

Competence – not just a training certificate

The Health and Safety at Work Etc. Act 1974 requires employers to provide “... such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his or her employees ...”. Andrew Linley, director of compliance at Electrical Safety UK, explains



Whilst not specifically stated, the law requires employers ensure their employees are competent to undertake the work for which they have been employed. There is also a legal requirement for employees to not put themselves or others in danger through their acts or omissions. The Electricity at Work Regulations 1989, through Regulation 16, removes any doubt as to who should determine competence and what the basis for determining competence is.

First of all, a person need only be competent if danger would otherwise arise or if there is a risk of injury: where this is not the case, the law does not require a person to be specifically competent. Competence is then defined as a person having the necessary technical knowledge or experience in order to avoid such danger or where appropriate, injury. It is important to point out that Regulation 16 is absolute in its requirements but the employer is afforded an opportunity for defence under Regulation 29 of the Electricity at Work Regulations.

Having the necessary technical knowledge or experience should not be regarded as being a choice for the employer: what the law requires is that if a person needs technical knowledge to undertake a task safely then they must have that technical knowledge and if they require experience to complete the task without placing themselves or others in danger then they should possess that experience. The law does not prescribe what knowledge or experience is required and it does not stipulate that formal academic or vocational qualification is required for a person to become competent, in fact it recognises that some of our most learned academia might not be competent in that they might have technical knowledge but do not possess the relevant experience to avoid danger or injury. Likewise, a jobbing electrician might have no formal qualifications but may be able to demonstrate that they have technical knowledge and experience to undertake work safely.

Perhaps in our current litigation climate we have become obsessed on paperwork and tick-boxes and less interested in complying with the law? It is interesting to note that the Electricity at Work Regulations does not at any time make reference to either an electrician nor an electrical engineer. The Regulations recognise that a person who is competent in one discipline is not necessarily competent in another. For example,

the skill-set held by an installation electrician and a maintenance electrician are different. There will be certain tasks that both parties can undertake, but much of each person's role will not be comparable with the other and competence may not exist on a crossed-over role basis.

It is perhaps worth noting at this stage that the regulation does allow people to gain knowledge and experience provided that they are under a suitable level of supervision, having regards to the dangers that may be present. Dependant on the level of knowledge and experience already possessed by the non-competent person the level of supervision could range from close personal supervision through to supervision from a distance. It should go without saying that the person who is supervising should be competent.

Employers fall into two groups; those who take determining competence seriously and those who pay lip service to the subject. The former group tends to assess knowledge and experience and collate evidence and may also undertake competency assessments such as questioning or practical tests—those involved in high voltage work will be familiar with this approach. The latter group tends to collate copies of certificates

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without any serious consideration as to what they mean. For example, many companies require electricians to possess a Certificate in the Requirements for Electrical Installations (often referred to as a 17th Edition certificate). Whilst such qualifications are vitally important, they do not in themselves confer competence.

Competent Person schemes such as the Electrotechnical Certification Scheme do have a part to play in the context of competence in that evidence of experience as well as knowledge must be demonstrated in order to obtain a ECS card. Unfortunately, the cards are generic in approach and do not identify that individuals are competent for all tasks ▶

that might be undertaken, other than generic nationally set core requirements have been met. Often focus is given to the possession of a skills card and that it is in-date, rather than the actual skills that have been determined.

What about contractors? Many employers assume that the appointment of an electrical contractor who is a member of a professional body discharges their responsibilities with regards to competency. The Electricity at Work Regulations through the Duty Holder requirement (Regulation 3) requires the employer to ensure that their electrical system effectively remains safe at all times (Regulation 4) and that only competent persons work on that system (Regulation 16).

The employer must be satisfied that any contracted company has the necessary arrangements in place to determine that their own employees are competent whilst undertaking work on site or they must satisfy themselves that any person coming onto site is competent. Contractors who belong to a professional body is a good starting point, however it should be remembered that whilst office procedures are assessed as part of the annual visit from the professional body, the only person who is examined in any depth is the Qualifying Supervisor, who is required to demonstrate ability to inspect and test (even though this might not be their day-to-day role in the company), the assessment of the standards of work carried out by the contract electricians is



very much limited to a cursory external visual inspection and is again carried out on an annual basis often for less than 4 hours.

Electrical contractors are often thought of as a potential risk for employers, however, in the main are generally self-policing. A greater risk to the employer are those companies who work on or near electrical systems as a part of their service offering, for example, those who maintain air-conditioning or service vending machines, computer technicians who replace hardware or those who undertake small building works repairs. Often these classes of people are forgotten about, and it is wrongly assumed that the contract company or service agent has done everything that they should to determine competency. It is perhaps true that, following an incident, the Health and Safety Executive inspector would be interested in the contract company concerned, however, as employer you may be asked to explain how you determined that the person in question was competent to work on your system.

The Electricity at Work Regulations clearly defines a competent person as a person having the necessary technical knowledge and / or experience to avoid danger and injury. BS7671:2008+A3:2015 deleted the definition for competent person, referring to Skilled, Instructed and Ordinary Persons instead, however previous editions of BS 7671 referred to a competent person as having the skills as well as knowledge and experience in order to avoid danger. Perhaps when considering competence employers should look at skills, knowledge, attitudes, training and experience of an individual as well as assessing that they are able to recognise when they are reaching the limits of their abilities and take suitable action before a dangerous situation arises (SKATEL). 

