoP is proportionality:

assessing competency against the specific project on which the organisation is to be engaged.

This is right and appropriate. However, significant gains may be made by adopting a broader and longer term view in the assessment process, as will become apparent in this guidance. In making an assessment, it must also be remembered that small projects do not necessarily generate small (or low) risks.

Competence has been divided into two threads, for reasons of simplicity, which can be applied to both organisations and individuals:

- sufficient knowledge of the specific tasks to be undertaken and the risks which the work will entail
- 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.

The suggestions made in the ACoP are designed to achieve a consistent approach. This will significantly reduce the time spent by both engaging party and the engaged. (ACoP paras 190-195)

What you must do

It is a requirement on anyone appointing an organisation to make reasonable enquiries to check that they are 'competent to do the relevant work and can allocate adequate resources to it'.

However, there is also a reciprocal requirement, i.e. the organisation to be engaged must be satisfied that it has this requisite competency. One way of assessing compliance with this requirement, and that noted above, is by using the suggested approach given in this guidance as a benchmark.

How to demonstrate (corporate) competency

Although this section of the ACoP is written to assist others to assess your competence, it may also be used to assist you in providing the requisite evidence to demonstrate your competence or identify shortfalls, for which you can then implement corrective action.

Your organisation may act as a contractor, designer or CDM co-ordinator, or a combination of these duty holder roles. However, the test for corporate competency is largely the same (as it relates to policy, organisation and arrangements). Differences, depending upon the duty holder functions you undertake, only appear in a few selected places (described in Stage 1: Use of the core criteria).

CDM 2007 requires corporate competency to be demonstrated in respect of the specific project for which you are engaged. However, in practice it makes sense to set out evidence to demonstrate corporate competence across the full range of your business capabilities. In this manner much of the documentation assembled may be used on a repeat basis, subject only to periodic review. This is one of the potential advantages of the approach suggested in the ACoP and should lead to significant savings in time and effort.

The suggested approach is: (ACoP para 203)

Stage 1

Demonstration of your policy, organisation and arrangements. If this relates to the organisation overall it may be produced as generic evidence.

Stage 2

Demonstration of your experience. This will normally be project specific but (e.g. for term appointments) it should cover the hazard range and risk likely to be encountered.

A satisfactory demonstration of meeting Stage 1 and Stage 2 requirements indicates that you have adequate corporate competency in respect of CDM 2007.

The ACoP emphasises that lack of direct experience should not necessarily be a barrier to achieving corporate competency. In these circumstances you will need to demonstrate how your organisation can use its general capabilities to manage the hazards and risks not previously encountered in type or scale. This evidence should illustrate your knowledge of the likely issues and the means by which you would manage them.

Assessment schemes

The production of a standard package for Stage 1 will bring distinct advantages. However, organisations may consider that further advantage can be gained by joining an industry competency assessment scheme. Providing the scheme meets appropriate standards, those assessing your organisation should be able to take membership as evidence of satisfying Stage 1 (and Stage 2 if applicable). Such schemes should, as a minimum, include:

- the core criteria (see Stage 1: Use of the core criteria)
- periodic review of members' data (as this will need to reflect contemporary evidence)
- an external audit of the assessment procedures

ACoP para 207 makes reference to this route. (ACoP para 207)

The advantage of producing a standard package to reflect the Stage 1 (core criteria) include:

- repeat use of prepared data, when asked to demonstrate corporate competence, thus saving time
- advantage to the engaging party, or the CDM co-ordinator, as they will be assessing you against a recognised layout
- an audit of your own procedures.

Stage 1: Use of the core criteria (ACoP Appendix 4)

The core criteria, set out in Appendix 4 of the ACoP, apply to all organisations. However, the response offered should reflect the size of organisation and level of risks encountered. It does not require the production of unnecessary paperwork.

The core criteria are designed to allow an organisation to demonstrate, in a proportionate and consistent manner, that they comply with the requirements of the Health and safety at Work etc Act and the Management of Health and Safety at Work Regulations (i.e. they ask for no more than the law demands) and they are also sensible business measures.

It is not necessary to present any more data than that required under the core criteria in order to demonstrate the generic element of corporate competency. Engaging parties, or CDM co-ordinators acting on behalf of clients, requesting additional or varied data, can be referred to the ACoP and this guidance in support of this approach. However, the distinction needs to be drawn between those engaging parties which are asking for evidence of a higher (best practice) standard, which is acceptable and to be encouraged, and those which are asking for base information in a varied or inconsistent format, which is to be discouraged, and is the point made in paragraph 4.3.

The core criteria are not designed as a 'tick-box' approach to competency. On the contrary it is expected that practical evidence be produced to demonstrate compliance. Guidance to the use of Appendix 4 is given in Annex 1. It is not envisaged that all evidence necessarily be viewed by the assessing party. However, you should be prepared to allow access to the full range of information if requested.

If you are a small organisation you will not be expected to have the same type of evidence as a large organisation, although you do have to demonstrate compliance with all the items scheduled.

Organisations employing less than five persons do not have to record their arrangements and other procedures in writing. However, if you fall into this category you will have to find some way of explaining to the assessing party how you do comply. Although this can be done orally, or by observation, there are obvious advantages in a written record; this need not be lengthy.

Having appropriate arrangements, training programmes and clarity of responsibilities are good business practices notwithstanding the legal requirements.

There are some items within the core criteria where a deficiency could be accepted on the basis that the organisation is working to improve in that area, e.g. increasing the number of employees having the CSCS card or professional membership of an institution, and the organisation has provided an action plan to this effect. However, there are other items where a deficiency would result in a failure to be judged competent, e.g. absence of a policy, organisation or arrangements, or a lack of access to competent advice.

Your response to the core criteria will need to be revised from time to time so that the evidence provided remains contemporary.

Where selected examples are required, as a means of demonstrating compliance, it is expected that they reflect the standard overall.

Stage 2: Experience

Stage 2 is designed to determine whether an organisation has the experience necessary to eliminate hazards and reduce and control risks on a specific project (or a range of work, e.g. a framework agreement with a definable range and scale of hazards). It will normally be most effectively demonstrated by supplying the assessing party with the following in respect to previous work examples:

Contact details	Client or CDM co-ordinator. Names of key individuals, addresses and email addresses.
Project details	Type of construction, project value and dates. Any specific issues from a health and safety risk management perspective.
Role	(May be one or more of: Designer, principal contractor, contractor, CDM co-ordinator). Include sufficient detail to allow the actual project role to be assessed. You may wish to include specific examples to draw out the essence of the responsibilities.

An example of one such record might be:

Lilley Estates Corporation

Address:

Contact, email, telephone.

New office block 2004-05:

- piled foundations
- RC frame and slabs
- curtain walling
- £2.5 m
- tight urban site
- adjacent buildings requiring temporary support.

Structural designer

- Design of piles and basement in contaminated variable ground.
- Selection and scheme design of frame roof and slabs.
- Consideration of contamination effects upon piling options and overall environment.
- Discussion with frame pre-casters on delivery access.
- Temporary safe access to height during construction.
- Temporary stability issues.
- Determination of safe construction sequence.

Planning Supervisor

- Detailed discussions with client over necessary information for design team
- Chaired designer liaison group.
- Set up early information transfer system to allow design during construction period to be coordinated.

In seeking this data, information should be sought from the project contacts on the discharge of the duty holder's responsibilities under CDM (1994 or 2007, as appropriate). Although achieving budgets, meeting programme dates and a lack of cost/fee claims are traditional indicators to suitability, they do not in themselves necessarily indicate good health and safety risk management. The required evidence is intended to demonstrate adequate safety attitude and legal compliance, not best commercial practice or client relations.

The assessment of this data (by the engaging party or the CDM co-ordinator) will be based on professional judgement, remembering that the intent is to exclude the incompetent, not to identify the most competent

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ANNEX 1: Guidance to Appendix 4 of the ACoP

Item (from the ACoP)	Criteria (from the ACoP)	Commentary and evidence (the text in italics is from the ACoP)
1.	Health and safety policy and organisation for health and safety	 A signed, current copy of the company policy (indicating when it was last reviewed and by whose authority it is published). Guidance on writing company policies for health and safety can be found in HSE free leaflet INDG 259. 1.1 The policy should be clearly relevant to the business. It should have been signed by the MD (or equivalent) and have been reviewed within the last 12 months (or more recently if the organisation has been re-organised or taken over). 1.2 The organisation should show the overall management structure, key 'health and safety' related appointees and line of responsibility. Specific appointees will include: source of competent advice any director (or similar) with specific responsibility provision for first aid. 1.3 The management organogram should be accompanied by clear indication of health and safety duties at each key level. 1.4 Organisations with a number of construction sites or offices should indicate how lines of responsibility cater for this structure. 1.5 You may find it helpful to concentrate on the business as a whole in this Item and present your organisation for the project itself in item 5. 1.6 If you use INDG 259 (or similar standard approach), you should be able to demonstrate that you understand the issues and be able to relate these to your business. Evidence: Ordinarily all this information should be made available to those assessing your organisation.

Item (from the ACoP)	Criteria (from the ACoP)	Commentary and evidence (the text in italics is from the ACoP)
2.	Arrangements	A clear explanation of the arrangements which the company has made for putting its policy into effect and for discharging its duties under CDM 2007. Guidance on making arrangements for the management of health and safety can be found in HSE free leaflet INDG 259. 2.1 Your procedures should clearly set out the arrangements for achieving safe systems of work within your organisation. This should cover the general operation of the organisation (e.g. compliance with the Display Screen Regulations, emergency arrangements, lone working), and also in relation to construction work (design or construction). 2.2 The essence of these arrangements is that they should reflect an active safety regime and pragmatic safe systems of work. If generic arrangements are utilised there should be clear evidence that they are reviewed against the specific circumstances of the work situation. Evidence: Ordinarily, you will be expected to produce details of the structure of your arrangements and a selection of representative examples. The structure might be represented by an index or schedule, if you have a formalised procedure document. The examples should reflect actual situations rather than generic statements, be sufficient to demonstrate real application and accurately reflect the standard of other arrangements not presented in this assessment. However, you should be able to show the assessor the entire procedure if requested. If you are a small organisation your arrangements will be of a commensurate scale. However, you are still expected to have safe systems of work for all hazardous activities.
3.	Competent advice – corporate and construction related	 Name and competency details of the source of advice, e.g. a safety group, trade federation or consultant who provides health and safety information and advice. An example from the last 12 months of advice given and action taken. 3.1 Your source of competent advice should be suitable to your needs. It may be an individual or a company, remembering that the preference is for someone from within your organisation. 3.2 The details should include a detailed CV including qualifications, experience and demonstration of life-long learning (CPD) of the individuals concerned. 3.3 The 'example' should cover the general operational side of your business, e.g. office work, and also the specific area of design or construction, as appropriate.

Item (from the ACoP)	Criteria (from the ACoP)	Commentary and evidence (the text in italics is from the ACoP)
		Evidence: As noted in 3.2 and 3.3. This evidence will need to be updated on a regular basis and should demonstrate a pro-active, pragmatic approach. If the assessor has doubts on other aspects of the submission, (s)he may wish to talk to the competent person.
4.	Training and information	 Headline training records. Evidence of a H&S training culture including records, certificates of attendance and adequate H&S induction training for site based workforce. Evidence of an active CPD programme. Sample 'tool box talks'. 4.1 The key here is 'culture'. Your organisation should be able to demonstrate a culture of learning, which can be achieved in many ways and relies on employees recognising their responsibilities. 4.2 Senior management buying-in to the learning culture is essential and needs to be demonstrated. 4.3 An action plan may indicate a forward commitment. Evidence: The evidence you produce should demonstrate adequate involvement of senior staff, CPD/training and information flow in practical terms, e.g. involvement of senior staff: procedural examples, attendance at staff meetings, participation in learning activities training strategy: examples of derivation of personal needs, individual training programmes and evidence that these are being implemented. (For small organisations this can be demonstrated in a simple manner) demonstration of actual information flows: toolbox talks, lunch-time seminars, bulletin notes, newsletters, feedback dissemination, change controls, induction programmes (office and site). Ordinarily all this data will be required by the assessing organisation. It need not include individual certificates of training attendance unless requested or unless, for small organisations, this is the only written evidence.

Item (from the ACoP)	Criteria (from the ACoP)	Commentary and evidence (the text in italics is from the ACoP)
5.	Individual qualifications and experience	 Details of qualifications and/or experience of specific corporate post holders e.g. Board members, Health and Safety Advisor, etc. Other key roles should be named or identified and details of relevant qualifications and experience provided. 5.1 Although the ACoP text talks of project related data, it may be more convenient to illustrate details of project personnel separately (perhaps with Stage 2) and to concentrate on the business organisation in this section. This will allow Stage 1 to remain more of a generic statement. 5.2 The number of people for which details are provided will depend upon the size of the business and the nature of the project. It should be sufficient to cover the key positions when taking 'horizontal' and 'vertical' slices through the organisation (and project). 5.3 For substantial organisations a reasonable view needs to be taken as to the necessary quantum of data to be provided. FOR CONTRACTORS: Details of number/percentage of people engaged in the project who have passed a construction health and safety assessment, e.g. the ConstructionSkills touch screen test, or affiliated schemes, or the CCNSG equivalent. For site managers, details of any specific training such as the ConstructionSkills 'Site Management Safety Training Scheme' certificate or equivalent. For professionals, details of qualifications and/or professional institution membership. For site workers, details of any relevant qualifications or training such as S/NVQ certificates. Evidence: Qualifications and experience of relevant key figures in the organisation and, separately identifiable, for those proposed for the specific project (unless given elsewhere). This will include percentage attainment for operatives, supervisors, site managers/agents, contract directors, etc. in sufficient detail to give an adequate overall picture of the organisation and project, as appropriate. Details of planned progression with training/qualifications

Item (from the ACoP)	Criteria (from the ACoP)	Commentary and evidence (the text in italics is from the ACoP)
		FOR DESIGN ORGANISATIONS: Details of number/percentage of people engaged in the project who have passed a construction health and safety assessment, e.g. the ConstructionSkills touch screen test, or affiliated schemes, or the CCNSG equivalent.
		Details of any relevant qualifications and/or professional Institution membership and any other specific qualifications such as ICE construction H&S Register, NEBOSH Construction Certificate, APS Design Register.
		5.4 As for contractors, this should clearly demonstrate the position relating to the organisation and individuals for the project, unless given elsewhere.
		Evidence: Qualifications and experience of relevant key figures in the organisation and, separately identifiable, for those proposed for the specific project. This will include percentage attainment at all levels and in sufficient detail to give an adequate overall picture of the organisation and project, as appropriate. Details of planned progression with training/qualifications may also be given.
		FOR CDM CO-ORDINATORS: Details of number/percentage of people engaged in the project who have passed a construction health and safety assessment, e.g. the ConstructionSkills touch screen test, or affiliated schemes, or the CCNSG equivalent.
		Evidence of health and safety knowledge such as NEBOSH Construction Certificate.
		Details of Professional Institution membership and any other specific qualifications such as member of the co- ordinators register administered by the APS, ICE construction H&S register etc.
		Evidence of a clear commitment to training and the Continuing Professional Development of staff.
		5.5 This should relate to the organisation as a whole (which might be predominantly design or contractor led) and specifically for this project, unless given elsewhere.
		Evidence: Qualifications and experience of relevant key figures in the organisation and, separately identifiable, for those proposed for the specific project. This will include percentage attainment at all levels and in sufficient detail to give an adequate overall picture of the organisation and project, as appropriate. Details of planned progression with training/qualifications may also be given.

Item (from the ACoP)	Criteria (from the ACoP)	Commentary and evidence (the text in italics is from the ACoP)
6.	Monitoring, audit and review	 Could be through formal audit or discussions/reports to senior managers. Evidence of recent monitoring and management response. Copies of site inspection reports. 6.1 Depending upon the size of organisation this might vary from a simple record to a formal quality assured report. 6.2 The reports should demonstrate the items raised, the action taken as a consequence and how this is reviewed by senior management. 6.3 This item includes the monitoring of sub-contractors and sub-consultants. Evidence: Overall strategy and schedule of monitoring, audit and review with selective reports or similar. It is particularly important that the evidence demonstrates the action taken (with examples of senior management involvement). The line management responsibility for instigating and following through on audits, etc. should be clear.
7.	Workforce involvement	Evidence showing how consultation is carried out. Records of HS Meetings/Committees. Names of appointed safety representatives (trades union or other). For those employing <5, be able to describe how you consult with your employees to achieve the consultation required. 7.1 This applies to all organisations. (If no written record is available you will have to demonstrate this in some other way.) Evidence: Names of representatives (where applicable) and whether you operate under the Safety Committee and Safety Representatives Regulations 1977 or the Consultation with Employees Regulations 1996. Examples of actual workforce involvement.

Item (from the ACoP)	Criteria (from the ACoP)	Commentary and evidence (the text in italics is from the ACoP)
8.	Accident reporting and enforcement action; follow up investigation	Evidence showing the way in which you record and investigate accidents and incidents. Records of last 2 accidents/incidents and action taken to prevent recurrence. Records of any enforcement action taken over the last 5 years, and what action was taken to put matters right. (Information on enforcement taken by HSE over the last 5 years is available on the HSE website). For larger companies, simple statistics showing incidence rates of major injuries, over three-day injuries, reportable cases of ill-health and dangerous occurrences for the last three years. Records should include any incidents that occurred whilst the company traded under a different name, and any incidents that occur to direct employees or labour only subcontractors. 8.1 Although an adequate record system is necessary in order to demonstrate good management and timely reporting, the key to improvement is in the analysis of accidents and near-misses and the actions taken to avoid repetition. Evidence: As noted above from the ACoP, but also indicating appropriate involvement of Board and senior management.
9.	Sub-contracting/ consulting procedures (if applicable)	Evidence showing how you ensure sub-contractors are competent. Examples of sub-contractor assessments you have carried out. Evidence showing how you require similar standards of competence assessment from sub contractors. Evidence showing how you monitor sub-contractor performance. 9.1 Your assessment of others should match this process or be fully detailed if different. 9.2 The key here is an insistence on your sub-contractors/consultants assessing any further sub-contractors/consultants they employ, to at least the same standard as achieved through the Stage 1 and Stage 2 process outlined in this guidance. 9.3 For monitoring (of sub-contractors or sub-consultants) (see item 6). Evidence: As noted but: • declaration to cover 9.1 or details if different method used • extract from typical contract documents to illustrate 9.2.

Item (from the ACoP)	Criteria (from the ACoP)	Commentary and evidence (the text in italics is from the ACoP)
10.	Hazard elimination and risk control (designers only)	Evidence showing how you: Ensure co-operation and co-ordination of design work within the design team and with other designers/contractors; Ensure that hazards are eliminated and any remaining risks controlled; Ensure that any structure which will be used as a workplace will meet relevant requirements of the Workplace (Health Safety and Welfare) Regulations 1992. Examples showing how risk was reduced through design. A short summary of how changes to designs will be managed. (Note: The emphasis here should be on practical measures which reduce particular risks arising from the design, not on lengthy procedural documentation highlighting generic risks.) 10.1 As noted, the assessors will wish to see evidence of good, compliant practice in action. 10.2 On many projects some detailed designers (e.g. M&E, temporary works) will not be appointed until construction work commences. This requires robust procedures for co-operation and co-ordination and should be illustrated. 10.3 Hazard elimination, etc. examples should reflect the guidance given on this topic. Evidence: As noted.
11.	Risk assessment leading to a safe method of work (contractors only)	Evidence showing how the company will identify significant HS risks and how they will be controlled. Sample risk assessments/ safe systems of work/method statements. If you employ less than5 persons and do not have written arrangements, you should be able to describe how you achieve the above. And for ill health, which is expected to feature prominently: This will depend upon the nature of the work, but must reflect the importance of this risk area. 11.1 Standards of risk assessment and safe methods (systems) of work vary significantly. The intent here is to demonstrate suitable and sufficient procedures. 11.2 If you employ sub-contractors you will have responsibilities towards the sufficiency of their systems, etc. 11.3 Ill health has been singled out in order to reflect the importance of this aspect and its growing prominence in regulations.

Item (from the ACoP)	Criteria (from the ACoP)	Commentary and evidence (the text in italics is from the ACoP)
		 Sufficient extract from organisation procedures (or equivalent approach) to demonstrate how hazards are initially identified and risks mitigated. This evidence should include examples of monitoring, unless this is covered under item 6. Examples of a range of safe methods (systems) of work. These need to illustrate how the principles of prevention have been applied in their derivation. Examples of the above relating specifically to health issues. Include health surveillance examples if undertaken.
12.	Co-operating with others and co-ordinating your work with that of other contractors (contractors)	Evidence could include for sample risk assessments, procedural arrangements, project team meeting notes. Evidence of how the company co-ordinates its work with other trades. 12.1 Co-operation and co-ordination are key elements to successful health and safety risk management. 12.2 The evidence should include examples of actual co-operation measures, as well as intent. Evidence: As noted.
13.	Welfare provision (contractors)	 Evidence could include for example health and safety policy commitment; contracts with welfare facility providers; details of type of welfare facilities provided on previous projects. 13.1 CDM 2007 requires adequate welfare provision to be available at commencement of the construction phase. 13.2 All projects require adequate welfare to be provided. 13.3 Schedule 2 of CDM 2007 sets out the requirements. Evidence: Contemporary schedule of what has been provided (separately identifying toilets, rest rooms and washing facilities, as Schedule 2 of CDM 2007), a brief description of the project and the date it was provided in relation to the site commencement date. If temporary facilities were provided, indicate also the date at which these were replaced by the permanent facility. Statement of organisation policy regarding maintenance, provision of consumables, etc. If you are a sub-contractor, relying on shared facilities, a statement of your policy to ensure adequate provision by others, before your employees commence on site.

Annex A

Item (from the ACoP)	Criteria (from the ACoP)	Commentary and evidence (the text in italics is from the ACoP)
14.	CDM co-ordinator's duties (CDM co-ordinators)	The evidence should be in the form of actual examples rather than by generic procedures. 14.1 This relates to corporate procedures and processes. Individual competence is covered in item 5. Evidence: Contents listing of any corporate procedure, examples (minutes, notes) of interaction with designers and clients and internal reviews.