

A Guide to the Health and Safety Management of Contractors for Businesses

HEALTH & SAFETY

Businesses have responsibilities under health and safety law to contractors working for them or on their behalf. Essentially, businesses are responsible for ensuring that the work that the contractor is undertaking is done safely, and without risk to health and safety to them and anyone else who may be affected (e.g. members of the public or employees).

Introduction

The first step is to identify the work that the contractor is being asked to undertake. You could, for example, create a job specification.

You must then consider the risks and hazards involved with such work, and communicate this information to potential contractors. This information will help contractors to consider whether or not they have the equipment, skills, knowledge and experience to be able to undertake the work safely as well as plan a safe working method.

For example, if your business engages a roofing contractor to replace or repair the roof light, you should tell the contractor if the roof or roof covering is fragile and non-weight bearing.

Select a competent contractor

After you have identified the work and the risks that the work may involve, you will need to satisfy yourself that the contractor is competent to undertake the work safely and without risks to health. Ask yourself does the contractor have the suitable combination of skills, experience and knowledge? The more complex or potentially hazardous the work is, the more comprehensive your enquiries regarding the suitability of the contractor should be.

You may consider asking, for example:

- What arrangements will be in place for planning and managing the work safely?
- Who will undertake the work? What training and qualifications have they received? How will they be supervised?
- Can you provide any risk assessment and/or method statements for similar jobs?
- Will sub-contractors be used? If so, what checks will be undertaken to ensure that they are competent?
- What qualifications and experience do you have for this type of work? Are there any examples of similar jobs?
- Do you have employer's liability and public liability insurance?
- Have you ever been the subject of enforcement action by the HSE or a Local Authority including Prohibition or Improvement Notices and/or prosecution?

Membership of recognised professional bodies and trade associations will help contractors to demonstrate that they are sufficiently competent and experienced.

Certain work can only be undertaken by approved classes of persons. In such circumstances, you should check what qualifications, skills and experience the contractor has. For example, in relation to gas work, check that the business and their engineers are Gas Safe registered.

If construction works, you may, depending upon your role, have more specific duties under the Construction (Design and Management) Regulations 2015.

What should I do once I have selected and appointed a competent contractor?

You need to consider what risks to health and safety arising from your own work activities and premises may be relevant to the contractor, and tell the contractor about them. Make sure that your risk assessments are updated to take contractors into consideration.

It is particularly important that if you have any particular controls and preventative measures, including emergency procedures, that the contractor is told about these so that they know what steps and measures that they have to undertake.

A key principle is not to assume the contractors will be aware of or able to spot risks and hazards whilst working for you or at your workplace premises, even if these are obvious or known to you.

You should work with the contractor to consider any risks arising from each other's work that could affect the health and safety of the workforce and others including members of the public.

Agree with the contractor the measures that need to be implemented to control risks to health and safety before the contractor starts work.

What do I need to do after I have discussed health and safety with my contractor?

You must make sure that the work being carried out by the contractor is being done safely and without risk to health. This can be achieved by monitoring the way the contractor is working.

The level of monitoring should be proportionate to the nature and complexity of the work being undertaken by the contractor and the risks associated with such work. The more hazardous the work being undertaken by a contractor, the higher the level of monitoring should be.

Monitoring is not the same as supervision. It is keeping a check on how the work is going and whether the contractor is following the safe working practices agreed prior to work starting. Do not assume that contractor will have the right equipment - there may have been an unexpected change in what work is required or how such work can be undertaken.

If the contractor is not following safe working, you should ask the contractor to immediately stop work and explain why he is not following safe working practices.

What if a contractor ignores my concerns regarding health and safety and continues adopting unsafe working practices?

It is important that if you see a contractor engaged in an unsafe working practice that you should not ignore what he or she is doing. The contractor should be asked to stop work immediately. Serious consideration should be given to contacting the contractor's employer. What may happen if I do not fulfil my health and safety responsibilities?

A failure to appoint a competent contractor and ensure that the contractor is undertaking the work safely and without risk to health and safety to them and others may lead to a number of consequences. These include:

- injury and illness to the contractor, one of your employees, another contractor or a member of the public; and
- in the event of an accident, incident or other situation giving rise to a serious risk to health and safety, you may face enforcement action such as a prosecution. If convicted of having committed a health and safety offence, the Court has the power to impose an unlimited fine on an organisation as well as, if you are prosecuted as an individual, a fine or custodial sentence.

This article is not intended to constitute a definitive, up-to-date, or complete statement of the law, nor is any part of it intended to constitute legal advice for any specific situation. You should take specific advice when dealing with specific situations and jurisdictions outside England & Wales.

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