



'COMPETENCE' IN HEALTH & SAFETY

VERSION NUMBER: 1.1

DATE OF REVISION: 20 SEPTEMBER 2004

DATE OF ISSUE: 5 APRIL 2004

This Procedure covers:

- **appointment of advisers in specific areas**
- **terms of reference for such advisers**
- **specific requirements for expertise or qualification under legislation**
- **training requirements for management, advisers and all NERC staff.**

INTRODUCTION

The concept of "competence" is inherent in all safety legislation and regulations, though few specifically refer to the need for "competent persons". There is no definition of competence in most regulations. The onus is on employers to define competence against the activities managed for Health & Safety within their organisation.

The aim of this Procedure is to make such definitions, in practical terms, for activities conducted within the Natural Environment Research Council by its staff or by casual employees, visitors, contractors or students on its premises.

In most circumstances, competent persons are appointed to specific areas of responsibility. Competence will be defined as:

- **training, qualification or experience required against ...**
- **terms of reference defining areas of responsibility**
- **the use of teams to develop and demonstrate competence**

Competence is also discussed as a 'common sense' term in relation to Health & Safety management.

It is important that all persons appointed should know and operate within the limits of their own competence.

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Management involvement: It is the responsibility of senior managers to ensure that they have completed the IOSH-accredited training course in Health & Safety required by NERC policy ([Appendix II](#)), and that managers of Divisions, Sections and Groups under their control have been similarly and appropriately trained.

It is also their responsibility to appoint advisers on aspects of Health & Safety as required by the **Management of Health & Safety at Work Regulations (1999)** – [Appendix I](#) to this Procedure. Policy on appointment of advisers, and their specific roles, is presented in [Appendix III](#).

Where work is being conducted on electrical installations, management **must** ensure that contractors or NERC staff meet the requirements for **competent persons** defined under the **Electricity at Work Regulations (1989)**– [Appendix I](#) to this Procedure.

Where work is being conducted on pressure systems, and for the required annual inspections of such systems, management **must** ensure that contractors or inspectors meet the requirements for **competent persons** defined under the **Pressure Systems Safety Regulations (2000)** – [Appendix I](#) to this Procedure.

For small scale contracts, management **must** ensure that the competence requirements of the **Construction (Design and Management) Regulations (1994)** are met. For large scale contracts, NERC Estates Management staff will make such provisions in the course of setting up the contract. See [NERC Health & Safety Procedure Number 13: Management of Contractors](#) for further guidance.

The **Noise at Work Regulations (1989)** require the appointment of a competent person. For guidance on these regulations see [NERC Health & Safety Procedure Number 27: Noise](#).

Where lifting equipment and lifting operations fall within the remit of the **Lifting Operations and Lifting Equipment Regulations (1998)**, the “thorough examination and inspection” of equipment requires the employment of competent person(s) – [Appendix I](#) to this Procedure.

Under the **Ionising Radiation Regulations (1999)** NERC, or local management, have appointed a **Radiation Protection Adviser**. If work is undertaken in this area, local management must appoint a **Radiation Protection Supervisor (RPS)** to liaise with the **Radiation Protection Adviser** and advise staff on the use of radioactive materials. The RPS must complete a relevant training course. A NERC Procedure will be produced to cover work with radioactive materials.

A NERC Procedure covering the role of **Biological Safety Advisers** and the use of genetically modified organisms will be produced in future; any sites contemplating work in this area should contact the NERC Safety Adviser for guidance.

Specific requirements on competency on board ship are covered in the marine legislation but are not covered in this Procedure; advice on the marine legislation can be obtained from RSU <http://www.researchshipunit.com/>.

A range of other work requires staff to be specifically trained and to hold certificates of competence; examples include: spraying of pesticides, operation of cranes and derricks, carriage of dangerous goods, use of explosives, towing of trailers, use of agricultural machinery, driving of forklift trucks, mast work, diving etc. Management must ensure that such certificates are held and kept up to date. Records are required. In other areas of work, management should ensure that those staff responsible for safety advice, risk assessment, the production of Safe Systems of Work etc. have the knowledge and experience required for the task. Whilst there is no specific legislation or regulation covering these other areas, a **common sense definition of competence** ([Appendix IV](#)) should be applied to such tasks.

Authorisation: Appointments to positions of competence **must be in writing** and must be accompanied by appropriate **defined roles and responsibilities** ([Appendix III](#)). Appropriate training ([Appendix II](#)) must be arranged and completed satisfactorily.

Performance: Performance assessment and the identification of further training requirements should be conducted for staff appointed as **competent persons** on an annual basis along with appraisal of other aspects of their work.



Staff Safety Representatives

Management must make provision for staff involvement in safety management. There is a legal requirement under the **Regulations on Safety Representatives and Safety Committees (1977)** as amended by the **Management of Health & Safety at Work Regulations (1992,1999)** and the **Health & Safety (Consultation with Employees) Regulations (1996)** to set up Safety Committees. Safety Representatives have the right to:

- investigate potential hazards and dangerous occurrences in the workplace
- investigate complaints by employees
- make representations to management on safety issues
- inspect the premises
- receive information from Inspectors
- take time off to carry out their duties (with full pay)
- training
- facilities and cooperation of management in their role.

NERC would expect that Safety Representatives will take advantage of training opportunities provided by their Trade Unions, the TUC and the Research Council.

Managers must ensure that staff (particularly junior staff and students) feel secure in questioning safety systems and decisions. The staff safety representative has a crucial role in passing on worries to management where staff are reluctant to do so themselves. Trades Unions in NERC have agreed to represent all staff (members and non-members) where safety is concerned.

Safety Committees will operate throughout NERC at all levels as agreed by local and central management and staff representatives.

Safety Teams and their operation

The average science project might require knowledge of as many regulations as the average small to medium size enterprise. The only way to deal with such complexity is through management systems and team work.

A team will often involve

- *Line management*
- *Local administration*
- *Local and Research Centre adviser(s)*
- *Local technical and scientific know how*
- *Technical expertise sought from outside*
- *Trainers (internal or external)*

Teams require

- *Clear definition of areas of responsibility*
- *Leadership*
- *The necessary technical expertise*
- *Common purpose*
- *Ownership of the safety systems*
- *Safety culture*

.....to operate effectively.

There is a fundamental requirement to involve both management and staff in the development of agreed Safe Systems of Work.



- [Management of Health & Safety at Work Regulations \(1999\)](#)
- [Electricity at Work Regulations \(1989\)](#)
- [Pressure Systems Safety Regulations \(2000\)](#)
- [Lifting Operations and Lifting Equipment Regulations \(1998\)](#)

Management of Health & Safety at Work Regulations (1999) ACoP

46. Employers are solely responsible for ensuring that those they appoint to assist them with Health & Safety measures are competent to carry out the tasks they are assigned and given adequate information and support. In making decisions on who to appoint, employers themselves need to know and understand the work involved, the principles of risk assessment and prevention, and current legislation and Health & Safety standards. Employers should ensure that anyone they appoint is capable of applying the above to whatever task they are assigned.

47. Employers must have access to competent help in applying the provisions of Health & Safety law, including these regulations. In particular, they need competent help in devising and applying protective measures, unless they are competent to undertake the measures without assistance. Appointment of competent people for this purpose should be included among the Health & Safety arrangements recorded under **regulation 5(2)**. Employers are required by the **Safety Representatives and Safety Committee Regulations (1977)** to consult safety representatives in good time on arrangements for the appointment of competent persons.

48. In some circumstances, a combination of internal and external competence might be appropriate, recognising the limitations of internal competence.

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50. The appointment of such Health & Safety assistants or advisers does not absolve the employer from responsibilities for Health & Safety under the **Health and Safety at Work Act 1974** and other relevant statutory provisions under the **Fire Precautions(Workplace) Regulations (1997)**. It can only give added assurance that these responsibilities will be discharged adequately. Where external services are employed, they will usually be appointed in an advisory capacity only.

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52. More complicated situations will require the competent assistant to have a higher level of knowledge and experience. More complex or highly technical situations will call for specific applied knowledge and skills which can be offered by appropriately qualified specialists. Employers are advised to check the appropriate Health & Safety qualifications (some of which may be competence based ..), or membership of a professional body or similar organisation. ...

Electricity at Work Regulations (1989)

No person shall be engaged in any work activity where technical knowledge or experience is necessary to prevent **danger** or, where appropriate, **injury**, unless he possesses such knowledge or experience, or is under such degree of supervision as may be appropriate having regard to the nature of the work.

Pressure Systems Safety Regulations (2000)

The term “competent person” is used in connection with two distinct functions:

- a) drawing up or certifying schemes of examination and
- b) carrying out examinations under the scheme.

In general terms, the competent person should have:

- a) staff with practical and theoretical knowledge and actual experience of the relevant systems
- b) access to specialist services
- c) effective support and professional expertise within their organisation and
- d) proper standards of professional probity.

Lifting Operations and Lifting Equipment Regulations (1998) ACoP

Thorough examination and inspection

Competent person

294. You should ensure that the person carrying out a thorough examination has such appropriate practical and theoretical knowledge and experience of the lifting equipment to be thoroughly examined as will enable them to detect defects or weaknesses and to assess their importance in relation to the safety and continued use of the lifting equipment.

295. It is essential that the competent person is sufficiently independent and impartial to allow objective decisions to be made. This does not mean that competent persons must necessarily be employed from an external company. If employers and others within their own organisations have the necessary competence then they can use it. However, if they do, they must ensure that their ‘in-house’ examiners have the genuine authority and independence to ensure that examinations are properly carried out and that the necessary recommendations arising from them are made without fear or favour.



Management staff must complete training in Health & Safety. Two training courses have been designed by the Joint Training Service of the Research Councils (JTS) and accredited by IOSH (the Institution of Occupational Safety and Health):

- **Directing Safely in a Research Environment (1day)**
- **Safety Management in a Research Environment (2.5 days).**

The two courses are customised versions of standard IOSH training courses. 'Directing Safely in a Research Environment' covers the syllabus areas of the IOSH 'Safety for Senior Executives' and 'Directing Safely' courses. 'Safety Management in a Research Environment' covers the syllabus area of the IOSH 'Managing Safely' course.

Both courses are examined at the end; those passing the examination will be issued with IOSH certificates. These are recognised throughout the United Kingdom (and in many countries abroad). Those failing the examination will be required to repeat the course.

Senior managers at Director level, those managers further down the line-management structure who have executive responsibility and managers of wholly office-based operations **must attend and complete** the '**Directing Safely in a Research Environment**' course.

Managers who are responsible for groups where varied and regular risk assessment and the development of Safe Systems of Work is required (this may be scientific, services, maintenance and some areas of administration) **must attend and complete** the '**Safety Management in a Research Environment**' course.

All other NERC staff must attend and complete a basic training course in Health & Safety; all new staff must receive a local induction course in Health & Safety as soon as practicable after appointment. Students and visitors must also be instructed in Health & Safety.

Qualifications and training required of full-time, part-time and specialist safety advisers are given in Appendix III.

APPENDIX III: APPOINTMENT OF SAFETY ADVISERS, THEIR ROLES AND RESPONSIBILITIES



Under the **Management of Health & Safety at Work Regulations (1999)**, Regulation 7:

Every employer shall appoint one or more competent persons to assist in undertaking the measures needed to comply with the requirements and prohibitions imposed by or under the relevant statutory provisions and the **Fire Precautions (Workplace) Regulations 1997**.

Within NERC, this requirement will be met at the Swindon Office by the appointment of the NERC Safety Adviser, whose terms of reference are detailed below.

The requirement will be met at each Research Centre by the appointment of a full-time Safety Professional and, additionally on the authority of the Research Centre, a Local Safety Adviser(s). Where Research Centres have more than one site, Local Safety Adviser(s) will be appointed for each site.

Specialist Advisers may be appointed as required and **must be appointed** where Statute requires it, for example to cover the use of radioactive materials, genetically modified organisms, health surveillance, diving, carriage of dangerous goods etc.

Competence:

For the purpose of establishing competence, Advisers will fulfil the following training/qualification requirements

Full-time Safety professionals at Research Centres/NERC should:

- hold either the NEBOSH Diploma in Health & Safety, or a Degree or Post Graduate Diploma in the Management of Occupational Health & Safety, or equivalents recognised by the Institute of Occupational Safety and Health (IOSH) as qualification for membership **and**
- be corporate members of IOSH.

They will be formally qualified to carry out safety audits and hold additional formal qualifications appropriate to the type of work carried out within their own Research Centre, as required by the Research Centre Director. They will, each year, undertake the necessary training/development to maintain their membership of IOSH.

Part-time Local Safety Advisers will successfully complete the NEBOSH Certificate course, normally within 1 year of their appointment. Additional training appropriate to the work within the NERC site at which they work will be recommended by the Research Centre Director or Head of Site under advice from their full-time safety professional(s). The Local Safety Advisers must maintain training and development year on year.

Specialist Advisers must receive the training appropriate to their area of coverage at the time of appointment and maintain training and development thereafter.

Roles:

As defined in the NERC Safety Policy Part 2, the roles of Safety Advisers are as follows:

Safety advisers must:

- provide informed advice for management and staff
- keep management informed of trends in good practice and proposed legislation
- advise managers on the development of policies and procedures
- help management to carry out audits and inspections
- take part in Health & Safety committee meetings
- work with managers to promote awareness of Health & Safety throughout their sphere of influence.
- issue a prohibition for any work areas they believe to be unsafe.

Responsibilities

The NERC Safety Adviser will be responsible for advising the NERC Executive Board member responsible for safety and the Chief Executive on all aspects of Health & Safety including the following:

- Providing advice at the NERC level to the Chief Executive and Senior Management
- Liaising with full-time Safety Professionals and part-time Local Safety Advisers in Research Centres
- Providing safety advice to managers of Units directly managed by Swindon Office
- Developing safety policy and Procedures for NERC through chairmanship of the Safety Management Group
- Liaising with local sites through visits, inspections and audits as agreed with management and safety advisers
- Participating in NERC level Safety Committee
- Providing information on new regulations and interpretation of their implications for NERC
- Maintaining and developing NERC safety websites
- Organising safety campaigns throughout NERC
- Advising on, and participating in, training of managers and staff in safety
- Collecting, collating and analysing data on safety performance at NERC level
- Cooperating and liaising with staff Safety Representatives and Trade Unions.

NOTE: This is an advisory position; management of Health & Safety is a line-management function.

The Research Centres full-time Safety Professional will be responsible for liaison on all Health & Safety issues, within his/her Research Centre and between the Research Centre and NERC level. He/she will be responsible for advising and assisting the Director and the Senior Management Team on all aspects of Health & Safety including the following:

- Providing advice at the Research Centre level to the Director and Senior Management
- Helping management to set priorities and in forward looks to future regulation and legislation
- Developing policy and Procedures at the level of the Research Council, together with full-time Safety Professionals in other Research Centres through the membership of the Safety Management Group.
- Implementing NERC Procedures covering current legislation for safety and occupational health as they apply to premises and processes within their Research Centre.
- Providing practical advice to management and staff to implement Safe Systems of Work in a cost-effective manner
- Providing technical support to management in the maintenance, development and safety performance of major equipment and fixtures
- Monitoring of the effectiveness of maintenance and inspection of equipment and fixtures
- Ensuring the effectiveness of engineering control measures under COSHH
- Undertaking safety instruction and training for staff and management
- Assisting Research Centres Senior Management in determining the effectiveness of the safety management system throughout the Research Centre by undertaking internal audits
- Participating in cross Research Centre audits
- Advising and supporting management at safety committee meetings
- Liaising with the NERC Safety Adviser to represent Research Centres interests and offer information.
- Liaising with other NERC safety professionals and local advisers
- Liaising with HSE, Fire authorities etc.
- Carrying out accident investigation
- Collecting, collating and analysing data on safety performance at Research Centre level
- Cooperating and liaising with staff Safety Representatives and Trade Unions.

NOTE: This is an advisory position; management of Health & Safety is a line-management function.

Local Safety Advisers will be responsible for liaison with the full-time Research Centre Safety

Professional on Health & Safety issues within his/her site. He/she will be responsible for advising and assisting the Head of Site and local Senior Management on all aspects of Health & Safety including the following:

- Providing advice at the Site level to the Director and Senior Management
- Providing general Health & Safety advice to local management and staff
- Assisting in the development of safety Procedures at the NERC level and providing expert peer-review of policy and Procedure documentation
- Assisting local management and staff on the development of risk assessments, risk controls and risk management
- Assisting local management in determining priorities and the provision of safety equipment and supplies
- Assisting local management with Inspections and co-operating with audits.
- Advising and supporting management at local safety committee meetings in an *ex officio* capacity
- Helping management to promote Health & Safety awareness at their site
- Cooperate and liaise with staff Safety Representatives and Trade Unions.

NOTE: This is an advisory position; management of Health & Safety is a line-management function.

Specialist Safety Advisers will be responsible to the local management for advice on specific areas of expertise.

NOTE: This is an advisory position; management of Health & Safety is a line-management function.



Beyond the defined role of competent persons, **HS(G) 65 Successful Health & Safety management** introduces the concept of “competence of all employees”. NERC have taken this concept on board with the requirement for training of all personnel.

However, there will be many occasions where staff are required to make Health or Safety assessments where “competence”, in its general usage sense, becomes relevant. For example, someone doing risk assessment for use of a chemical might have received training in risk assessment, or might have received training in **Control of Substances Hazardous to Health Regulations (COSHH)** but does not possess detailed knowledge of the particular substance being assessed. In many cases, the hazard information on the chemical would indicate low hazard or low likelihood of exposure. In some cases, however, a very high hazard might be indicated and the conditions of use might suggest some exposure. Is the generalist training adequate for “competent” assessment of the risk? Even an expert in toxicology might have no experience of the particular substance or circumstance of its use.

Such decisions can only be made on a case by case basis by local managers.

The best way of dealing with such situations is to write down the decision and the reasoning behind it.

Here a ‘common sense definition’ of competence might be useful:

competence – having the necessary practical and theoretical knowledge as well as sufficient experience of the particular situation to enable him/her to identify defects or weaknesses in work practices or equipment and their implication for the safety of employees without supervision.

The above is a generalised paraphrase of a definition of competence, relating to specific machinery, derived through case law.